

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY  
OF SANTA BARBARA DENYING THE APPEAL  
AND UPHOLDING THE DECISION OF THE  
SINGLE FAMILY DESIGN BOARD GRANTING  
FINAL APPROVAL OF THE PROJECT DESIGN  
APPROVAL FOR ADDITIONS TO THE  
RESIDENCE AT 1912 MISSION RIDGE ROAD

WHEREAS, Craig and Jane Morrison, owners of 1912 Mission Ridge Road, applied for design review approval of a proposal for a 22 square foot first-floor addition and a 530 square foot second floor addition to an existing 2,146 square foot one-story single-family residence with an attached 658 square foot garage within the City of Santa Barbara. (MST 2014-00585) The proposal includes one new uncovered parking space, a 194 square foot covered patio at the entry, a 158 square foot second-story deck, a raised pool and surrounding deck, and interior remodel work. Also included in the project are an “as-built” approval of an installed air conditioner condenser unit, relocation of the pool equipment enclosure, and a new driveway and pedestrian gate. The proposed project would result in a total of 3,251 square feet of development on a 25,091 square foot lot in the Hillside Design District. The project is 69% of the City’s maximum floor to lot area (FAR) guideline;

WHEREAS, the Single Family Design Board (SFDB) conducted its initial concept review of the project on December 15, 2014 at which time the SFDB voted unanimously to continue the project indefinitely, making the following comments:

1. The SFDB supports the style and quality of architecture.
2. The SFDB finds the second story acceptable.
3. Erect standard level story poles;

WHEREAS, on January 26, 2015, the SFDB conducted a site visit to 1912 Mission Ridge Road to observe the site with the story poles depicting the proposed ridgelines of the remodeled residence and the proposed addition over the garage;

WHEREAS, on January 26, 2015, following the site visit, the project was presented to the SFDB for consideration of Project Design Approval. The SFDB voted 5-1 (Pierce Opposed) to grant Project Design Approval, finding that the Neighborhood Preservation Ordinance criteria were met with the following comments:

1. Study removing the bathroom window or utilizing frosted materials (on the northern elevation).
2. Remove the balcony on the west elevation above the garage.
3. The size, bulk, and scale are consistent and compatible to the neighborhood, the quality of architecture and materials are superior, and the project complies with the Good Neighbor Guidelines.

Board member Pierce's opposition to the motion granting Project Design Approval was due to the second condition of the motion that requires removal of the balcony on the west elevation above the garage. Board member Pierce felt that the balcony was an acceptable element of the proposal and disagreed with the condition of approval that required the removal of the balcony;

WHEREAS, on February 4, 2015, Susan Basham from the law firm of Price, Postel and Parma, attorney for Roger and Stefanie Bacon and Rinaldo and Lalla Brutoco, timely filed an appeal regarding the SFDB decision to grant Project Design Approval. Ms. Basham's appeal enumerated three grounds for the appeal:

1. The SFDB abused its discretion when it voted to affirm the Neighborhood Preservation Ordinance Compatibility Finding given the size and bulk of the second story addition.
2. The SFDB abused its discretion when it voted to affirm the Neighborhood Preservation Ordinance Good Neighbor Guidelines Finding given the allegation that the second story addition and deck will result in direct window to window views of the Appellants' residences and sight lines into their private yard and pool areas.
3. The project fails to comply with Single Family Residence Design Guidelines Good Neighbor Tips for private views. The appeal argues that the height and scale of the proposed second story addition causes the loss of "a substantial portion of the existing city and ocean views from the entire first floor and yard area" [of the Bacons' residence at 1901 East Las Tunas Road];

WHEREAS, on March 9, 2015, the City Council conducted a duly noticed site visit during which it inquired into the physical aspects of the issues presented on appeal, including the site planning; the height of the proposed roof forms of the remodeled residence; the location, size and materials of the proposed windows and their potential impacts on the privacy of neighboring properties; and the location and use of proposed balconies on the southern and western elevations;

WHEREAS, on March 10, 2015, the City Council conducted a duly noticed public hearing on the appeal. The project design presented to the City Council on appeal was the project design approved by the SFDB on January 26, 2015; however, the applicants asked the City Council to consider allowing the balcony on the western elevation to remain. The applicants expressed a willingness to design the balcony so it would merely serve as an architectural element and would not allow persons to stand outside the second story addition on the western elevation. The appeal hearing included the following evidence relied upon by the Council:

1. A detailed written report and staff presentation, including a City staff report discussing the appeal issues, and a PowerPoint presentation on the appeal issues – both of which are incorporated by reference into this Resolution (along with the entire record of proceedings).
2. A presentation by Susan Basham, including PowerPoint presentations by her clients Rinaldo Brutoco and Roger Bacon detailing the grounds of the appeal, which are part of the record in this case and were fully considered by the City Council in making its decision on this appeal.
3. A PowerPoint presentation by the Morrisons' architect, Jeff Shelton, which is part of the record in this case and was fully considered by the City Council in making its decision on this appeal. In addition, Mr. Shelton prepared a scale model of the proposed project which was present for viewing at the City Council site visit and appeal hearing.
4. Public comments from the chair of the SFDB detailing the Board's perspective on the Project design and the appeal issues.
5. Public comment from members of public all of whom spoke in opposition to the project;

WHEREAS, after consideration of all of the evidence presented (both written and oral), as well as the public testimony received, and after deliberation by the Council members, the City Council voted 6-1 (Mayor Schneider dissenting) to direct the preparation of written findings which, consistent with the oral findings made by Council, would deny the appeal of the Project and to uphold the decision of the SFDB to grant Project Design Approval;

WHEREAS, on March 25, 2015, the City Council adopted Resolution No. 15-018 denying the appeal and upholding the decision of the SFDB granting project design approval for the specified additions to the residence at 1912 Mission Ridge Road. Resolution No. 15-018 is incorporated in this Resolution by reference;

WHEREAS, no timely litigation or other challenging action followed that decision;

WHEREAS, on June 15, 2015, the project was subsequently reviewed for and granted Final Approval by the SFDB, including conditions involving minor design changes to increase privacy levels between certain properties;

WHEREAS, the standard of review for the SFDB on Final Approval is whether the revised project is consistent with the City Council's conditional approval of the Project Design;

WHEREAS, the duly adopted Single Family Design Board General Design Guidelines & Meeting Procedures, in Section 3.2.9 C provide that:

**C. Appeal of SFDB Decision.** Any action of the SFDB on an application for project design or final approval may be appealed to the City Council in accordance with SBMC §22.69.080 and Chapter §1.30 of the Municipal Code. The standards of review at each level of review are explained in Part III: Meeting Procedures, Section 3.2.6. If a project is approved by the SFDB, the project design approval decision is the critical decision on the design elements of the project that should be appealed. Otherwise, ***the final approval decision may be appealed only on the basis that it is inconsistent with the project design approval.*** (Emphasis added.);

WHEREAS, the duly adopted Single Family Design Board General Design Guidelines & Meeting Procedures, in Section 3.2.6 E provide that:

**Final Approval.** Final approval of completed working construction drawings occurs prior to submittal for a building permit.

1. Final plans will be approved if they are in substantial conformance with the plans given project design approval;

WHEREAS, the SFDB reviewed the redesign of the project and agreed that the new design of the windows on the north elevation, at the master bedroom, met the Board's guidelines for privacy. The Board acknowledged the architect's efforts to raise the sill of the windows to five feet to ensure the privacy of the neighbors. The Board also re-evaluated the design of the balcony on the west elevation, and confirmed that the final design with fixed planters will prevent occupants from stepping onto the balcony and that the design will ensure privacy for the neighborhood. The Board ultimately concluded that the final plans were in substantial conformance with the plans given project design approval by the City Council on March 25, 2105;

WHEREAS, on June 25, 2015, an appeal of the SFDB's Final Approval action was filed by Trevor Martinson, agent for the adjacent neighbors (Brutoco);

WHEREAS, that appeal raised substantial new matters that were not relevant to whether the final plans were in substantial conformance with the plans previously given project design approval, including the alleged inadequacy of grading plans, allegedly incomplete drainage design details and alleged building code compliance issues; and

WHEREAS, notwithstanding the City Council's lack of jurisdiction to hear the new issues that were not relevant to substantial conformance of the final design, the City Council heard the appellant's arguments and evidence.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated into these findings.

SECTION 2. All written, graphic and oral materials and information submitted to the SFDB and the City Council by City staff, the public and the parties are hereby accepted as part of the record of proceedings. The facts and findings in the August 11, 2015 Council Agenda Report are incorporated into this Resolution and determined to be true.

SECTION 3. With respect to alleged incompatibility of the project with its neighborhood, using the criteria set forth in Evidence Code section 780, and in particular subsection (f), the Council finds that the appellant's and their attorney's public comments were not credible, nor were the reports of their alleged experts prepared or offered with any foundational evidence.

SECTION 4. The Council carefully reviewed the evidence it obtained during the site visit and public hearing and finds and determines as follows:

The final design is in substantial conformance with the project design approval granted by the City Council as implemented by the SFDB.

The Council reiterates the previous project approval findings, although it has no duty to do so, as follows:

A. Neighborhood Preservation Findings. The Council makes the following findings pursuant to the Neighborhood Preservation Ordinance, Santa Barbara Municipal Code section 22.69.050 A. 1-7:

**Consistency and Appearance.** The proposed development is consistent with the scenic character of the City and will enhance the appearance of the neighborhood by proposing an upgraded architectural style when compared to the design of the existing residence.

**Compatibility.** The proposed single family residence is compatible with the neighborhood, and its size, bulk, and scale are appropriate to the site and neighborhood. At approximately 69% of the maximum guideline FAR, the size of the proposed residence is within the city's adopted FAR guidelines. The proposed high-quality materials are appropriate for the neighborhood. The fact that finished height the proposed residence is less than the allowed building height within the zone and the fact that the applicants have proposed the second story addition over the garage, which has a lower existing height than the rest of the existing residence, factored significantly in the Council's decision.

**Quality Architecture and Materials.** The proposed building is designed with quality architectural details and quality materials. The City Council found the proposed restyling of the architecture from the present 1960's tract house style to a Mediterranean design to be a positive benefit to the aesthetics of the property individually and the neighborhood as a whole.

**Trees.** The proposed project does not include the removal of or significantly impact any designated Specimen Tree, Historic Tree or Landmark Tree.

**Health, Safety, and Welfare.** The public health, safety, and welfare are appropriately protected and preserved in that the neighborhood will be enhanced in value and design by the proposed additions.

**Good Neighbor Guidelines.** The project generally complies with the Good Neighbor Guidelines regarding privacy, landscaping, noise and lighting.

The City Council found the arguments of appellants Rinaldo and Lalla Brutoco regarding privacy impacts of the second story addition and deck to be unpersuasive. The City Council found that the existing guesthouse adjacent to the pool on the Brutoco property will shield most of the pool area from the view of the second story additions proposed on 1912 Mission Ridge Road. The City Council further discounted the impact of the proposed addition on the privacy of the Brutocos' master bedroom and bathroom due to the distance (estimated variously by Councilmembers to be 50 to 100 feet) between the proposed addition and the bedroom and bathroom windows.

Regarding the Bacons' residence at 1901 East Las Tunas Road, the Council finds that the project generally complies with the Good Neighbor Guidelines regarding

privacy, subject to the implementation of the recommended use of translucent glass and possible reduction of the size in the windows of the windows on the northern elevation of the addition. While the City Council acknowledged that the proposed project will block a portion of the Bacons' existing views of the city and ocean, the Council found that the proposed project did generally comply with the Good Neighbor Guidelines based on the proposed location of addition over the garage (which will be less impactful to the Bacons than would an addition over other portions of the residence) and the relatively minor scale of the roof alteration on the rest of the residence.

**Public Views.** The development, including proposed structures and grading, will preserve any significant public scenic views of and from the hillside. The proposed addition and roof alteration will not meaningfully impact public views.

B. Hillside Design District Findings. The Council makes the following findings pursuant to Santa Barbara Municipal Code section 22.69.050 B. 1-2:

**Natural Topography Protection.** The proposed development does not significantly modify the natural topography of the site or the natural appearance of any ridgeline or hillside because the majority of the project consists of a remodel of an existing residence and an addition over the existing garage.

**Building Scale.** The scale of the proposed building maintains a scale and form that blends with the hillside by minimizing the visual appearance of structures and the overall height of structures through the placement of the proposed addition over the existing garage which has a lower ridge height than the rest of the residence. In addition, while the project proposes an increase of the ridge height of the residence, the final building height of the residence as a whole is well below the maximum building height of 30 feet allowed under the zoning ordinance.

C. Issues Raised for the First Time on Appeal. For the first time on appeal, legal counsel for the appellants raised a variety of challenges that had nothing to do with project design. The City Council rejects each of these challenges as being unsupported by any substantial evidence, even if relevant or material to the project design issues properly presented on appeal.

1. **Topographic Details.** Appellants complained about the lack of topographic details. The Council finds that the topographic detail provided on the applicant's project site model was accurate and sufficient to enable full review by the SFDB. The appellant failed to offer any objections whatsoever to the accuracy or completeness of the model presented to the SFDB and Council. Moreover, the story poles outlining the size and shape of the proposed second story addition accurately

depicted the ultimate topography of the site so that the appellants and SFDB could evaluate any possible private view impacts.

2. Engineering for the Project Footings. Appellants alleged that the existing footings for the structure are inadequate to support a second story. The applicant amply demonstrated that engineering calculations have been completed showing the adequacy of the footings. In any event, this is a site engineering issue that is analyzed by the City during building plan check. If any structural issues are revealed, appropriate project changes will be required.

D. California Environmental Quality Act Determination. The City Environmental Analyst evaluated the proposed project and determined the project to be categorically exempt from CEQA pursuant to CEQA Guideline section 15301, the small additions exemption.

SECTION 5. The City Council grants Final Approval to the proposed addition and remodel of 1912 Mission Ridge Road as depicted on the set of architectural plans received by the Community Development Department on January 23, 2015, as presented to and conditioned by the City Council on March 10, 2015, and as finally approved by the SFDB on June 15, 2015.