

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA GRANTING A VARIANCE AT 1929 CLIFF DRIVE, ASSESSOR'S PARCEL NUMBER 045-015-016, WITH RESPECT TO THE SETBACK ESTABLISHED FOR CLIFF DRIVE BY SANTA BARBARA MUNICIPAL CODE SECTION 28.83.077 AND CHAPTER 28.84

WHEREAS, a variance from the street frontage building setback requirements, which are established for certain designated City streets under Santa Barbara Municipal Code Section 28.83, is authorized by Section 28.84 of the Code provided the following conditions are met:

A. That whatever improvements may be made pursuant to any variance authorized under Section 28.84, shall be and must be wholly removed in the event of any future public acquisition by condemnation of the real property, with such improvements removed at the sole expense of the property owner;

B. That a variance shall be allowed by the City Council only upon the filing with the Clerk of the City of a written agreement and undertaking, signed and acknowledged by the property owner, binding the property owner and successors to remove whatever improvements may be constructed, erected or made pursuant to the granted variance at the sole cost and expense of the property owner;

C. That the variance will be granted only upon the express condition that if the property owner or successor owner signing the aforementioned written agreement should fail to wholly remove all improvements made under this Section, the same may be removed by the City if it acquires, by condemnation, the land involved, at the sole expense of such property owner or owners;

D. That the variance may be authorized under Section 28.84, only upon the express provision and condition of the property owners involved have expressly waived any and all right or claim to damages or compensation of any such property owner or owners, involved or otherwise, arising by reason of the severance of any improvement constructed, erected or made under this Section, from any other or remaining improvement, or by reason of the removal of any such improvement made pursuant to leave, authorized by Section 28.84, if the City acquired the land involved; and

E. That the variance so authorized by the City Council, under Section 28.84, is evidenced by a resolution of the City Council, setting forth the written finding of fact, required by Subsection (A) of Section 28.84.013.

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

SECTION 1. That the Owners of all interest in the Real Property located at 1929 Cliff Drive, APN 045-015-016, hereinafter the "Property", located in a C-2 zone, with frontage along a portion of State Route 225 within the City Limits of the City of Santa Barbara, have filed the required City application (PBW2006-01391). The project proposes to demolish an existing gas service station, and construct new gas pumps, a mini-mart and car wash on the Property. Portions of the existing development site, namely a low wall, planter strip, monument sign, two private light standards, curbs, and curb cuts currently encroach into the Building / Zoning, street frontage setback. The setback was established by Santa Barbara Municipal Code, Section 28.83.077, as such renovations are described in the design plans submitted to and currently being reviewed by the Building and Safety Division;

SECTION 2. That there are exceptional or extraordinary circumstances or conditions applicable to the Property that do not apply generally to the other properties affected by the setback line established by Santa Barbara Municipal Code Section 28.83.137, and which appear to impose unreasonable and unnecessary hardships in complying with the setback as established without the granting of leave for any variance. The proposed wall would be part of a substantial upgrade on the site, and pedestrian amenities, landscaping, and elimination of more intrusive encroachments into the setback would be possible with the approval of this variance. The proposed sign, landscaping, and site improvements would have no adverse affect on the neighbors. The additional lighting, increased buffer between traffic and pedestrians by developing a wider parkway, and installing a smaller sign, are improvements that will increase pedestrian safety, and are consistent with the new Circulation Element Section 13.42 guidelines and Discretionary Review Board's recommendation. Furthermore, staff has determined that there are no rights-of-way issues based on the review of the site plan submitted, the State of California, Department of Transportation (Cal Trans), has no known plans to widen the frontage portion of Cliff Drive, and there is no known plan for the City to ever widen said portion of Cliff Drive in the future, in the event Highway 225 is ever relinquished to the City by the State of California;

SECTION 3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner in harmony with the enjoyment of their property by other neighboring owners, subject to the setback line as established;

SECTION 4. That the granting of this variance will not be materially detrimental to the public welfare or injurious to the other properties or improvements, subject to the setback line established for Cliff Drive, by Santa Barbara Municipal Code Section 28.83.077; and

SECTION 5. That this resolution, and the granting of a variance hereunder, shall not become effective unless and until the petitioner executes an agreement with the City, in a form and manner of agreement acceptable to the City Administrator and City Attorney, establishing the owners, and successors, of all interests in the Property, obligation to comply with the removal requirements for all encroachments within the setback required, pursuant to Santa Barbara Municipal Code Section 28.84, and such agreement is duly recorded in the Official Records in the Office of the County Recorder of Santa Barbara County, and with the City Clerk of the City of Santa Barbara.