



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 028-22 205 MOHAWK RD COASTAL DEVELOPMENT PERMIT JULY 27, 2022

Assessor's Parcel Number: 041-342-002
Zoning Designation: E-3/S-D-3 (One-Family Residence/Coastal Overlay)
Application Number: PLN2022-00069 **Filing Date:** April 13, 2022
Applicant: Alex Wyndham
Owner: David Nygren

The project consists of a proposal to construct a new 392-square-foot, single-story detached Special Accessory Dwelling Unit (ADU) on an 11,761-square-foot lot by adding on to an existing shed. The subject parcel is developed with a 3,103-square-foot single-story single-unit residence with an attached two-car garage, which is proposed to remain.

The discretionary application required for this project is a Coastal Development Permit (CDP2022-00017) to allow the proposed development in the Non-Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44.060).

WHEREAS, the Staff Hearing Officer announced a decision on the above application, and the following exhibits were provided for the record:

1. Staff Report with Attachments, Wednesday, July 20, 2022.
2. Site Plans

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer:

I. Approved the subject application, making the following findings and determinations:

COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)

1. The Accessory Dwelling Unit project is consistent with the policies of the California Coastal Act and the project will not have significant adverse effects to the coast or coastal resources. The project site is located in an existing, developed single-family neighborhood with adequate public services including public transportation, fire prevention, police, and utility services. The project will not result in any adverse effects related to coastal resources, including public views, public access to the coast, or coastal bluff erosion. Both parking and open space minimum requirements will be maintained for the primary residence. The project is consistent with Coastal Act policies 30250 (Location; existing developed area), 30251 (Scenic and visual qualities) and 30252 (Maintenance and enhancement of public access) because the project site is not located

on a coastal bluff or adjacent to any designated public access points for the coast, and there are no mapped biological, archaeological, or visual resources on the site.

The project is consistent with Coastal Act policy 30253 (Minimization of adverse impacts) because the project site is not located in an area of high geologic, flood, or fire hazard. The project site is not located along any bluffs or cliffs, and does not require construction of any protective device that would impact existing landforms. The proposed Accessory Dwelling Unit is located on a flat portion at the rear of the lot and the project will not contribute to geologic instability or destruction of the site because the area has withstood existing development of similar size and scale and the project would be constructed in accordance with California Building Code requirements for the geologic and soil conditions of the site.

2. The Accessory Dwelling Unit project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code. The proposed Accessory Dwelling Unit complies with the zoning ordinance in terms of setbacks, parking and height, and complies with all requirements of the City's Accessory Dwelling Unit Ordinance, as identified in Section VI of the staff report dated July 20, 2022. The proposed Accessory Dwelling Unit is compatible with neighborhood development because the surrounding neighborhood includes a mix of attached and detached accessory structures, as well as one- and two-story residences, and therefore the proposed accessory structure will be consistent with the surrounding building typology. The development will not impact any public views because it is situated at the rear of the lot and there are no important public views across the site. The project will not impact public access to the coast because it is not adjacent to any designated public access points for the coast. The project site is not located on a coastal bluff or any visually-, biologically-, or archaeologically-sensitive area.

The proposed ADU is a 392-square-foot studio unit with no designated on-site parking space; the unit is also considered accessory to the primary residence and hence, it would most likely be more affordable than a standard market rate unit within the City. Adequate parking is provided for the primary residence and the ADU does not require parking due to its location near a bus stop.

II. Said approval is subject to the following conditions:

A. General Conditions.

1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on July 27, 2022 is limited to a detached Accessory Dwelling Unit and the improvements shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
2. **Uninterrupted Water Flow.** The Owner shall allow for the continuation of any historic flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.

3. **Areas Available for Parking.** All parking areas and access thereto shall be kept open and available in the manner in which it was designed and permitted.
4. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
5. **Approval Limitations.**
 - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
 - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Staff Hearing Officer.
 - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
6. **Litigation Indemnification Agreement.** The Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors (“City’s Agents”) from any third party legal challenge to the City’s approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively “Claims”). Applicant/Owner further agrees to indemnify and hold harmless the City and the City’s Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City’s sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City’s Agents from independently defending any Claim. If the City or the City’s Agents decide to independently defend a Claim, the City and the City’s Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

B. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.

1. **Public Works Department.**

- a. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff prepares said agreement for the Owner's signature.
- b. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way or easements shall be obtained by the Owner.

2. **Community Development Department.**

- a. **Recorded Agreement.** Prior to zoning clearance on a building permit for the proposed Accessory Dwelling Unit, the property owner shall execute a Covenant stating the following: (1) The Accessory Dwelling Unit will not be sold separately from the existing primary residence. (2) The Accessory Dwelling Unit shall not be rented for less than 31 days. When a building permit application is submitted, City Administrative Staff will prepare the Covenant and send an email from ADUCovenant@SantaBarbaraCA.gov letting the applicant know that the Covenant has been created. Written instructions will be provided to you on how to complete the procedure. The permit will not be issued until the final agreement is recorded. **Certificate of Occupancy will not be granted without the Covenant being recorded.**
- b. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. The following statement shall be signed prior to issuance of and permits: The undersigned have read and understand the required conditions, and agree

to abide by any and all conditions which are their usual and customary responsibility to perform, and which are within their authority to perform.
 Signed:

Property Owner		Date
Contractor	Date	License No.
Architect	Date	License No.
Engineer	Date	License No.

C. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.

1. **Oil Wells.** Based upon data on the Cal-GEM website, there are historic oil drilling wells in proximity to the site and several wells appear to be within 500 feet of the site. If sump material is encountered, the County of Santa Barbara Public Health Department Environmental Health Services Division shall be notified.
2. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor’s name and telephone number to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed six square feet if in a single family zone.
3. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Public Works Director with a Public Works permit.
4. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for

archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

- D. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.

III. NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:

The Staff Hearing Officer action approving the Coastal Development Permit shall expire two (2) years from the date of final action upon the application, per Santa Barbara Municipal Code §28.44.230, unless:

1. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.
2. The Community Development Director grants an extension of the coastal development permit approval. The Community Development Director may grant up to three (3) one-year extensions of the coastal development permit approval. Each extension may be granted upon the Director finding that: (i) the development continues to conform to the Local Coastal Program, (ii) the applicant has demonstrated due diligence in completing

the development, and (iii) there are no changed circumstances that affect the consistency of the development with the General Plan or any other applicable ordinances, resolutions, or other laws.

This action was announced on the 27th day of July, 2022 by the Staff Hearing Officer of the City of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Staff Hearing Officer at its meeting of the above date.



Gillian Fennessy, Commission Secretary

7/28/2022

Date

PLEASE BE ADVISED:

1. The decision of the Staff Hearing Officer concerning an application for a Coastal Development Permit pursuant to Santa Barbara Municipal Code §28.28.44.110.C constitutes the final action of the City. In the Coastal Commission's appeal jurisdiction only, the decision of the Staff Hearing Officer made pursuant to Santa Barbara Municipal Code §28.28.44.110.C may be appealed to the Coastal Commission in accordance with SBMC §28.44.200.
2. If the scope of work exceeds the extent described in the COASTAL DEVELOPMENT PERMIT request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.