



# City of Santa Barbara California

## CITY OF SANTA BARBARA STAFF HEARING OFFICER

### RESOLUTION NO. 021-24 209 MOHAWK RD. COASTAL DEVELOPMENT PERMIT JUNE 26, 2024

#### 209 MOHAWK RD

Assessor's Parcel Number: 041-342-001  
Zoning Designation: E-3/S-D-3 (One-Family Residence/Coastal Overlay)  
Application Number: PLN2023-00323; **Filing Date:** August 9, 2023  
Applicant: Susan Sherwin  
Owner: Daniel David Miller-Smith

The 11,625-square-foot parcel located in the Coastal Zone Non-Appealable Jurisdiction is currently developed with a 2,043-square-foot, one-story single-unit residence, including a 400-square-foot unfinished basement. Proposal to construct a two-story detached accessory building consisting of a 470-square-foot first floor two-car garage, a 230-square-foot first floor workshop, and a 762-square-foot second floor one-bedroom Accessory Dwelling Unit (ADU) including a 68-square-foot second story balcony, a 249-square-foot roof deck, and exterior ingress/egress stairs. The proposal includes retaining an as-built 76-square-foot lanai in the rear of the parcel. The proposed total of 3,905 square feet of development on an 11,625-square-foot lot is 99% of the maximum required floor-to-lot area ratio (FAR).

The discretionary applications under the jurisdiction of the Staff Hearing Officer at this hearing is a Coastal Development Permit to allow the proposed development in the Non-Appealable Jurisdiction of the City's Coastal Zone Santa Barbara Municipal Code (SBMC) §28.44.060).

Pursuant to Santa Barbara Municipal Code §28.44.110, when a proposed development involves the addition of an Accessory Dwelling Unit to an existing single-family residence, the application shall be reviewed by the Staff Hearing Officer without a public hearing in accordance with subdivision (j) of Government Code Section 65852.2. The Staff Hearing Officer shall not issue a decision on the application until at least ten (10) calendars days after notice has been provided to the public. The Staff Hearing Officer may receive and consider written comments from the public, but without a public hearing. The announced decision will be the final action of the City.

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

1. Staff Report with Attachments, Wednesday, June 19, 2024.
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:

**A. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)**

The Accessory Dwelling Unit project is consistent with the policies of the California Coastal Act, as described in section VI of the staff report. The proposal will not result in any adverse effects related to coastal resources, including public views, public access to the coast, and coastal bluff erosion. The proposed development is located within an existing developed area that is able to accommodate it, and both parking and open space minimum requirements will be maintained for the primary residence.

**B.** 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, as described in section VI of the staff report. The proposed Accessory Dwelling Unit is compatible with neighborhood development, will not impact any public views or public access to the coast, and is not located on a coastal bluff or any visual, biological, or archaeological sensitive area.

**II. Said approval is subject to the following conditions:**

In consideration of the project approval granted by the Staff Hearing Officer and for the benefit of the owners and occupants of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession, and enjoyment of the Real Property:

**A. General Conditions.**

- 1. Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on June 26, 2024, is limited to an 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 Staff Hearing Officer 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. Design Review.** The project is subject to the review and approval of the Single Family Design Board (SFDB). The SFDB shall not grant project design approval until the following Staff Hearing Officer land use conditions have been satisfied.

**C. 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](mailto: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 any permits:

The undersigned have read and understand the required conditions, and agree to abide by all conditions.

Signed:

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

**D. 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 300 feet of the site. If excavation and compaction of the soil is required for the foundation, sump material may be encountered. 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.

- E. 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.

**II. Time Limits:**

**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. Otherwise explicitly modified by conditions of approval for the coastal development permit.
2. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.
3. 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 26<sup>th</sup> day of June, 2024 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.

*Kathleen Goo*

Kathleen Goo, Commission Secretary

June 26, 2024

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. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
4. Subsequent to the outcome of any appeal action, your next administrative step should be to resubmit design review materials under your PLN case for approval and then a building permit.
5. **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.
6. **NOTICE OF APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Performance Standard Permit or Modifications shall expire two (2) years from the date of the approval, per SBMC §30.205.120, unless:
  - a. A building permit for the construction authorized by the approval is issued within twenty-four (24) months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;
  - b. The approved use has been discontinued, abandoned or unused for a period of six months following the earlier of:
    - i. an Issuance of a Certificate of Occupancy for the use, or;
    - ii. one (1) year from granting the approval.