



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: November 17, 2009

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Appeal Of Planning Commission Approval For 226 And
232 Eucalyptus Hill Drive

RECOMMENDATION:

That Council deny the appeal filed by neighbors, June Sochel, Tony and Caroline Vassallo and Ernie Salomon and uphold the Planning Commission approval of the application of Brent Daniels, agent for Cynthia Howard, for the proposed Lot Line Adjustment, Street Frontage Modifications and Performance Standard Permits to create four new homes and associated improvements.

EXECUTIVE SUMMARY:

In 2007, the Staff Hearing Officer denied the proposed project, although Staff had recommended approval. The applicant filed an appeal and a Planning Commission appeal hearing was held on June 18, 2009. The item was continued to August 20, 2009, at which time the Planning Commission approved a revised project that addressed Commissioners concerns regarding the amount of development proposed. Subsequently, an appeal was filed by neighbors who live south of the project site. The appeal letter expresses concerns regarding drainage and grading (see Attachment 1 – Appeal Letter). The appellants contend that neighborhood issues remain unresolved and inadequately addressed.

The proposed project was reviewed by the Architectural Board of Review on three occasions, by the Staff Hearing Officer on two occasions, and by the Planning Commission on two occasions. Issues regarding drainage have been thoroughly addressed and all substantial issues included in the appeal letter have been previously addressed in the public hearings, staff reports, and Final Mitigated Negative Declaration. It is staff's position that the Planning Commission appropriately considered all relevant issues pertaining to the application and made the appropriate findings to approve the proposed project. Therefore, staff recommends that the Council deny the appeal and uphold the approval of the project.

DISCUSSION:

Project Description

The proposed project involves a Lot Line Adjustment between two parcels. Proposed Parcel 1 (upper parcel) would be 2.47 acres and proposed Parcel 2 (lower parcel) would be 3.10 acres. The existing single-family residence and greenhouse foundation would be demolished.

Two new single-family residences would be constructed on each parcel, for a total of four. Parcel 1 would include a new 6,129 square foot residence with an attached 743 square foot garage plus a new 1,150 square foot residence with a 320 square foot garage, and a detached 430 square foot garage. Parcel 2 would include a new 3,700 square foot residence with a 747 square foot attached garage plus a new 1,250 square foot residence with a 352 square foot subterranean garage. Proposed drainage facilities include a storm drain and concrete swale crossing 860 Woodland Drive, a property located south of the project site, also owned by the applicant. The project site is accessed from Eucalyptus Hill Drive, a private road. The total grading quantities for both parcels include 3,090 cubic yards of cut and 2,830 cubic yards of fill. Street Frontage Modifications are requested to allow less than the required 100 feet of frontage on a public street for each newly configured parcel. Performance Standard Permits are requested to allow an additional dwelling unit on each parcel.

Background

Architectural Board of Review: The proposed project was reviewed by the ABR on three occasions. The Board supported the density of the development, the size of the buildings, and the number of garage parking spaces, given the reconfiguration of the lots and that they would not be visible to the general public.

Staff Hearing Officer Action: On August 29, 2007, the Staff Hearing Officer held a public hearing on the proposed project and then continued the item to September 12, 2007 in order for the applicant to address the concerns expressed by neighbors, which focused primarily on drainage issues in the neighborhood. The Staff Hearing Officer expressed additional concerns regarding the lot line adjustment, the amount of development, grading, and oak tree removal.

At the September 12, 2007 hearing, the Staff Hearing Officer denied the project stating that unresolved issues had not been adequately addressed. Subsequently, the applicant filed an appeal. In the interim years, following the denial, the applicant met with both City staff and neighbors, and as requested by Staff, completed additional drainage reports and updated the drainage plan to meet the requirements of the recently adopted City's Storm Water Management Plan, which was not in effect at the time of the Staff Hearing Officer hearing.

Planning Commission Action: On June 18, 2009, the Planning Commission considered the appeal of the project. After much discussion by the Planning Commission, the project was continued to allow the applicant to return with a revised project that included less overall development on the site. No changes were requested concerning drainage. On August 20, 2009, the applicant returned with a revised project that included a reduction in the size of three of the four residences, for a total reduction of 1,130 square feet. The garages were not reduced; however, using the methodology allowed by the Zoning Ordinance, the net floor areas of the garages were recalculated, resulting in a total recalculation reduction of 1,053 square feet. The Planning Commission voted 4-1-2 to uphold the appeal, adopt the Final Mitigated Negative Declaration, and approve the project.

Environmental Review

The Draft Mitigated Negative Declaration (MND) was prepared and released for public review from April 6 to May 7, 2007. Six public comment letters were received that expressed concerns related to biological resources, cultural resources, traffic, grading, and drainage. These issues are outlined in the Staff response to public comments incorporated into the Final Mitigated Negative Declaration. In addition, the applicant's civil engineering consultant, Triad/Holmes Associates, submitted a letter, which responded to the neighbor's comments regarding drainage.

The environmental analysis determined that the proposed project could potentially have significant adverse impacts related to biological resources, geophysical conditions, hazards, and water environment; however, mitigation measures described in the Initial Study and agreed to by the applicant would reduce potential impacts to less than significant levels. The Final Negative Declaration did not identify any significant and unavoidable impacts related to the proposed project. The additional drainage related studies submitted by the applicant after denial by the Staff Hearing Officer provides additional information but does not result in any changes to the project that would change the level of significance in any issue areas; therefore, no changes were made to the environmental document.

The Staff Hearing Officer did not adopt the MND because it was not necessary to do so since the project was not being approved; however, no issues with the MND were raised, and although there were concerns about drainage, they did not rise to a level of significance. The Planning Commissioners did not have comments on the Final Mitigated Negative Declaration, which they adopted with a vote of 4-1-2 on August 20, 2009, when they approved the project.

Lot Line Adjustment

Neighbors expressed concerns that the proposal should be considered a subdivision, subject to the Subdivision Map Act, rather a lot line adjustment. The proposal includes a request to adjust the lot line from a north-south to an east-west direction. Because no additional lots are created, it meets the definition of a lot line adjustment and is therefore exempt from requiring a Tentative Subdivision Map. It should be noted that it is the proposed development itself that requires that it be subject to the City's Storm Water Management Plan and is not tied to the issue of whether it is a subdivision or not.

Street Frontage Modifications

The lot configuration is proposed to change from two side by side vertical lots to one lot above the other with a horizontal lot line dividing the two lots. In the A-2 Zone, newly created lots are required to have 100 feet of frontage on a public street. Because Eucalyptus Hill Drive is an existing private road, none of the existing lots on the road have the required public street frontage. Modifications are required because the adjusted parcels would also not meet the frontage requirement. Per the Zoning Ordinance, all lot line adjustment requests for properties on private roads would require street frontage modifications, although Planning Commissioners have suggested that Staff review this requirement.

Performance Standard Permits

Additional dwelling units are allowed in single-family zones, with approval of a Performance Standard Permit, if the lot has the required lot area and adequate access. In this case, the minimum lot area required for each residence is 50,000 square feet, or 100,000 square feet per lot. Each adjusted lot would have over 100,000 square feet and adequate access is provided from Eucalyptus Hill Drive; therefore, the requirements are met.

The existing lot sizes and configurations would also meet the requirement for additional dwelling units, meaning that without the lot line adjustment approval, a total of four residences would still be allowed.

Appeal Issues

After the Planning Commission upheld the applicant's appeal and approved the project, the neighbors filed an appeal. The appeal letter states that many of the neighborhood issues, including drainage and hillside grading were still left unresolved.

Drainage

The main concern expressed by the neighbors was drainage, and the potential for the project to make the drainage situation in the neighborhood worse, citing longstanding drainage problems on Woodland Drive, located down slope from the project site. As indicated by the applicant at the Planning Commission hearing, there are currently no drainage facilities on the project site and the majority of the existing drainage sheet flows toward the top of the Norman Lane neighborhood, located directly south of the project site.

In the City, property owners are allowed to drain storm water to the public right-of-way; however, as properties are redeveloped, they are subject to the requirements of the City's Storm Water Management Plan.

After the denial by the Staff Hearing Officer, and prior to consideration by the Planning Commission, the applicant submitted the following additional drainage reports. These reports and changes to the drainage and grading plan respond to Staff's requests and it is Staff's belief that these changes should alleviate the neighbor's concerns.

1. *Revised Preliminary Stormwater Study, dated September 2008, and Addendum, dated February 23, 2009, prepared by Triad/Holmes Associates.* The report demonstrates that the stormwater runoff from the first inch of rain from any storm event would be retained and treated onsite in accordance with the City's adopted Storm Water Management Plan (SWMP). The volume of the proposed detention/retention basin would allow for detention of the 100-year storm runoff with a release rate equal to the 25-year pre-development runoff rate. The retention portion of the basin would provide the infiltration needed to comply with the City's water quality treatment requirements. The report concludes that the proposed preliminary design exceeds the City's requirements regarding volume reduction (almost double) and water quality treatment.
2. *Infiltration at Proposed Retention/Detention Basin Report, prepared by Earth Systems, dated February 13, 2009.* The report concludes that the required infiltration rate (approximately 0.1 inches/hour) can be achieved with the proposed retention/detention basin proposed for the southern portion of the site.
3. *Slope Stability at Proposed Retention/Detention Basin Report, prepared by Earth Systems, dated January 16, 2009.* The report consists of a slope stability analysis of the soils/bedrock below the proposed retention/detention basin. The report concludes that all factors of safety found for the slopes met all acceptable minimum factors of safety values and that failures along the slope are not anticipated.

Although the Preliminary Stormwater Study, referenced above, provides evidence that the proposed storm drain and concrete swale located within the easement at 860 Woodland Drive are adequate to convey the drainage from the onsite detention/retention basin to Woodland Drive, the applicant redesigned it to address neighbor's concerns. The culvert and swale would have two turns rather than one 90-degree turn at the southeast corner to further reduce the potential for the stormwater to spill out of the swale. Also, a reduction in the size of the onsite storm drain, from 24 inches to 8, 12 & 15-inch storm drains, was made to address neighbors concerns regarding the perceived effect of oversized storm drains conveying increased amounts of stormwater.

Off-site improvements include a drop inlet structure at the intersection of Woodland Drive and Alston Road and sixty feet (60') of thirty-six inch (36") storm drain connecting the drop inlet structure to an existing curb inlet along Alston Road, in order to alleviate existing drainage problems down the road from the project site.

When the project was before the Planning Commission, it included a revised condition of approval that requires the property owner to either modify the onsite retention/detention stormwater system to reduce the amount of stormwater discharge to Woodland Drive per City Standards, or install approximately five hundred feet (500') of eighteen inch (18") storm drain in Woodland Drive and connect to the storm drain on Alston Road (see Condition of Approval D.6). The revised condition of approval goes beyond the standard condition that there be no increase in flows onto city streets up to a 25-year storm. Prior to the issuance of building permits, Engineering staff will work with Building and Safety Staff and the applicant to obtain a design that will satisfy the requirements and concerns of the public, up to a 25-year storm. The Planning Commission did not express any concerns regarding drainage and Staff believes that the drainage issues are resolved with the new condition of approval.

Grading and Amount of Development

The Staff Hearing Officer expressed concerns regarding the amount of proposed development. The Planning Commission expressed similar concerns and requested that the applicant reduce the amount of development on the site. As stated previously, the size of three of the four residences was reduced and the Planning Commission approved the project.

The project was designed to minimize the grading as much as possible; however, it is generally not feasible to entirely eliminate grading for projects located on hillsides with slopes greater than 20 to 30 percent. The amount of earthwork required for the proposed project is estimated to be 3,090 cubic yards of cut and 2,830 cubic yards of fill. With the grading amounts almost completely balanced onsite, the proposal would result in some alteration of the existing landform but would not substantially change the existing topography of the site. The slopes on the property range from nearly flat to

over 30%, and the two main house sites would be located in areas of between 0-20% slopes. The two smaller residences would be located in areas of mostly 20-30% slopes, with a small portion of the lower guest house and a portion of the driveway located in areas that exceed 30% slopes.

Because each newly configured lot would have the required lot area to allow one additional residence, and would meet all setback and slope density provisions, Staff believes that the proposed development is appropriate for the site. In addition, the four single-family residences are not anticipated to obstruct any important public scenic views.

Conclusion

Staff is in support of the proposed project. With the reduction in the square footage of the residences as required by the Planning Commission, and with the additional drainage studies and improvements, Staff believes that the current proposal is superior to the original proposal.

RECOMMENDATION:

Staff recommends that Council deny the appeal and uphold the decision of the Planning Commission based on the findings contained in Planning Commission Resolution 031-09 to adopt the Final Mitigated Negative Declaration and approve the Lot Line Adjustment, Street Frontage Modifications, and Performance Standard Permits.

NOTE: The Planning Commission Staff Reports (6/18/09 & 8/20/09) and the Final Mitigated Negative Declaration are provided to the City Council's reading file under separate cover. These documents are available to the public in the City Clerk's Office and are also available at http://www.santabarbaraca.gov/Resident/Environmental_Documents/226_and_232_Eucalyptus_Hill.

ATTACHMENTS:

1. Appeal letter dated August 25, 2009
2. Site Plan
3. Applicant's letter dated October 28, 2009
4. Planning Commission Minutes and Resolution 031-09

PREPARED BY: Kathleen Kennedy, Associate Planner

SUBMITTED BY: Paul Casey, Community Development Director

APPROVED BY: City Administrator's Office

RECEIVED

ATTACHMENT 1

AUG 25 2009

CITY CLERK'S OFFICE
SANTA BARBARA, CA

JUNE C. SOCHEL
835 Woodland Drive
Santa Barbara, CA 93108

August 25, 2009

City of Santa Barbara
Planning Division
C/o Kathleen Kennedy, Associate Planner
630 Garden Street
Santa Barbara, CA 93102

SUBJECT: APPEAL OF THE PLANNING COMMISSION DECISION OF
AUGUST 20, 2009;
226-232 EUCALYPTUS HILL DRIVE
APN 015-050-017 & 015-50-018

Dear Ms. Kennedy:

Please accept this letter as a formal appeal of the entire subject of City Planning decisions as well as the Environmental decision made under CEQA to the Santa Barbara City Council. We believe the Planning Commission Hearing left many of the neighborhood issues unresolved and inadequately addressed. The Planning Commission's tightly structured time frame hampered meaningful discussion/debate; questions raised at this hearing and the prior hearing on June 18, 2009, went unanswered; no opportunity was given for discussion of the conditions of approval. Conflicting testimony regarding drainage issues, hillside grading, and indemnification continue to raise serious concerns and merit further scrutiny. Further we seek an objective evaluation of this development based on consideration of all the people who will be impacted by this project.

The required appeal fee of \$ 395 is attached for processing. As one of the neighborhood representatives and a resident of the City of Santa Barbara, I ask for the earliest possible hearing of this appeal. If you have questions, please contact June Sochel at 969-0354 or Ernie Salomon at 565-3025.

Respectfully submitted,

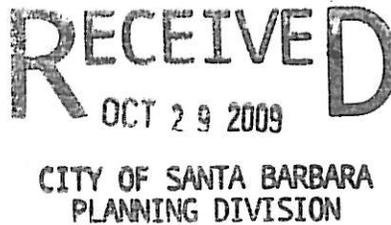
Caroline Vassallo
Tony Vassallo

Tony and Caroline Vassallo

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October 28, 2009

Mayor Marty Blum and Members
of the City Council
City of Santa Barbara
Post Office Box 1990
Santa Barbara, California 93102



Re: Appeal of Planning Commission Approval of 226-232 Eucalyptus Hill Drive

Dear Mayor Blum and Members of the City Council:

I represent Cyndee Howard, owner of the property at 226-232 Eucalyptus Hill Drive, which consists of two parcels totaling 5.57 acres in the A-2 zone. Since 2003, Ms. Howard has been attempted to obtain approval for a lot line adjustment changing the orientation of these lots from north-south to east-west to provide for a more conventional configuration of the property. On August 20, 2009, she received approval of this lot line adjustment from the Planning Commission, which approval was appealed by an unspecified group of downhill neighbors on August 25, 2009. The basis for the appeal, as outlined in the one page appeal letter, appears to be that the neighbors feel they were denied adequate time to present their concerns to the Planning Commission at two separate hearings (although the Commission received a significant amount of public comment and a multitude of written submittals from the apparent appellants in connection with this lot line adjustment), and that "conflicting testimony" was received which merits "objective evaluation." No specifics are provided regarding their objections, nor is there any explanation of why the staff's evaluation of the application failed to provide the needed "objective evaluation." Given this paucity of detail, it is difficult to respond to any particular issue, apart from acknowledging that the neighbors simply do not like the project and do not accept the opinions of either the staff or the applicant's experts on issues of drainage and grading. On that point, we must respectfully disagree. We believe that the project exceeds the requirements of the City, represents no increase in development beyond what would be permitted without the lot line adjustment, and offers significant benefits to the downhill property owners. Details of our position are outlined in the attached letters to the Planning Commission (dated October 6, 2008, March 4, 2009, and July 24, 2009) and summarized below.

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The Application

Fundamentally, this is a simple request: by reorienting the lot line between the two parcels, Ms. Howard will be creating an upper parcel of 2.47 acres and a lower parcel of 3.10 acres. Because of the slope of the property, the slope density provisions apply, requiring a minimum lot size of 50,000 square feet per lot (slightly larger than one acre). Clearly, both parcels exceed the minimum size requirements.

The second element of the application is for two performance standard permits, to allow Ms. Howard to construct a second unit on each of the parcels, so that she can complete her goal of creating a compound for her family. Under the Zoning Ordinance, the minimum lot size to support a second unit on these parcels is 100,000 square feet. The upper parcel exceeds that minimum size by more than 7,500 square feet, while the lower parcel contains in excess of 35,000 square feet above the minimum requirement.

In response to concerns expressed at the first Planning Commission hearing in June (including those of the neighbors), Ms. Howard revised her plan to dramatically reduce the size of the second units, with the second home on the upper lot totaling 1,150 square feet, and on the lower lot, 1,250 square feet. The main home on the upper lot, known as the replacement home for Ms. Howard's existing residence, will be slightly larger than 6,000 square feet, while the main home on the lower lot will be 3,700 square feet. With these reductions, building coverage on the upper lot is 8%, with more than 70% of the lot in landscaped or natural open space. Building coverage on the lower lot is even less, at 5%, with 88% of the lot landscaped or left in natural open space. As such, claims of "massive" structures and unacceptable density are simply false.

The only relief being requested is a street frontage modification, which is a technical request at best, as the existing parcels already fail to meet the public street frontage requirement, and therefore nothing will change by the approval or denial of the modification request. Eucalyptus Hill Drive is a private street. These lots were all created with access only on that private street. There is no configuration of the lots which could provide access to a public street.

The Conditions

Despite the limitations imposed by state law on the local agency's ability to condition simple applications such as lot line adjustments (see Government Code Section 66412 as

Mayor Marty Blum and Members
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quoted in my letter of October 6, 2008, attached), Ms. Howard agreed to a number of conditions on her project which benefit the appellants. These include substantial drainage improvements, both onsite and at the intersection of Woodland Drive and Alston Road, which will help alleviate longstanding drainage problems in the area, including on Norman Lane. Additionally, Ms. Howard has agreed that, should her plans for onsite retention of 100 year storm runoff prove insufficient, she will undertake additional drainage improvements along Woodland Drive to prevent any drainage from her project impacting the downhill properties.

While these improvements may be standard on a subdivision, they are rather extraordinary when one considers that the same amount of development could occur on these parcels without the lot line adjustment, and therefore, without any nexus, however remote, to support these conditions. Each of the existing lots, in their present configuration, could support a considerably larger main house as well as a substantially larger second unit without the need for any modifications. While it is true that performance standard permits would be required for the second units, it is inconceivable that costly offsite improvements such as these could be imposed on a single application for a 1,150 square foot second residence or a subsequent, separate application for one of 1,250 square feet were these applications to be submitted separately over time.

Conclusion

While it is clear that the neighbors would like to retain the rural ambiance which exists on Ms. Howard's undeveloped properties, the decision to develop the site rests with Ms. Howard. She has proposed a modest project, one with significant open space and substantial neighborhood improvements; one which is in keeping with both the surrounding properties and the governing ordinances. On average, each home occupies 1.4 acres, well in excess of any property on Woodland Drive or Norman Lane. At 1,150 and 1,250 square feet, two of the four homes are substantially smaller than the homes on the appellants' streets.

In addition, Ms. Howard has incorporated a number of beneficial attributes into her project which will control and appropriately convey drainage from the hillside for the benefit of the downhill neighbors, specifically those on Woodland Drive, Norman Lane, and at the low spot at the corner of Woodland Drive and Alston Road. None of these improvements exist today or will exist without the approval of this lot line adjustment. Furthermore, the appellants' unspecified claims regarding drainage and grading problems lack any detail and are unsupported by any factual information. As such, there is simply

Mayor Marty Blum and Members
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no basis for concluding that the project will create drainage or grading problems, is overbuilt, exceeds the allowable density, or poses a threat to neighboring property owners. Therefore, we respectfully request that the Council uphold the Planning Commission's decision approving this lot line adjustment and deny the appeal. Thank you very much.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kathleen M. Weinheimer".

Kathleen M. Weinheimer

Enclosures

KATHLEEN M. WEINHEIMER

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CITY OF SANTA BARBARA
PLANNING DIVISION

October 6, 2008

Chairman George C. Myers and Members
of the Planning Commission
City of Santa Barbara
Community Development Department
630 Garden Street
Santa Barbara, California 93101

Re: 226 and 232 Eucalyptus Hill Drive

Dear Chairman Myers and Members of the Planning Commission:

I represent Cynthia Howard, owner of the property at 226 and 232 Eucalyptus Hill Drive, APNs 015-050-017 and 015-050-018, in connection with her application for a lot line adjustment, and a modification and performance standard permit for each lot. This matter was heard by the Staff Hearing Officer in September of 2007, who determined that the findings required for approval could not be made. A timely appeal to your Commission was filed on September 20, 2007.

The proposed project involves the reorientation of the lot line between the two parcels, so that the line will run in an east-west direction instead of the current north-south configuration. When the lot line adjustment is completed, the upper parcel will consist of 2.47 acres, with an average slope of 21.3% (hereafter, Parcel 1), and the lower parcel (Parcel 2) will contain 3.10 acres with an average slope of 22.5%. All structures currently existing on the two parcels (a single family residence, greenhouse foundation, and hardscape) would be removed and replaced with two residences on each parcel. Access to both parcels would be from Eucalyptus Hill Drive, a private road, with access to Parcel 2 via an easement across Parcel 1. Modifications for street frontage are required, as are performance standard permits for the second residences on each parcel.

Chairman George C. Myers and Members
of the Planning Commission

October 6, 2008

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The SHO Hearing

In 2007, the Staff Hearing Officer held two hearings to consider this application, both of which were attended by a number of neighboring property owners. At both the hearings, there was considerable confusion about the application, with most of those speaking in opposition expressing concerns ranging from access via the adjacent streets below the project (Woodland Drive and Norman Lane) to fears that the project would exacerbate existing drainage problems in the area. Notably, virtually all those in opposition to the project were owners of property on the two streets below the site, as the neighbors on Eucalyptus Hill Drive support the project.

At the initial SHO hearing in August of 2007, the hearing officer's concerns focused on the drainage issue. Ms. Weiss asked the applicant to explain the drainage improvements proposed for the project and expressed particular concern about the existing conditions on the streets below the site and the potential for the project to worsen those conditions. At the subsequent hearing in September, Ms. Weiss expressed her objection to the design of the project, stating that she felt it was overbuilt, and that second units were inconsistent with the Hillside Design Standards. In denying the project, Ms. Weiss stated that, in addition to the neighborhood concerns, it was her opinion that "the Conservation Element and the General Plan were not adequately fulfilled regarding development and reduced building footprint, lot line adjustment, adequate access and egress, lot area, and connecting roadways." In short, she was of the opinion that this application was better suited to a four lot subdivision and should be heard by the Planning Commission.

The Appeal

Both the Municipal Code and state law are clear on the issue of lot line adjustments. Section 66412 of the Government Code states in part that:

"A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements."

Chairman George C. Myers and Members
of the Planning Commission

October 6, 2008

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While the hearing officer's denial stated that the Conservation Element and General Plan were "not adequately fulfilled regarding development and reduced building footprint, lot line adjustment, adequate access and egress, lot area, and connecting roadways" no specifics of these inadequacies were cited. Not only are specifics of these alleged inadequacies lacking, the "laundry list" of problems cited by the hearing officer goes well beyond the limited review applicable in the case of lot line adjustments.

The only issue before the decision maker in reviewing the lot line adjustment is whether the resulting lots will conform to the General Plan and the Zoning Ordinance. In this case, the proposed site plan meets the lot area and density requirements of the Zoning Ordinance and General Plan, and although not determinative, the proposed lot coverage is in keeping with the FARs of nearby developments. Similarly, although not within the scope of review for the lot line adjustment application, the new configuration does not include new access points, as access already exists to both lots from Eucalyptus Hill Drive. The proposal also does not increase the impact on adjacent roadways, as two lots already exist and, with approval of a performance standard permit, both existing lots could contain two dwellings. Finally, the proposed sizes and designs of the homes are in keeping with the Hillside Design Standards. Denial of this lot split application will not limit the development potential of the site, but rather only constrain that development to the existing configuration.

The Staff Hearing Officer's initial concerns about drainage have apparently also been satisfied, as no mention of drainage considerations was contained in her final action. Similarly, there was no discussion of the requested modifications for public street frontage. It is our belief that the finding for approval of this modification can be supported, as the modification is necessary to secure an appropriate improvement on Parcel 2, access to which is already nonconforming.

Specific objections to the requested performance standard permits were also lacking, beyond a statement that the development was "too dense" and overbuilt. With almost 1.4 acres per unit, it is difficult to see how this conclusion can be supported, as the project clearly meets the requirements of Municipal Code Section 28.93.030E. Similarly, with two of the four proposed units measuring less than 2000 square feet each, a charge of overbuilding is equally hard to sustain.

Chairman George C. Myers and Members
of the Planning Commission

October 6, 2008

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The Past Year

Since the hearings in 2007, the applicant has spent considerable time and effort in refining the proposal, including substantial work on the drainage issue which was of such concern to the neighbors. The revised proposal was presented at a neighborhood meeting in August of this year, which was attended by 18 members of the neighborhood. Ms. Howard's agent, Brent Daniels, described the drainage improvements, including the retention basins, increased pipe capacity, and improvements planned for the intersection of Woodland Drive and Alston Road. He also responded to several of the ongoing misconceptions about the development, including the rumor that access to the lower lot was through Woodland Drive and that each of the four houses would be sold separately. As has been made clear from the outset, access to the site will remain at the current Eucalyptus Hill Drive entrance, the entire site is intended as a family compound, and runoff to the properties below the site will be reduced once the proposed drainage improvements have been installed. It is our hope that this meeting helped alleviate some of the neighbors' concerns, and eliminate many of the unfounded rumors.

Our Request

As stated above, we believe the requirements of the relevant law have been met, and that the action of the Staff Hearing Officer in denying the application exceeded the scope of review. Therefore, we respectfully request that, in keeping with the provisions of the Zoning Ordinance and state law, the Commission overturn the decision of the Staff Hearing Officer, make the required findings, and approve the requested application for a lot line adjustment, modifications for street frontage, and performance standard permits to allow the application to proceed to design review. Thank you very much.

Sincerely,



Kathleen M. Weinheimer

KATHLEEN M. WEINHEIMER

ATTORNEY AT LAW

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RECEIVED
MAR 04 2009

March 4, 2009

CITY OF SANTA BARBARA
PLANNING DIVISION

Chairwoman Stella Larson and Members
of the Planning Commission
City of Santa Barbara
Community Development Department
630 Garden Street
Santa Barbara, California 93103

Re: 226 and 232 Eucalyptus Hill Drive

Dear Chairwoman Larson and Members of the Planning Commission:

In October of 2008, I wrote to the Commission concerning my client Cynthia Howard's appeal of a September, 2007 decision of the Staff Hearing Officer (copy attached). At that time, we anticipated a hearing before the Commission in November or December of 2008. My letter outlined my client's position with regard to the project, the reasons why the Staff Hearing Officer's decision was in error, and requested that the Commission overturn the denial and approve the requested lot line adjustment, modifications, and performance standard permits. Since that time, however, we have been presented with a series of additional requests from staff which has delaying the hearing for a number of months. These include:

- a slope stability study,
- additional drainage analysis and refinement of the grading plans,
- additional information on the Preliminary Drainage and Grading Plan, to reflect the recommendations in the drainage analysis,
- proof that the proposed drainage plan meets the City's SWMP guidelines.

While all of this information is undoubtedly useful to some extent, it is well beyond the scope of the City's authority to require such information prior to reviewing an application for a lot line adjustment, and certainly exceeds the scope of review for an appeal. The original application was found complete some years ago when it was heard by the Staff Hearing Officer. Under the Permit Streamlining Act (Government Code Section 65920 *et. seq.*), decisionmakers are precluded from requiring additional documentation once an application is deemed complete. Since the application was, by law, complete when the

Chairwoman Stella Larson and Members
of the Planning Commission

March 4, 2009

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original hearing was held, it cannot "become" incomplete simply by virtue of the fact that the property owner filed an appeal. Moreover, state law clearly limits the extent of the inquiry that can be made in connection with a lot line adjustment application, as the impacts of such an application are by definition limited: the same number of houses could be built without the lot line adjustment as can be constructed after approval of the requested application. During at least one consultation between staff and the applicant's agent, there was discussion of the existing problems created by storm water down Woodland Road to Alston Road. Not only is this inquiry well beyond the perimeters of Section 66412 of the Government Code (defining the local agency's review of lot line adjustments), it exceeds what would be acceptable were this an application for a subdivision. There is simply no nexus between the reconfiguration of the property lines between my client's two lots and the longstanding drainage problems on Woodland Drive. Ms. Howard is neither responsible for, nor can she be required to pay to correct those existing problems.

With those objections, we have prepared and submit herewith the following:

Two (2) copies of the Slope Stability at Proposed Retention/Detention Basin Report, prepared by Earth Systems, dated January 16, 2009;

Two (2) copies of the Infiltration at Proposed Retention/Detention Basin Report, prepared by Earth Systems, dated February 13, 2009;

Two (2) copies of an Addendum Letter, prepared by Triad/Holmes Associates, Civil Engineers, dated February 23, 2009;

Ten (10) copies of the Architectural Plan Set for the Four Proposed Houses (resubmitted under separate cover), and

Ten (10) copies of the revised Lot Line Adjustment, Preliminary Grading and Drainage Plan, dated February 2009.

Chairwoman Stella Larson and Members
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March 4, 2009
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As outlined in my letter of October 6, 2008, we respectfully request that the Commission review the attached material, find the project acceptable as proposed, and take the steps necessary to allow this project to proceed. Thank you very much.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kathleen M. Weinheimer".

Kathleen M. Weinheimer

Enclosures

KATHLEEN M. WEINHEIMER

ATTORNEY AT LAW

420 ALAMEDA PADRE SERRA

SANTA BARBARA, CALIFORNIA 93103

TELEPHONE (805) 965-2777

FAX (805) 965-6388

EMAIL: kathleenweinheimer@cox.net

July 24, 2009

Chairwoman Stella Larson and Members
of the Planning Commission
City of Santa Barbara
630 Garden Street
Santa Barbara, California 93101

Re: Howard Appeal

Dear Chairwoman Larson and Members of the Commission:

At the last hearing on this project, the majority of the Commission expressed concerns about the amount of development proposed on the more than five and one half acre site, raising issues related to size, bulk and scale, parking and density of development. Since then, the appellant has made a number of revisions to the proposal to address these issues, as well as to reflect changes in the Zoning Ordinance which have been adopted since this project began. These include:

1. The main house on the lower lot has been redesigned to reduce the size, bulk and scale of the proposed dwelling by 227 square feet, for a total square footage of 3,700 square feet. Pursuant to SBMC Section 28.15.083, the calculation of the garage size has also been reduced by 373 square feet, as the garage is built into the hillside and therefore does not qualify as square footage. This house is located in an area of the property where most of the slope is well under 10 percent.

2. The second home on the lower lot has also been revised to reduce the size, bulk, and scale consistent with the Hillside Design Guidelines. In addition to a 200 square foot reduction in calculation of the size of the garage (per Section 28.15.083), the overall size of the dwelling has been reduced by more than 1/3 to 1,250 square feet (from 1,786 square feet).

3. The size of detached two car garage and storage room on the upper lot has been recalculated in accordance with Section 28.15.083, which resulted in a reduction of 320 square feet, due to the fact that the garage is largely built into the hillside and is not visible from surrounding properties.

EXHIBIT B

Chairwoman Stella Larson and Members
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4. The second home on the upper lot has also been reduced in size, both through application of the new ordinance provisions and reductions in overall square footage. Section 28.15.083 resulted in a 160 square foot reduction in the understory garage of this unit, while the home itself was reduced by 367 square feet, for a total square footage of 1,150 square feet (a 41 % reduction from the prior submittal).

With these changes, there is a combined reduction of 2,183 square feet in the project. Building coverage on the upper lot is 8%, on the lower lot 5%. More than 70% of the upper lot and 88% percent of the lower lot will be landscaped or open space. In addition, while the main, or replacement house, on the upper lot remains as previously presented, it is important to note that most of this structure is in an area of the property which is well under 10 percent slope. With these kinds of reductions, there is simply no basis for a conclusion that this more than 5.5 acre site is overbuilt.

At the last hearing, time constraints prevented me from providing several additional supporting factors for the Commission's consideration in adopting the required findings for approval. These include the following:

A. Lot Line Adjustment Findings: The staff report states that the Lot Line Adjustment is appropriate for the area and is consistent with the City's General Plan and Building and Zoning Ordinances, in that the readjusted lots at 2.47 acres and 3.10 acres would far exceed the minimum size required under the Zoning Ordinance (50,000 square feet per lot, adjusted for slope density). The staff report also notes that the readjusted lots would complement each other in both the flow and functionality of landscape and architectural design. I would also suggest that a review of the surrounding neighborhood shows that, while there are other linear parcels along this private roadway, most of the properties in the vicinity are configured in a manner similar to what we are proposing. The east-west alignment allows for better use of the site, increased distance between structures, and requires fewer modifications of setbacks and the like. Rather than forming an exception to the surrounding neighborhood, this proposal brings the development in line with many of the properties in the vicinity.

B. Street Frontage Modification Finding: As Commission Thompson said during the last hearing, this modification is a technical requirement only, as all the parcels on Eucalyptus Hill Drive front on a private road, a nonconformity which will continue regardless of the action on this application. No matter how the lots are configured, public street frontage could never be obtained. More importantly, however, is the fact that the lot line adjustment request will allow for a preferred use of the properties, by avoiding the clustering of development adjacent to the street. Both before and after the lot line adjustment, one of the two lots will include 100 feet of frontage, albeit on a private street.

In addition to staff's point about the appropriateness of the improvement, I would also suggest that this modification is supportable because it is necessary to promote uniformity of development, again not necessarily with the homes on Eucalyptus Hill Drive, but with the larger Eucalyptus Hill neighborhood.

C. Performance Standard Permits: The staff report states that the lot areas of the two parcels have the minimum lot area required in the A-2 zone and the additional dwelling units comply with all other applicable ordinance requirements. In addition, however, it is important to mention that not only do the two lots meet the minimum size requirements under the A-2 zone, they both provide the minimum required for the requested second unit. Parcel 1 will include 2.47 acres, which is equivalent to 107,593 square feet, or 7,593 square feet more than required at a ratio of 50,000 square feet per unit. Parcel 2 is even larger at 3.10 acres or 135,036 square feet, with more than 35,000 square feet above that required for two units. On average, this equates to 1.4 acres per unit. Both of the Performance Standard Permit requirements, that the minimum site area per dwelling unit must be met and the location of such additional dwellings must comply with all other applicable ordinance provisions, have been met in this case. No other discretionary evaluation is included or appropriate. As such, there is no basis for a conclusion that the site would be overdeveloped, particularly given the reduced sizes of the proposed homes.

Finally, I would like to clarify some of the misstatements made by members of the public at the last hearing. While some of the comments evidenced simple misunderstandings of the governing law (for example, questions about "second units" or "granny units" which implied that the limited restrictions of the conditional use permit process must be met rather than an understanding that these were full-sized second dwellings which meet the Performance Standard Permit criteria), others were simply factually incorrect. These include:

- The continued claims that drainage on Woodland Drive will be adversely impacted by the project. Not only will the project contain the average storm flows onsite, the required installations will improve the existing situation on Woodland Drive, one which has existed for many years and is not the obligation of this owner to repair.
- Assertions that "lives and property will be endangered" through the construction of three additional houses on more than five and one half acres. There is absolutely no justification for that kind of unfounded statement in a public setting, and that claim cannot go unchallenged.

- Concern that there was too much parking on the site. There are, in fact 11 parking spaces on the property, all in garages. Eight of these garage spaces are proposed to be built into the hillside, reducing their apparent size, bulk and scale in accordance with the Hillside Design Guidelines. The "turnaround" area near the garage on the upper lot is included based on a requirement of the Fire Department, not as additional open parking.

The ability to express an opinion about a project is fundamental in our society and should be respected. However, respect for the other party's position is equally important. For a complaint to have any merit, it must be based on facts. Unfortunately, some of the letters and statements made by those opposed to this project were based on nothing more than exaggeration, misstatements, and bald-faced lies. For example, one owner claimed that the project involved the construction of "five huge structures." The reality is that one home was originally proposed at less than 1,600 square feet and has now been reduced to 1,150 square feet, while another began at less than 1,800 square feet and is now 1,250 square feet. Three of these four (not five) allegedly "huge" structures are similar in size or smaller than most of the existing homes in the surrounding neighborhoods, and at a ratio of 1.4 acres per residence, are located on lots larger than those on Woodland Drive or Norman Lane. Another neighbor objected to the entire hearing, arguing that since the SHO had made her decision, we should be precluded from an appeal. Not only did the concept of due process apparently escape this neighbor, he also alleged that we were somehow responsible for the change in staff planners and the delay in getting to the Planning Commission. A simple review of the record or a conversation with staff would have corrected this misimpression. We believe we have addressed each of the *legitimate* concerns raised at the last hearing, as reflected by the revisions described above, and ask that you disregard these false and baseless claims by the neighbors.

In closing, I would simply reiterate that the primary discretionary component of this application is for a lot line adjustment, not for an increase in density or intensity of use beyond what could already be built on the site, but merely for approval of a more compatible configuration of the property. By reducing the project by 2,183 square feet (essentially the size of a single family residence), we believe we have been responsive to the Commission's concerns and have presented a revised project which is in keeping with the neighborhood, respectful of the surroundings, and beneficial to the community through the installation of the offsite improvements. With that, we would request that you approve the changes we have proposed, uphold our appeal, and adopt the

Chairwoman Stella Larson and Members
of the Planning Commission
July 24, 2009
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Mitigated Negative Declaration, findings, and conditions as outlined by staff at the last hearing. Thank you very much.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kathleen M. Weinheimer".

Kathleen M. Weinheimer

RECEIVED
JUL 27 2009

CITY OF SANTA BARBARA
PLANNING DIVISION

IV. STAFF HEARING OFFICER APPEAL:

ACTUAL TIME: 1:47 P.M.

APPLICATION OF BRENT DANIELS, AGENT FOR CYNTHIA HOWARD, 226 & 232 EUCALYPTUS HILL DRIVE, APN 015-050-017 & 015-050-018, A-2, ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, TWO UNITS PER ACRE (MST2004-00349)

This is an appeal of the denial of the project by the Staff Hearing Officer. The proposed project involves a lot line adjustment between two parcels (2.82 and 2.75 acres in size) by realigning the dividing lot line from a north-south direction to an east-west direction, and resulting in two parcels of 2.47 acres (Parcel 1, upper parcel) and 3.10 acres (Parcel 2, lower parcel). Parcel 1 would have an average slope of 21.3% and Parcel 2 would have an average slope of 22.5%, both parcels sloping north to south. An existing single-family residence, greenhouse foundation, and hardscape driveway would be removed, and two new single-family residences are proposed on each parcel. Parcel 1 would include a 6,129 square foot residence with an attached 743 square foot garage, and a 1,517 square foot residence with a 320 square foot garage, and a detached 430 square foot garage. Parcel 2 would include a 3,927 square foot residence with an a 747 square foot attached garage, and a 1,786 square foot residence with a 352 square foot subterranean garage. The project site is currently accessed from Eucalyptus Hill Drive, a private road, by an existing unimproved driveway which extends to the southern portion of the properties. This driveway would be improved to facilitate access to the proposed lower parcel, via an easement though the upper parcel. The total grading quantities proposed for the development of both parcels include 3,090 cubic yards of cut and 2,830 cubic yards of fill.

The discretionary applications required for this project are:

1. Lot Line Adjustment to allow adjustment of the property line between two existing parcels (SBMC§27.40);
2. Street Frontage Modifications to allow less than the required 100 feet of frontage on a public street for each parcel (SBMC§28.15.080); and
3. Performance Standard Permits to allow an additional dwelling unit on each parcel (SBMC§28.93.030.E).

The Planning Commission will consider adoption of the Mitigated Negative Declaration prepared for the project pursuant to the California Environmental Quality Act Guidelines Section 15074.

Case Planner: Kathleen Kennedy, Associate Planner
Email: KKennedy@SantaBarbaraCA.gov

Kathleen Kennedy, Associate Planner, gave the Staff presentation.

Bettie Weiss, City Planner, gave the Staff Hearing Officer presentation.

Brent Daniels, L & P Consultants, gave the applicant presentation and introduced his team: Cristi Fry, Civil Engineer, Triad/Holmes Associates; Lane Goodkind, Landscape Architect; Allan McCloud, Architect, Shubin and Donaldson Architects, Inc.; and Kathleen Weinheimer, Attorney.

Chair Larson opened the public hearing at 2:24 P.M.

The following people spoke in support of the appeal:

1. Clay Tedeschi
2. Teha Eliassen
3. Steve Bollinger

The following people spoke in opposition to the appeal:

1. John Manning, neighbor, is opposed to the project and expressed concerns regarding the lot line adjustment, increased development potential, amount of cut and fill, and removal of eucalyptus trees
2. June Sochel, neighbor, expressed concerns regarding grading of the hillside, soil instability and drainage.
3. Tony Vassallo, neighbor, expressed concerns similar to those submitted as written comments.
4. Caroline Vassallo, neighbor, expressed concerns similar to those submitted as written comments.
5. Ernie Salomon, neighbor, expressed concerns regarding flooding, slides, and land movement and suggested that the water from the proposed project be piped into the north-side creek which runs parallel and runs west of Woodland Drive.

With no one else wishing to speak, the public hearing was closed at 2:46 P.M.

Staff responded to the Planning Commission question about the adoption of the Mitigated Negative Declaration (MND) stating that it was not necessary to adopt the MND if the project was not being approved. Ms. Weiss stated that she did not have any issues with the MND, and although she was concerned about the drainage, it does not rise to a level of significance.

Mark Wilde, Supervising Engineer, Public Works, explained that the standard condition has been included so that there will be no increase in flows to Woodland Drive up to a 25 year storm. The proposed condition goes beyond the standard in proposing a potential installation of an 18" storm drain that meets up with the existing 36" storm drain. If this project is approved, Engineering staff can work with Building and Safety Staff to obtain a design that will satisfy the requirements and concerns of the public, without having any damage to their properties, up to a 25 year storm.

Mr. Vincent explained the differences between a lot line adjustment and subdivision and why a lot line adjustment is appropriate for the project. He also answered the question concerning the City's policy about the number of lots using a private drive, stating that a waiver would be needed for more than four lots; however, in this case, a waiver would not apply since the number of lots would remain the same.

Ms. Fry stated that Woodland Drive could handle 60 cubic feet per second (cfs) and that the project is only proposing 7.9 cfs. She added that the actual location of the 4' wide and 1' high concrete swale has not been determined but that it will be in the area identified on the map by a yellow line, and would not require much landscape screening from down below.

Mr. Daniels stated that, per the City's ordinance, each of the four homes could have 500 square feet of accessory structures.

The Commissioners made the following comments:

1. Commissioner Jacobs had a concern with the proposed density and the size of the additional residences.
2. Commissioners Jostes and Lodge had concerns regarding drainage, density, the number of garages, and cannot support the street frontage modification.
3. Commissioner White could not support the project and wondered if the applicant would still want a lot line adjustment with two houses on the property instead of four.
4. Commissioner Bartlett summarized his recollection of the project's history at the ABR and stated that the applicant has gone far and above what is technically required and can support the project and requested modifications.
5. Commissioner Thompson stated that the City has got to get a better handle on private streets seeking public street frontage waivers. He stated that fire safety has been improved with the removal of hazardous vegetation and that he agrees with the Staff recommendation and supports the project as proposed.
6. Commissioner Larson agrees with Commissioners Bartlett and Thompson, but remains concerned with the density.

Staff acknowledged the Planning Commission's discretion to approve the performance standard permit. Ms. Weiss added that there is adequate ingress and egress and lot area for this project.

Mr. Daniels stated that the lot line adjustment would not increase the allowable density onsite.

MOTION: Bartlett/Thompson

Uphold the appeal to adopt the Mitigated Negative Declaration (MND), recommend approval of the street frontage modification, lot line adjustment, performance standard permits, and include revised condition of approval as proposed by the applicant in D.6., including requirement for 500 linear feet of storm drain.

This motion failed by the following vote:

Ayes: 3 Noes: 4 (Jostes, White, Jacobs, Lodge) Abstain: 0 Absent: 0

The motion failed.

Commissioner White remained concerned with the density and needed to see less development on the site.

Ms. Weinheimer stated that a continuance, rather than a denial, would be preferred and cautioned that if the parcels are merged, four houses could still be allowed to be built there.

MOTION: Jostes/White

Continued to July 23, 2009

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

Chair Larson called for a recess at 3:29 P.M. and reconvened the meeting at 3:48 P.M.

V. **DISCUSSION ITEM:**

ACTUAL TIME: 3:48 P.M.

PLAN SANTA BARBARA WORK SESSION (DISCUSSION ITEM)

This work session will focus primarily on the Land Use and Growth Management Element which updates the existing Land Use (General Plan) Element. Prefatory to that discussion, staff will present an overview of the proposed General Plan framework document to review the format for the proposed General Plan and provide context for the Land Use and Growth Management Element. The discussion of the proposed Land Use and Growth Management Element will focus on the disposition of policies in the existing Land Use Element; which policies are recommended to be retained as is, retained but revised, moved to another more appropriate element, or deleted. Additionally, a brief update will be given on revisions to the Land Use Map. Any public comment on these items as well as the EIR process to date will be welcome.

This is a Planning Commission discussion item, including a staff presentation, public comment, and Commission discussion. No Commission action will be taken on *Plan Santa Barbara*.

Case Planner: John Ledbetter, Principal Planner

Email: JLedbetter@SantaBarbaraCA.gov

John Ledbetter, Principal Planner, gave the Staff presentation, joined by Beatriz Gularte, Project Planner, and Bettie Weiss, City Planner.

**APPLICATION OF BRENT DANIELS, AGENT FOR CYNTHIA HOWARD,
226 & 232 EUCALYPTUS HILL DRIVE, APN 015-050-017 & 015-050-018, A-2,
ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION:
RESIDENTIAL, TWO UNITS PER ACRE (MST2004-00349)**

This is an appeal of the September 12, 2007 denial of the project by the Staff Hearing Officer. The revised project includes a reduction in the size of three of the four proposed residences. The proposed project involves a lot line adjustment between two parcels (2.82 and 2.75 acres in size) by realigning the dividing lot line from a north-south direction to an east-west direction, and resulting in two parcels of 2.47 acres (Parcel 1, upper parcel) and 3.10 acres (Parcel 2, lower parcel). Parcel 1 would have an average slope of 21.3% and Parcel 2 would have an average slope of 22.5%, both parcels sloping north to south. An existing single-family residence, greenhouse foundation, and hardscape driveway would be removed, and two new single-family residences are proposed on each parcel. Parcel 1 would include a 6,129 square foot residence with an attached 743 square foot garage, and a 1,150 square foot residence with a 320 square foot garage, and a detached 430 square foot garage. Parcel 2 would include a 3,700 square foot residence with an a 747 square foot attached garage, and a 1,250 square foot residence with a 352 square foot subterranean garage. The project site is currently accessed from Eucalyptus Hill Drive, a private road, by an existing unimproved driveway which extends to the southern portion of the properties. This driveway would be improved to facilitate access to the proposed lower parcel, via an easement though the upper parcel. The total grading quantities proposed for the development of both parcels include 3,090 cubic yards of cut and 2,830 cubic yards of fill.

The discretionary applications required for this project are:

1. Lot Line Adjustment to allow adjustment of the property line between two existing parcels (SBMC§27.40);
2. Street Frontage Modifications to allow less than the required 100 feet of frontage on a public street for each parcel (SBMC§28.15.080); and
3. Performance Standard Permits to allow an additional dwelling unit on each parcel (SBMC§28.93.030.E).

The Planning Commission will consider adoption of the Mitigated Negative Declaration prepared for the project pursuant to the California Environmental Quality Act Guidelines Section 15074.

Case Planner: Kathleen Kennedy, Associate Planner
Email: KKennedy@SantaBarbaraCA.gov

Kathleen Kennedy, Associate Planner, gave the Staff presentation.

Kathleen Weinheimer, Attorney, gave the Appellant presentation.

Brent Daniels, L & P Consultants, gave the Applicant presentation.

Chair Larson opened the public hearing at 3:23 P.M.

The following people spoke in support of the appeal, or with concerns:

1. Clay Tedeschi
2. Mary Faro

The following people spoke in opposition to the appeal:

1. Chris Flynn
2. Steve Lew
3. Joel Ohlgren
4. Ernest Salomon
5. June Sochel
6. Pierre Nizet
7. Tony Vassallo
8. Caroline Vassallo
9. Caryl Crahan
10. Claudia Sobel
11. Leon Olsen
12. Cherie Lucas
13. Maria Nizet
14. Doris Sturgess
15. Charlene Little
16. Richard Mahoney
17. Julie Mahoney
18. Collette Flynn
19. Meagan Flynn

With no one else wishing to speak, the public hearing was closed at 3:55 P.M.

Mr. Daniels responded to the Commission's question by confirming that there are currently no drainage facilities on the property and that there is sheet flow with the majority going toward the top of the Norman Lane neighborhood. He also spoke about the slope stability.

Michael Cloonan, Public Works Engineering, responded to the Commission's question about the storm drain condition of approval, stating that if the drainage outflow to Woodland Drive is determined to be too high, then the applicant would be required to install the 18-inch underground storm drain for approximately 500 feet to connect to the storm drain in Alston Road. The determination will be made at the time the building permit is issued. Mr. Vincent added further comment explaining the existing storm drain at Alston Road and the conditions that would trigger the proposed storm drain to the base of Woodland Drive.

Mr. Vincent explained how the lot size could support an additional dwelling unit under the existing zoning.

Ms. Weinheimer commented that the current configuration would allow two dwelling units on each lot, but that they would not be as well sited and would not include the significant drainage improvements that the proposed application offers. Issues of significant concern to the down-slope property owners would not be able to be addressed later. Any of the concerns that were raised about mudslides, density of development, fire, etc., could just as well happen without a lot line adjustment, but would not be addressed with the proposed improvements.

Mr. Kato stated that without the lot line adjustment, there would still be a Performance Standard Permit and required compliance with the City's Storm Water Management Plan.

Mr. Cloonan responded to Mr. Thompson's question regarding why the determination was not made for the 18 inch drain. Mr. Vincent added that the City allows property owners to have water drain to the right-of-way.

The Commissioners made the following comments:

1. Commissioner Bartlett supported the changes that have been made and felt that the lot line adjustment makes the project better. The project will improve the situation for growth of other plants on the hillside.
2. Commissioner Thompson will support the street frontage modification, but felt that the Ordinance should be reviewed so that people do not have to ask for these modifications on a private street. Understood concerns of neighbors but defers to the expertise of City Engineers.
3. Commissioner White remained skeptical of changes and felt that the site is overdeveloped in contrast to the original development. The project proposes more development than he is comfortable with on the two slopes. Commissioner Larson concurred and added her concern for public safety and fire access.

Commissioner Bartlett explained that the proposal actually has fire access benefits with the addition of a hammerhead turn for the Fire Department.

MOTION: Bartlett/Thompson

Assigned Resolution No. 031-09

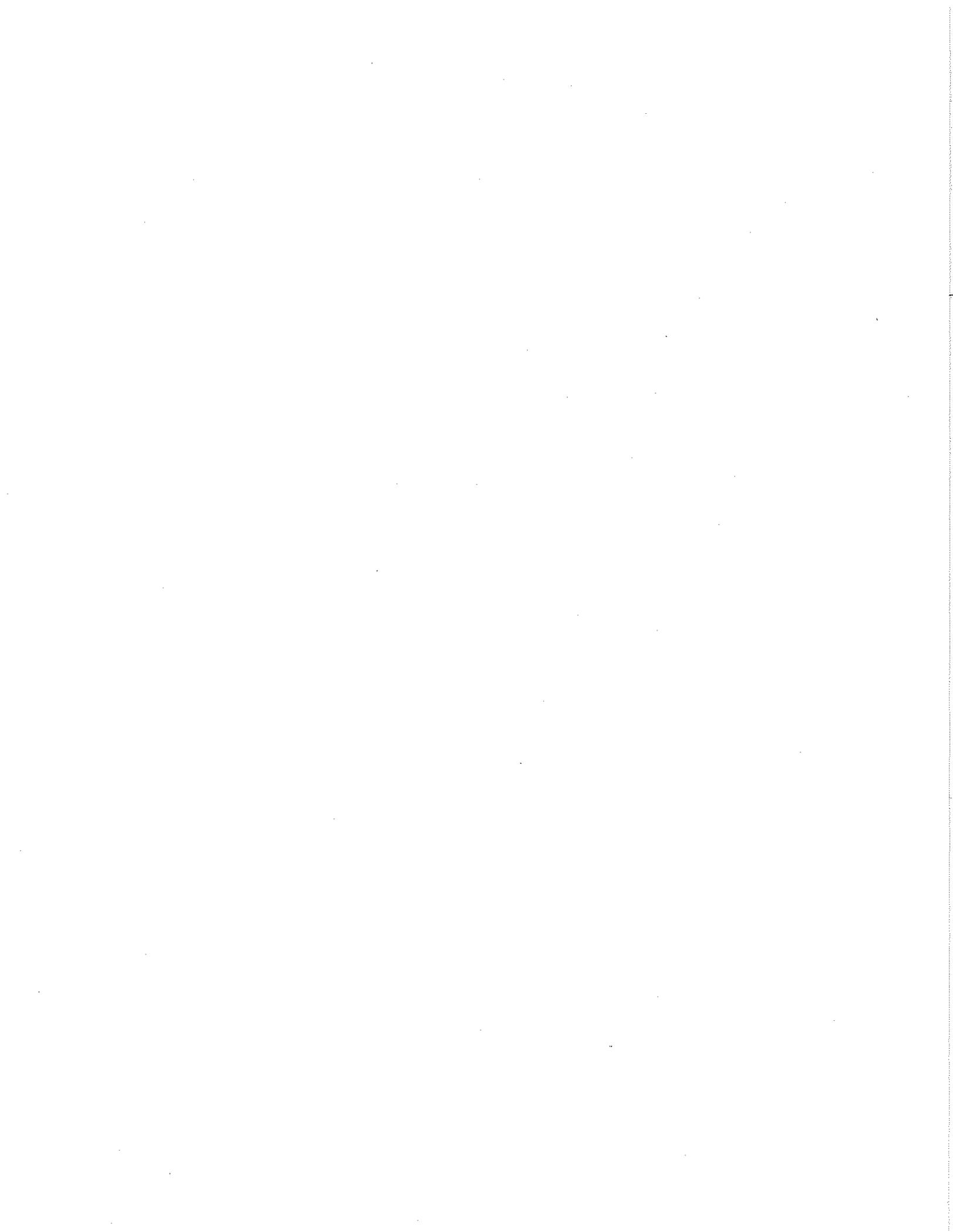
Uphold the appeal, approve the project, and adopt the Final Mitigated Negative Declaration, making the findings for the Lot Line Adjustment, Street Frontage Modifications, and Performance Standard Permits as outlined in the Staff Report, subject to the Conditions of Approval in Exhibit A of the Staff Report.

This motion carried by the following vote:

Ayes: 4 Noes: 1 (White) Abstain: 0 Absent: 2 (Jacobs, Jostes)

Chair Larson announced the ten calendar day appeal period.

Chair Larson called a brief recess at 4:30 and resumed the meeting at 4:33 P.M.





City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

UPDATED* RESOLUTION NO. 031-09

226 AND 232 EUCALYPTUS HILL DRIVE

LOT LINE ADJUSTMENT, STREET FRONTAGE MODIFICATIONS, PERFORMANCE STANDARD PERMITS
AUGUST 20, 2009

**APPLICATION OF BRENT DANIELS, AGENT FOR CYNTHIA HOWARD,
226 & 232 EUCALYPTUS HILL DRIVE, APN 015-050-017 & 015-050-018, A-2, ONE-FAMILY
RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, TWO UNITS PER
ACRE (MST2004-00349)**

This is an appeal of the September 12, 2007 denial of the project by the Staff Hearing Officer. The revised project includes a reduction in the size of three of the four proposed residences. The proposed project involves a lot line adjustment between two parcels (2.82 and 2.75 acres in size) by realigning the dividing lot line from a north-south direction to an east-west direction, and resulting in two parcels of 2.47 acres (Parcel 1, upper parcel) and 3.10 acres (Parcel 2, lower parcel). Parcel 1 would have an average slope of 21.3% and Parcel 2 would have an average slope of 22.5%, both parcels sloping north to south. An existing single-family residence, greenhouse foundation, and hardscape driveway would be removed, and two new single-family residences are proposed on each parcel. Parcel 1 would include a 6,129 square foot residence with an attached 743 square foot garage, and a 1,150 square foot residence with a 320 square foot garage, and a detached 430 square foot garage. Parcel 2 would include a 3,700 square foot residence with an a 747 square foot attached garage, and a 1,250 square foot residence with a 352 square foot subterranean garage. The project site is currently accessed from Eucalyptus Hill Drive, a private road, by an existing unimproved driveway which extends to the southern portion of the properties. This driveway would be improved to facilitate access to the proposed lower parcel, via an easement though the upper parcel. The total grading quantities proposed for the development of both parcels include 3,090 cubic yards of cut and 2,830 cubic yards of fill.

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3. Performance Standard Permits to allow an additional dwelling unit on each parcel (SBMC§28.93.030.E).

The Planning Commission will consider adoption of the Mitigated Negative Declaration prepared for the project pursuant to the California Environmental Quality Act Guidelines Section 15074.

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, 2 people appeared to speak in support of the appeal, and 19 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, August 20, 2009
2. Site Plans
3. Correspondence received in support of the appeal:
 - a. William R. Lucas, Santa Barbara, CA
 - b. Mary Foto, via email
4. Correspondence received in opposition to the appeal, or with concerns:
 - a. Cheryl Lucas, Santa Barbara, CA
 - b. Elaine Heavner, Santa Barbara, CA
 - c. Illegible signature, Santa Barbara, CA
 - d. Richard Hykes, MD, Santa Barbara, CA
 - e. Moris Hampton, Santa Barbara, CA
 - f. Illegible signature, Santa Barbara, CA
 - g. Winifred Higgins, Santa Barbara, CA
 - h. Illegible signature, Santa Barbara, CA
 - i. Diane C. Grant, Santa Barbara, CA
 - j. Illegible Signature, Santa Barbara, CA
 - k. G. W. Marks, Santa Barbara, CA
 - l. Catherine Romero, Santa Barbara, CA
 - m. Illegible signature, Santa Barbara, CA
 - n. Tony and Caroline Vassallo, Santa Barbara, CA
 - o. Eva Callis, Santa Barbara, CA
 - p. Joel Ohlgren and Nancy Even, via email
 - q. Steve Lew, via email
 - r. Chris Flynn, MD, via email
 - s. Charlene Little, Santa Barbara, CA
 - t. Richard and Julie Mahoney, Santa Barbara, CA
 - u. K. Maur, Santa Barbara, CA
 - v. Claudia Sobel, Santa Barbara, CA
 - w. Illegible signature, Santa Barbara, CA
 - x. Carol Crahan, Santa Barbara, CA

y. Paula Westbury, Santa Barbara, CA

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission:

I. Upheld the appeal, approved the project, and adopted the Final Mitigated Negative Declaration, making the following findings and determinations:

A. Final Mitigated Negative Declaration Adoption

- The Planning Commission has considered the proposed Final Mitigated Negative Declaration together with comments received during the public review process.
- The Planning Commission finds on the basis of the whole record before it (including the initial study and comments received) that there is no substantial evidence that the project will have a significant unmitigated effect on the environment.
- The Planning Commission finds that the Final Mitigated Negative Declaration reflects the Planning Commission's independent judgment and analysis.
- The Planning Commission finds that the Final Mitigated Negative Declaration has been prepared in compliance with CEQA, and constitutes adequate environmental evaluation for the proposed project. The Planning Commission hereby adopts the Final Mitigated Negative Declaration for the project.
- The Planning Commission hereby adopts a mitigation monitoring and reporting program for measures required in the project or made a condition of approval to mitigate or avoid significant environmental effects.
- The location and custodian of the documents or other material which constitute the record of proceedings upon which this decision is based is the City of Santa Barbara Community Development Department, 630 Garden Street, Santa Barbara, California.

B. Street Frontage Modifications (SBMC§28.15.080)

The modifications are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure an appropriate improvement on the lots. The existing lots do not currently meet the 100 foot street frontage requirement. There are adjacent parcels in the neighborhood that have less than 100 feet of street frontage or no street frontage at all.

C. Lot Line Adjustment (SBMC§27.40)

The proposed lot line adjustment is appropriate for the area and is consistent with the City's General Plan and Building and Zoning Ordinances. The lot line adjustment would adjust the lot line between the two parcels which are currently 2.82 acres (Parcel A) and 2.75 acres (Parcel B) in size by realigning the dividing lot line from a north-south direction to an east-west direction, resulting in two parcels of 2.47 acres (Parcel 1) and 3.10 acres (Parcel 2). The proposed parcels exceed the minimum lot area requirement which is 50,000 square feet when slope density requirements are applied in

recognition of steep topography. The intent of the lot line adjustment is to create an integrated set of properties that would complement each other in both the flow and functionality of landscape and architectural design.

D. Performance Standard Permits (SBMC§28.93.030.E)

The lot areas of the two parcels have the minimum lot area per unit required in the A-2 zone and the additional dwelling units comply with all other applicable ordinance requirements.

E. Department Of Fish And Game Fee

An Initial Study has been conducted by the lead agency, which has evaluated the potential for the proposed project to result in adverse effects, either individually or cumulatively, on wildlife resources or the habitat on which the wildlife depends. For this purpose, "wildlife" is defined as "all wild animals, birds, plants, fish, amphibians, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability" (Section 711.2 Fish and Game Code). This project has the potential to affect wildlife resources or the habitat on which wildlife depend, and is subject to the Department of Fish and Game fee.

II. Said approval is subject to the following conditions:

A. California Department of Fish and Game Fees Required. Pursuant to Section 21089(b) of the California Public Resources Code and Section 711.4 et. seq. of the California Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified Department of Fish and Game fees are paid and filed with the California Department of Fish and Game within five days of the project approval. The current fee required is \$1,993 for projects with Mitigated Negative Declarations. Without the appropriate fee, the Notice of Determination (which the City is required to file within five days of project approval) cannot be filed and the project approval is not operative, vested or final. The fee shall be delivered to the Planning Division immediately upon project approval in the form of a check payable to the California Department of Fish and Game.

B. Design Review. The project is subject to the review and approval of the Single Family Design Board (SFDB). The SFDB shall not grant preliminary approval of the project until the following Planning Commission land use conditions have been satisfied.

1. **Landscape Plan.** The final landscape plan shall adhere to the Fire Department Landscape Guidelines for properties that are in the high fire hazard area. The plan shall be reviewed and approved by the Single Family Design Board and the Fire Department. (H-2)
2. **Oak Tree Replacement.** A replacement of the four oaks proposed for removal shall include the planting, management, and long-term maintenance of 70 1-gallon young saplings per the recommendations of the Oak Tree Protection Plan. (B-2)

3. **Irrigation System.** The irrigation system shall be designed and maintained with the most current technology to prevent a system failure and watering of vegetation on the steep slope shall be kept to the minimum necessary for plant survival.
 4. **Permeable Paving.** Permeable/porous paving materials shall be utilized where possible to reduce the impermeability of hardscape surfaces. (W-3)
- C. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute a written instrument, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Approved Development.** The development of the Real Property approved by the Planning Commission on August 20, 2009 is limited to a Lot Line Adjustment, Street Frontage Modifications, Performance Standard Permits and the improvements shown on the plans, including landscaping and hardscape work associated with the proposed residences and associated garages signed by the Chair of the Planning Commission on said date and on file at the City of Santa Barbara.
 2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural water courses, conduits and any access road, as appropriate.
 3. **Recreational Vehicle Storage Limitation.** No recreational vehicles, boats or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
 4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB) and the Fire Department. Such plan shall not be modified unless prior written approval is obtained from the SFDB and Fire Department. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan.
 5. **Geotechnical Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from landslides, erosion, retreat, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.

6. **Existing Tree Preservation.** The existing tree(s) shown on the approved Tree Preservation and Removal Plan to be retained shall be preserved and protected.
7. **Habitat Protection.** The two eucalyptus trees identified as a great horned owl roost and an acorn granary, shall be retained and protected per the recommendations of the Biological Assessment dated October 26, 2006, and as noted on the Tree Preservation Plan. (B-3)
8. **High Fire Vegetation Management.** Residences located in the High Fire Hazard area are required to maintain vegetation to create an effective fuel break by thinning dense vegetation (mosaic style) and removing dry brush, flammable vegetation and combustible growth from areas within 100 feet of all buildings or structures. The owner(s) shall perform the following maintenance annually for the life of the project:
 - a. Cut and remove hazardous brush, shrubs, and flammable vegetation such as dry grass and weeds within 100 feet of any structure and within 2 inches of the ground.
 - b. Thin brush from streets and driveways both horizontally and vertically along the property. Flammable vegetation must be cleared on each side of the street or driveway for a distance of 10 feet and a vertical distance of 13 feet, 6 inches. Vegetation must be cut to within 2 inches of the ground. This applies to the public or private driveway and any public or private streets that border the property.
 - c. Remove dead wood, trim the lower branches, and limb all live trees to 6 feet above the ground (or as much as possible with younger, smaller trees), especially trees adjacent to buildings.
 - d. Trim tree limbs back a minimum distance of 10 feet from any chimney opening.
 - e. Remove all dead trees from the property.
 - f. Maintain the roof of all structures free of leaves, needles or other vegetative debris.
 - g. Legally dispose of all cut vegetation, including any debris left from previous tree trimming and brush removal. Cut vegetation may be chipped and spread throughout the property as a ground cover, up to 12 inches in depth, and at least 30 feet from any structure. (H-1)
9. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) in a functioning state (and in accordance with the Operations and Maintenance Procedure Plan prepared in accordance with the Storm Water Management Plan BMP Guidance Manual). Should any of the project's surface or subsurface

drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.

10. **Required Private Covenants.** Owners shall execute and record in the official records of Santa Barbara County appropriate and necessary covenants of easement to provide for access, utilities, and drainage for the adjusted parcels. The covenants of easement shall provide express method for the appropriate and regular maintenance of the common improvements, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance should the parcels be sold into separate ownership.
 11. **Participation in the Eucalyptus Hill Vegetation Management Unit.** Participate in the Eucalyptus Hill Vegetation Management Unit to reduce fire hazards in the area. If a community project is underway, the Owner shall participate in cooperative vegetation management, public education, or other community solutions to reduce hazard and risk.
- D. **Public Works Requirements Prior to Building/Grading Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project:
1. **Lot Line Adjustment Required.** The Owner shall submit an executed Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof/Declarations of Lot Line Adjustment to the Public Works Department, including the legal description of the subject properties prior to, and following the lot line adjustment. A licensed surveyor shall prepare the legal description and said Agreement/Declaration shall be recorded in the Office of the County Recorder.
 2. **Easement(s).** Covenants of Easement described as follows, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:
 - a. A variable width Covenant of Easement for Ingress, Egress, Drainage, Public and Private Utilities and Other Incidental Purposes, as shown on Lot Line Adjustment Map, and recorded by separate instrument.

- b. A ten-foot wide Covenant of Easement for sewer and drainage for the benefit of Adjusted Lot 1, as shown on the Lot Line Adjustment Map, and recorded by separate instrument.
 - c. A ten-foot wide Covenant of Easement for sewer and drainage purposes for the benefit of Adjusted Lot 1 and Adjusted Lot 2 through the adjacent property known as 860 Woodland Drive, and recorded by separate instrument.
3. **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 will prepare said agreement for the Owner's signature.
4. **Drainage Calculations.** The Owner shall submit drainage calculations prepared by a registered civil engineer or licensed architect demonstrating that the new development will not increase runoff amounts above existing conditions for a 25-year storm event. Any increase in runoff shall be retained on-site.
5. **Drainage and Water Quality.** Project drainage shall be designed, installed, and maintained such that stormwater runoff from the first inch of rain from any storm event shall be retained and treated onsite in accordance with the City's NPDES Storm Water Management Permit. Project plans for grading, drainage, stormwater treatment methods, and project development, shall be subject to review and approval by City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants, or groundwater pollutants would result from the project. The Owner shall maintain the drainage system and storm water pollution control methods in a functioning state. (W-1)
6. **Alston Road and Woodland Drive Public Improvement Plans.** The Owner shall submit C-1 public improvement plans for construction of improvements along Alston Road and Woodland Drive. The C-1 plans shall be submitted separately from plans submitted for a Building Permit.

As determined by the Public Works Department, the Alston Road improvements shall include new and/or remove and replace to City Standards, the following: approximately sixty feet (60') of thirty-six inch (36") RCP storm drain; one (1) drop inlet; storm drain stenciling; connection to existing thirty-six inch (36") storm drain crossing Alston Road; approximately sixty feet (60') curb and gutter, asphalt concrete, and crack seal to the centerline of the street along entire new storm drain frontage and a minimum of twenty feet (20') beyond the limit of all trenching.

As determined by the Public Works Department, at the time of permit issuance, the Woodland Drive improvements shall include new and/or remove and replace to City Standards, the following: any modifications to the on-site retention/detention stormwater system necessary to reduce point discharge to the

Public right-of-way to meet the City Construction Standard Details for Drain Outlets (In the event that on-site modifications are unable to achieve the City Standard for flow rate at Drain Outlets, as measured at the time of construction of the modifications, the Owner will install approximately five hundred feet (500') of eighteen inch (18") RCP storm drain); approximately twenty (20') feet curb and gutter, asphalt concrete, and crack seal adjacent to the area of improvement, the width of the 800 block of Woodland Drive.

For both Alston Road and Woodland Drive: public drainage improvements shall include supporting drainage calculations and/or hydrology report for installation of drainage pipe, erosion protection (provide off-site storm water BMP plan) etc.; preserve and/or reset survey monuments and contractor stamps; and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

7. **Agreement to Construct and Install Improvements.** The Owner shall submit an executed Agreement to Construct and Install Improvements, prepared by the Engineering Division, an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement.
 8. **Removal or Relocation of Public Facilities.** Removal or relocation of any public utilities or structures must be performed by the Owner or by the person or persons having ownership or control thereof.
 9. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building permit. The C-1 public improvement plans may be bonded for prior to concurrent Building permit issuance.
 10. **Landscape Plan Approval Required.** The landscape plan shall be reviewed and approved by the Transportation Planning Division to ensure compliance with sight visibility requirements.
- E. **Community Development Requirements Prior to Building or Public Works Permit Application/Issuance.** The following shall be finalized prior to, and/or submitted with, the application for any Building or Public Works permit:
1. **Project Environmental Coordinator Required.** Submit to the Planning Division a contract with a qualified representative for the Owner, subject to approval of the contract and the representative by the Planning Division, to act as the Project Environmental Coordinator (PEC). The PEC shall be responsible for assuring full compliance with the provisions of the Mitigation Monitoring and Reporting Program (MMRP) and Conditions of Approval to the City. The contract shall include the following, at a minimum:
 - a. The frequency and/or schedule of the monitoring of the mitigation measures.

- b. A method for monitoring the mitigation measures.
- c. A list of reporting procedures, including the responsible party, and frequency.
- d. A list of other monitors to be hired, if applicable, and their qualifications.
- e. Submittal of biweekly reports during demolition, excavation, grading and footing installation and biweekly reports on all other construction activity regarding MMRP and condition compliance by the PEC to the Community Development Department/case planner.

The PEC shall have authority over all other monitors/specialists, the contractor, and all construction personnel for those actions that relate to the items listed in the MMRP and conditions of approval, including the authority to stop work, if necessary, to achieve compliance with mitigation measures.

2. **Nesting Native Birds.** Construction activities including tree and vegetation removal shall occur outside the breeding bird season (February 1 – August 15). If project activities cannot be feasibly avoided during the bird nesting season the owner shall conduct a minimum of four weekly bird surveys, using a qualified biologist with experience in conducting breeding bird surveys, approved by the City Environmental Analyst, to detect protected nesting native birds in the vegetation and trees to be removed and within 300 feet of the construction work area. The surveys shall begin 30 days prior to the disturbance of suitable nesting habitat and conducted on a weekly basis with the last survey conducted no more than three days before construction is initiated. If an active nest is located, construction within 500 feet of a raptor nest and 300 feet of any other nesting bird, vegetation clearing and tree removal shall be postponed until the nest is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. This shall be confirmed by the qualified biologist. Nesting areas to be avoided during construction shall be marked and protected with flagging and stakes or construction fencing at least 300 feet or 500 feet (if applicable) from the nest.
3. **Neighborhood Notification Prior to Construction.** At least twenty (20) days prior to commencement of construction, the contractor shall provide written notice to all property owners, businesses and residents within 450 feet of the project area. The notice shall contain a description of the project, the construction schedule, including days and hours of construction, the name and phone number of the Project Environmental Coordinator (PEC) and Contractor(s), site rules and Conditions of Approval pertaining to construction activities and any additional information that will assist the Building Inspectors, Police Officers and the public in addressing problems that may arise during construction. The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person(s) who compiled the mailing list shall be submitted to the Planning Division.

4. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions and Conditions of Approval. Submit a copy of the notice to the Planning Division.
 5. **Arborist's Monitoring.** Submit to the Planning Division a contract with a qualified arborist for monitoring of all work within the dripline of all oak trees during construction. The contract shall include a schedule for the arborist's presence during grading and construction activities, and is subject to the review and approval of the Planning Division.
 6. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment that states that, prior to disturbing any part of the project site for any reason and after the Building permit has been issued, the General Contractor shall schedule a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements. The conference shall be held within twenty days of the commencement of construction and shall include representatives from the Public Works Department Engineering and Transportation Divisions, the assigned Building Inspector, the Planning Division, the Property Owner, the Landscape Architect, the Biologist, the Project Engineer, the Project Environmental Coordinator, the Contractor and each subcontractor.
 7. **Final Planning Commission Resolution Submittal.** The final Planning Commission Resolution shall be submitted, indicating how each condition is met with drawing sheet and/or note references to verify condition compliance. If the condition relates to a document submittal, describe the status of the submittal (e.g., Final Map submitted to Public Works Department for review), and attach documents as appropriate.
- F. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.
1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Single Family Design Board, outlined in Section B above.
 2. **Mitigation Monitoring and Reporting Requirement.** Note on the plans that the Owner shall implement the Mitigation Monitoring and Reporting Program (MMRP) for the project's mitigation measures, as stated in the Mitigated Negative Declaration for the project.
 3. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries

and 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 Planning Division 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 Planning Division grants authorization.

4. **Post-Construction Erosion Control and Water Quality Plan.** Provide an engineered drainage plan that addresses the existing drainage patterns and leads towards improvement of the quality and rate of water run-off conditions from the site by capturing, infiltrating, and/or treating drainage and preventing erosion. The Owner shall employ passive water quality methods, such as bioswales, catch basins, or storm drain on the Real Property, or other measures specified in the Erosion Control Plan, to intercept all sediment and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) from the parking lot areas and other improved, hard-surfaced areas prior to discharge into the public storm drain system, including any creeks. All proposed methods shall be reviewed and approved by the Public Works Department and the Community Development Department. Maintenance of these facilities shall be provided by the Owner, as outlined in Condition C.9 above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program. (W-2)
5. **Grading and Foundation Recommendations.** Site preparation, grading and project construction related to soil conditions shall be in accordance with the recommendations contained in the Engineering Geology and Geotechnical Engineering Report, prepared by Earth Systems Southern California, and dated July 14, 2006. Compliance shall be demonstrated on plans submitted for grading and/or building permits. (G-1)
6. **Mechanical Parking System.** The upper platform of the mechanical parking system shall be equipped with a barrier or a guide designed to ensure that vehicles parked on the upper deck will not interfere with the access to the garage parking spaces. The lift system shall include a pressure sensitive electric safety

edge. The location of the Key-operated control switch for security and safety shall be reviewed and approved by staff prior to issuance of a Building Permit for this residence.

7. **Conditions on Plans/Signatures.** The final Planning Commission Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is 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.

- G. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field for the duration of the project construction.

1. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Building Division, Planning Division, the Property Owner (Arborist, Landscape Architect, Biologist, Project Engineer, Project Environmental Coordinator, Mitigation Monitors), Contractor and each Subcontractor.
2. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and

construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met.

3. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways. (T-1)
4. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Transportation Manager. (T-1)
5. **Haul Routes.** The haul route(s) for all construction-related trucks with a gross vehicle weight rating (GVWR) of three tons or more, entering or exiting the site, shall be approved by the Transportation Manager. (T-1)
6. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below:

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Cesar Chavez Day	March 31st
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number that is answered by a person, not a machine. (N-1)

7. **Construction Equipment Sound Control.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices. (N-2)

8. **Construction Parking/Storage.** Construction parking and storage shall be provided as follows:
 - a. During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Public Works Director. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.
 - b. Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project
 - c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager. (T-2)
9. **Construction Dust Control – Minimize Disturbed Area/Speed.** Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less. (AQ-1)
10. **Construction Dust Control - Watering.** During site grading and transportation of fill materials, regular water sprinkling shall occur using reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph. (AQ-2)
11. **Construction Dust Control – Tarping.** Trucks transporting fill material to and from the site shall be covered from the point of origin. (AQ-3)
12. **Construction Dust Control – Gravel Pads.** Gravel pads shall be installed at all access points to prevent tracking of mud on to public roads. (AQ-4)
13. **Construction Dust Control – Disturbed Area Treatment.** After clearing, grading, earth moving or excavation is complete, the entire area of disturbed soil shall be treated to prevent wind pickup of soil. This may be accomplished by:
 - a. Seeding and watering until grass cover is grown.
 - b. Spreading soil binders.

- c. Sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind.
 - d. Other methods approved in advance by the Air Pollution Control District. (AQ-5)
14. **Construction Equipment Requirements.** The following shall be adhered to during project grading and construction to reduce NOx and particulate emissions from construction equipment:
- a. Heavy-duty diesel-powered construction equipment manufactured after 1996 (with federally mandated "clean" diesel engines) shall be utilized wherever feasible.
 - b. The engine size of construction equipment shall be the minimum practical size.
 - c. The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time.
 - d. Construction equipment shall be maintained in tune per the manufacturer specifications.
 - e. Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
 - f. Diesel powered equipment shall be replaced by electric equipment whenever feasible. (AQ-6)
15. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
16. **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) and Project Environmental Coordinator's (PEC's) name, contractor(s) and PEC's telephone number, work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.
17. **Oak Tree Protection.** Tree protection measures for oaks, as recommended in the Oak Tree Protection Plan dated September 21, 2006, shall be followed for the duration of all grading and construction activities associated with the project. (B-1)
18. **Tree Protection.** All trees not indicated for removal on the site plan shall be preserved, protected and maintained.
19. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24

hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.

20. **Unanticipated Archaeological Resources Contractor Notification.** 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 associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and an archaeologist from the most current City Qualified Archaeologists List shall be retained by the applicant. 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.

- H. **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 damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility service undergrounding and installation of street trees.
 3. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.

4. **Mitigation Monitoring Report.** Submit a final construction report for mitigation monitoring.
- I. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, 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 Council's denial of the appeal and 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 the City Council denial of the appeal and approval of 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.

NOTICE OF APPROVAL TIME LIMITS:

The Planning Commission's action approving the Lot Line Adjustment, Street Frontage Modifications and Performance Standards Permits shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued within and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
3. The approval has not been discontinued, abandoned or unused for a period of six months following the earlier of (a) an Issuance of a Certificate of Occupancy for the use, or (b) two (2) years from granting the approval.

This motion was passed and adopted on the 20th day of August, 2009 by the Planning Commission of the city of Santa Barbara, by the following vote:

AYES: 4 NOES: 1 (White) ABSTAIN: 0 ABSENT: 2 (Jacobs, Jostes)

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I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Planning Commission at its meeting of the above date. *Updated to include the findings outlined in the Staff Report dated August 20, 2009.



Deana McMillion, Administrative/Clerical Supervisor for
Julie Rodriguez, Planning Commission Secretary

11-2-09

Date

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.