



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 017-06

406, 410, 414, 418, 420 PASEO DEL DESCANSO

TENTATIVE SUBDIVISION MAP, INTERIOR YARD SETBACK MODIFICATIONS, AND
STREET FRONTAGE MODIFICATION

APRIL 20, 2006

APPLICATION OF MR. JOSEPH WATERS, AGENT FOR MARIAN ROBINSON, TIMOTHY AND ELAINE STEVENSON, JAY AND JUDY ALLEN, PHILIP AND JESSICA WARRING, MICHAEL AND RACHEL RAUVER, PROPERTY OWNERS, 406, 410, 414, 418, 420 PASEO DEL DESCANSO, APNs 053-101-031, 053-205-002, -003, -004, -005, E-3 ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL, 5 UNITS PER ACRE (MST2005-00684)

The project consists of a proposal to re-subdivide five existing developed residential lots to correct a surveying error, which resulted in four houses and one garage encroaching over interior lot lines. The project also requires approval for modifications to interior yard setbacks on all five lots and modification of the street frontage requirement for Parcel 2.

The discretionary applications required for this project are:

1. Six Modifications to allow encroachments into the interior yard setbacks for Parcels 1, 2, 3, 4, and 5 (SBMC §28.15.060);
2. A Modification of the street frontage requirement for Parcel 2 (SBMC §28.15.080); and
3. A Tentative Subdivision Map to re-subdivide five lots (SBMChapter: 27.07).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15301, Existing Facilities and Section 15305, Minor Alterations in Land Use Limitations.

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

WHEREAS, no one appeared to speak in favor of the application, and no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, April 6, 2006
2. Site Plans

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

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

A. Modifications for Interior Yard Setbacks (SBMC §28.15.060)

The six requested interior yard setback modifications would involve existing structures only and would not change the distance between each existing home. Further, future development would be subject to the required interior yard setbacks. Finally, the modifications are consistent with the purposes and intent of the Zoning Ordinance and are necessary to prevent unreasonable hardship.

B. Modification for Street Frontage (SBMC §28.15.080)

The modification for meeting the required minimum street frontage for Parcel 2 would be a minimal reduction to the existing street frontage and necessary to correct the inaccurate survey for all five parcels. The modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to prevent unreasonable hardship.

C. The Tentative Map (SBMC §27.07.100)

The Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara. No new development is proposed as part of this application, and the project will resolve an existing problem for present and future owners of the affected parcels without increasing density or development potential for the neighborhood. The use will remain consistent with the vision for this neighborhood of the General Plan. The project will not cause substantial environmental damage, or cause serious public health problems.

II. Said approval is subject to the following conditions:

A. Recorded Agreement. Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property", 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. **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. 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.

B. Public Works Submittal Prior to Final Map Approval. The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Final Map for the project:

1. **Final Map.** The Owner shall submit to the Public Works Department for approval, a Final Map prepared by a licensed land surveyor or registered Civil Engineer. The Final Map shall conform to the requirements of the City Survey Control Ordinance.
 2. **Water Rights Assignment Agreement.** The Owners shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property. Said agreement will be prepared by Engineering Division Staff for the Owners' signature.
 3. **Off-Site Public Street Improvement Plans.** The Owner shall submit building plans for construction of improvements along the property frontage on Paseo del Descanso. As determined by the Public Works Department, the improvements shall include the following: underground service utilities for APN 053-205-002 only, preserve and/or reset survey monuments, existing private sewer lateral(s) serving the property shall be TV inspected and repaired and provide adequate positive drainage from site. The building plans shall be prepared by a registered civil engineer or licensed architect. Any work in the public right of way requires a public works permit.
- C. Public Works Requirements Prior to Building 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. **Submittal and Review of Proposed Final Map.** Owner shall submit the proposed Final Map to the Public Works Department and complete one round of completeness review prior to issuance of the building permit for the house at 418 Paseo del Descanso.
 2. **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.
- D. 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:
- Final Planning Commission Resolution Submittal.** A copy of 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.
- E. Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

1. **Recordation of Final Map.** After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department.
 2. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, etc.) subject to the review and approval of the Public Works Department. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 3. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility undergrounding.
- F. **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 Modifications shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. A Building permit for the use authorized by the approval is sought within twelve months of the approval. An extension may be granted by the Planning Commission if the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
2. 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) one (1) year from granting the approval.

3. The project also includes approval of a Development Plan, Tentative Subdivision Map or a Coastal Development Permit, in which case the longer approval period shall prevail.

NOTICE OF TENTATIVE SUBDIVISION MAP (INCLUDING NEW CONDOMINIUMS AND CONDOMINIUM CONVERSIONS) TIME LIMITS:

The Planning Commission's action approving the Tentative Map shall expire two (2) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110.

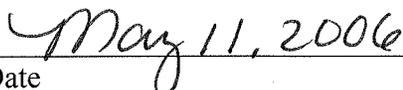
This motion was passed and adopted on the 20th day of April, 2006 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 ABSTAIN: 0 ABSENT: 1 (White)

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.



Julie Rodriguez, Planning Commission Secretary



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.