



City of Santa Barbara California

PLANNING COMMISSION & STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: January 11, 2010
AGENDA DATE: January 21, 2010
PROJECT ADDRESS: 1213 Harbor Hills Drive (MST2009-00385)

TO: Planning Commission & Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
Danny Kato, Senior Planner *DJK*
Daniel Gullett, Associate Planner *DG*

I. PURPOSE

The purpose of this concept review is to receive feedback and direction from the Planning Commission and Staff Hearing Officer on requested modifications prior to continued processing of a pending application. No formal action on the development proposal may be taken at this review. The initial review authority for the modifications is the Staff Hearing Officer. The Planning Commission would be the first appeal body and have the authority to suspend a Staff Hearing Officer decision. Because of the Planning Commission's recent experience with Rogers Tract projects, Staff believes that the Planning Commission's input would be beneficial at this stage.

II. PROJECT DESCRIPTION

The applicant's request is for a concept review of a lot area modification and street frontage modification on six Rogers Tract parcels. Approval of the modifications would allow for the development of a single-family residence on the property. The project site has an average slope of 38.9%. It is located in the E-1 Zone and has a General Plan designation of Residential, 3 units/acre. The lot area modification is requested to provide 44,479 sf where 45,000 sf is required by the E-1 Zone. The street frontage modification is requested to provide approximately 15 ft of street frontage where 90 ft is required. The project site is located in the Hillside Design District and a designated high fire area.

III. SITE INFORMATION

Applicant: Mike Gones	Property Owners: Sharon Clenet Trust / Gathercole LLC
APNs: 035-480-037 (portion), -039, -040, -041	Lot Area: 44,479 sf
General Plan: Residential, 3 units/ac	Zoning: E-1
Existing Use: Vacant	Topography: Average slope 38.9%
Adjacent Land Uses:	
North – Vacant	East – Single Family Residence
South – Single Family Residence	West – Vacant

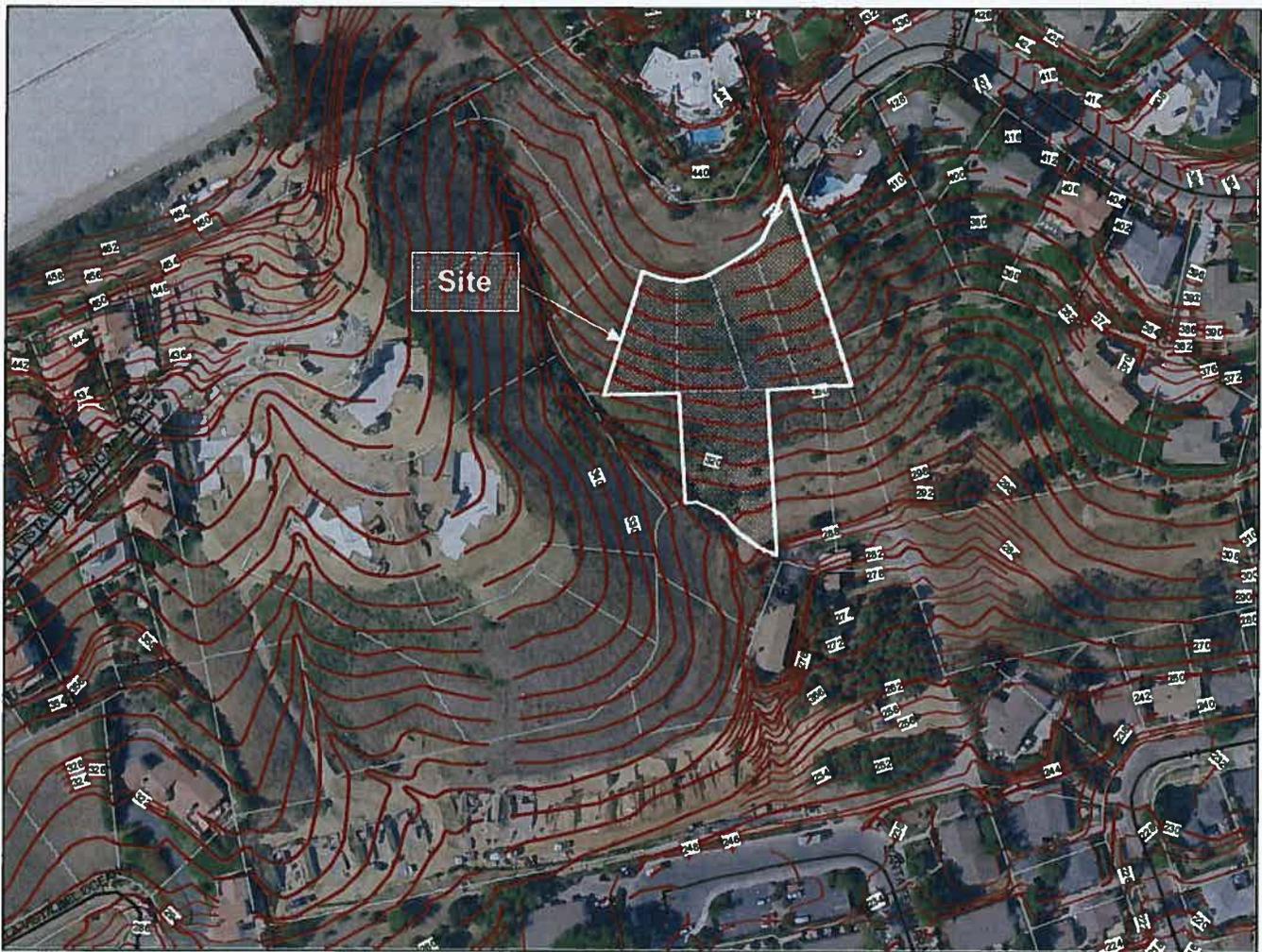


Figure 1: Project Vicinity

IV. BACKGROUND

A. ROGERS TRACT

The subject property is located within the Rogers Tract, which originated from a survey recorded in 1929. The Rogers Tract was subdivided by a series of deed conveyances between 1929 and the late 1950s. In 1979, the Planning Commission determined that the undeveloped Rogers Tract parcels, including the six subject parcels, were illegally subdivided.

Since 1979, three projects have been approved in the Rogers Tract:

- The development known as The Mesa at Santa Barbara in 2004 (Mesa);
- The Javid single-family residence at 1218 Harbor Hills Drive in 1989 (Javid); and
- The Javid lot line adjustment between 1218 and 1224 Harbor Hills Drive in 2005 (Javid LLA).

The Mesa project is currently in the construction phase. It includes 50 underlying Rogers Tract parcels and was approved with two components: 14 condominiums in seven duplexes and six single-family residential lots.

The single-family residential portion included lot area modification approvals for two lots:

- Lot 1: 16,370 sf (22,500 gross sf, 17% slope) with a required E-1 lot area of 22,500 sf
- Lot 2: 43,738 sf (45,426 gross sf, 43% slope) with a required E-1 lot area of 45,000 sf

The lot area requirements for Lots 1 and 2 would have been met if the publicly-dedicated area of the new cul-de-sac was included in the lot area. In addition, the single-family portion of the development almost entirely avoided the siting of buildings on slopes greater than 30%. The Planning Commission and Staff supported this project because it included an affordable housing component and a public trail easement. It also resolved legal issues for a majority of the undeveloped parcels in the Rogers Tract.

The lot with the Javid single-family residence at 1218 Harbor Hills was created by a merger of five Rogers Tract parcels that resulted in a 31,163 sf lot (16.6% slope) that met the lot area requirement of the E-1 Zone (22,500 sf required). The Javid LLA resulted in an adjusted area for 1218 Harbor Hills of 30,000 sf with an average slope of 18%.

As referenced in the attached applicant letter (Exhibit B), the 1224 Harbor Hills portion of the Javid LLA also required a lot area modification. With the lot line adjustment, the lot at 1218 Harbor Hills continued to meet the lot area requirement. The 1224 Harbor Hills lot was made more conforming to lot area requirement to the E-1 requirement of 45,000 sf, as the existing, 26,686 sf (39.3% slope) lot was increased in size to 27,767 sf (36.3% slope). The reconfigured 1224 Harbor Hills lot allowed future development to be placed in an area better suited for development. The approval included dedication of a trail easement that connected with the easement required for the Mesa.

Multiple parcels from the original 1929 survey remain vacant. Figure 2 below shows the location of the vacant parcels. Please note that six vacant parcels [Javid (1224 Harbor Hills), Booth (2 parcels), Mesa LLC, Clenet and Gathercole] are contiguous with the subject property, which is also vacant and shown with a star on the figure.

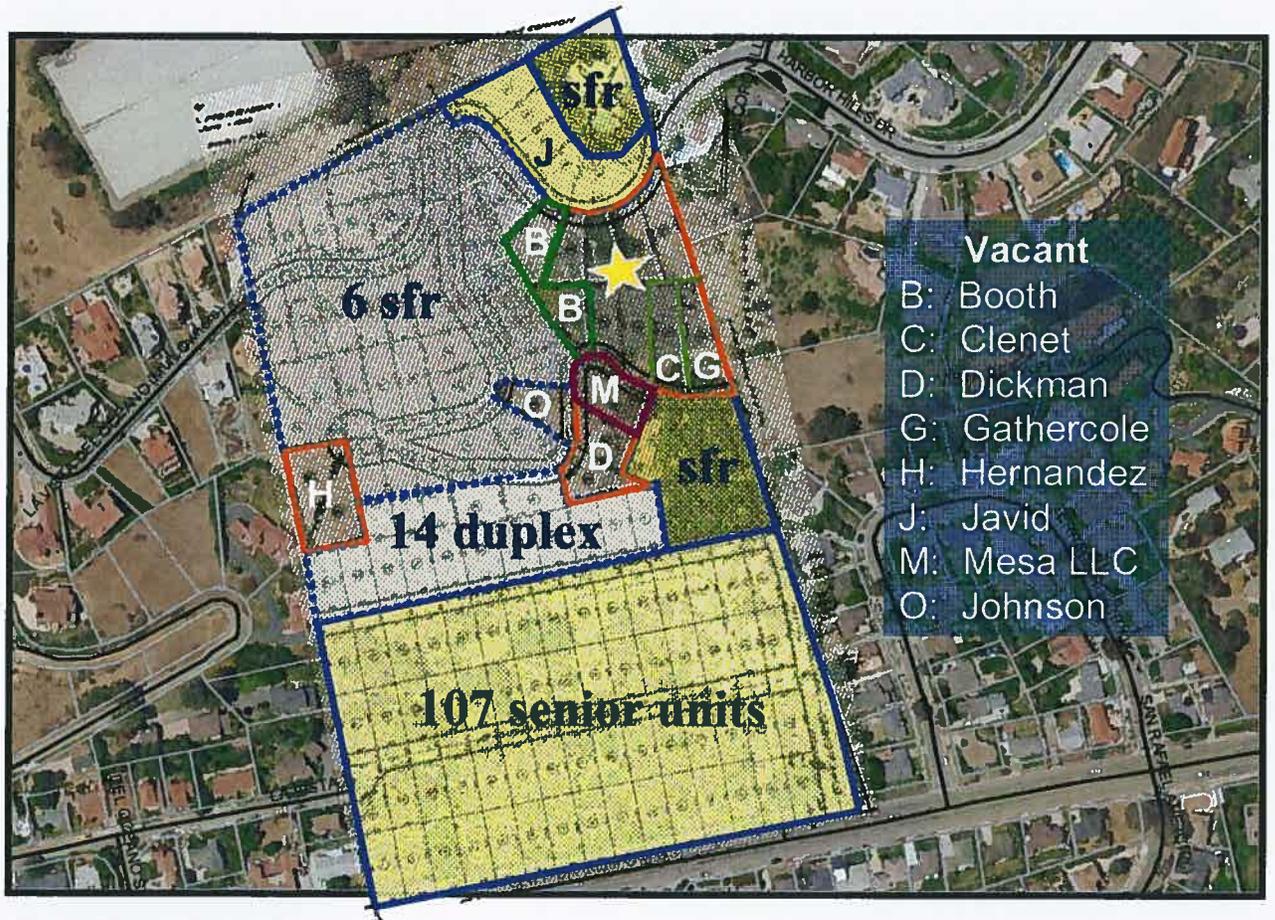


Figure 2: Vacant Parcel Ownership

B. DESIGN REVIEW

In August 2005, the Architectural Board of Review (ABR) conceptually reviewed a new 4,350 sf single-family residence on the subject property (meeting minutes are attached as Exhibit C). At the review, ABR members expressed concern with the height of proposed retaining walls and the breadth and scale of the building as seen from Cliff Drive. ABR members also recommended changes to the siting of the buildings. Please note that these comments predate the formation of the Single Family Design Board (SFDB). The current proposal is required to undergo SFDB Vacant Lot Review and, at minimum, SFDB review of a conceptual residence against the Single Family Residence Design Guidelines. The submitted project plans include a site plan and elevations for a conceptual residence on the site that are similar to the plans reviewed by ABR in 2005.

C. PREVIOUS PLANNING COMMISSION REVIEW

In June 2008, the Planning Commission conceptually reviewed a proposal for a two-lot subdivision that included the six subject parcels and two additional parcels. The subdivision would have required two lot area modifications, two street frontage modifications, two public street waivers, and a subdivision map. The lot area modifications were more substantial in that scenario: one lot was proposed at 30,261 sf and one lot at 33,961 sf, where the required lot areas were 45,000 sf, due to the average slope of 41%. The consensus of the Planning Commission was that the lot area modifications were not supportable in that instance, but that a project with a single house on the eight parcels would be supportable. Minutes from that hearing are included as Exhibit D.

D. CONDITIONAL CERTIFICATE OF COMPLIANCE

In accordance with the State Subdivision Map Act (Map Act), the City issued a Certificate of Compliance for the subject property in May 2009. The Map Act provides that a local agency can impose conditions from local ordinance that would have been applicable to the division of property at the time the applicant acquired interest in the property. Conditions included in a Conditional Certificate of Compliance are required to be fulfilled prior to issuance of any permit or grant of approval for development on the property. A copy of the Conditional Certificate of Compliance for 1213 Harbor Hills is included as Exhibit E. The relevant conditions in this case are the zoning requirements that state that the property shall be combined or added to as necessary to comply with the lot area requirements of the E-1 Zone for a newly created lot (a minimum of 45,000 sf for a lot with an average slope greater than 30%) and that a minimum 90 ft of public street frontage shall be provided. The requested modifications are needed because the property does not meet those zoning requirements.

V. ISSUES

A. MODIFICATIONS

The Zoning Ordinance provides that lot area and street frontage modifications may be granted by the Staff Hearing Officer or Planning Commission if the modifications are found to be consistent with the purposes and intent of the Zoning Ordinance, and they are found to be necessary to (i) secure an appropriate improvement on a lot, (ii) prevent unreasonable hardship, (iii) promote uniformity of improvement, or (iv) the modification is necessary to construct a housing development which is affordable to very low-, low-, moderate- or middle-income households.

Lot Area

The E-1 Zone has a base minimum lot size of 15,000 sf for newly created lots. In this zone, the minimum lot size increases depending on the average slope of the parcel as shown in the following table.

Percent Slope	Less than 10%	10-20%	20+-30%	30+%
Minimum Area	15,000sf	22,500 sf	30,000 sf	45,000 sf

The Conditional Certificate of Compliance lot area requirement reflects the E-1 Zone minimum of 45,000 sf for each new lot with an average slope greater than 30%. The project proposes a lot area of 521 sf less than the required 45,000 sf. In the past with previous proposals, staff and the Planning Commission have advised the applicant that a lot area modification would not be supported and expressed concern regarding the development proposed in areas of greater than 30% slope. The City's application review letter is attached as Exhibit F. The letter includes Staff's initial reaction to the subject proposal.

As indicated above, although lot area modifications were granted for the Javid LLA and Mesa project, those proposals had different circumstances from the subject proposal. While staff does not believe that this proposal results in equivalent benefits to the Javid LLA (trail easement, lot configurations to allow development with less grading on a flatter portion of the hillside) or the Mesa project (street dedication affordable housing, trail easements, minimized impact to slopes >30% for the single family residences, resolution of a large number of subdivision violations with innocent purchasers), the 521 sf of requested relief for the 1213 Harbor Hills proposal is much smaller than the lot area modifications approved in either of those projects. Staff seeks comments from the Planning Commission and Staff Hearing Officer regarding the appropriateness of the lot area modification.

Street Frontage

The Conditional Certificate of Compliance street frontage requirement reflects E-1 Zone requirement of 90 ft of frontage on a public street. Due to the steep slopes and the lack of potential street connection, staff is supportive of street frontage modification in this instance. Staff would appreciate comments from the Planning Commission and Staff Hearing Officer regarding the appropriateness of the requested street frontage modification.

B. GENERAL PLAN GUIDANCE

Although, no General Plan consistency findings are required to approve the modifications, the General Plan provides guidance with regard to the appropriateness of the proposed development.

The project site is located in the Alta Mesa neighborhood, whose boundaries are defined in the Land Use Element as Loma Alta Drive on the east; City limits on the west; existing development oriented to Cliff Drive on the south; and the base of the steep hillside on the north. The Land Use Element's Alta Mesa neighborhood description includes the following:

The topography in this entire area varies from rolling to steep. It is almost entirely zoned E-1 permitting lot sizes of 15,000 square feet. When minimum lot sizes were smaller, the development trend had been to standard subdivisions in which lots too small for the topography were created. Improved regulations affecting grading and lot size alters this situation so that appropriate development will take place on the remaining vacant land.

The site is located on steep, south-facing hillside with a generally uniform 39% slope. The General Plan's Conservation Element contains direction relevant to development on hillsides. These include: Visual Resource Goals (*Prevent the scarring of hillside areas by inappropriate development and Protect significant open space areas from the type of development which would degrade the City's visual resources*), Visual Resource Policy 2.0 (*Development on hillsides shall not significantly modify the natural topography and vegetation*), and Visual Implementation Strategy 2.1 (*Development which necessitates grading on hillsides with slopes greater than 30% should not be permitted*).

C. ENVIRONMENTAL REVIEW

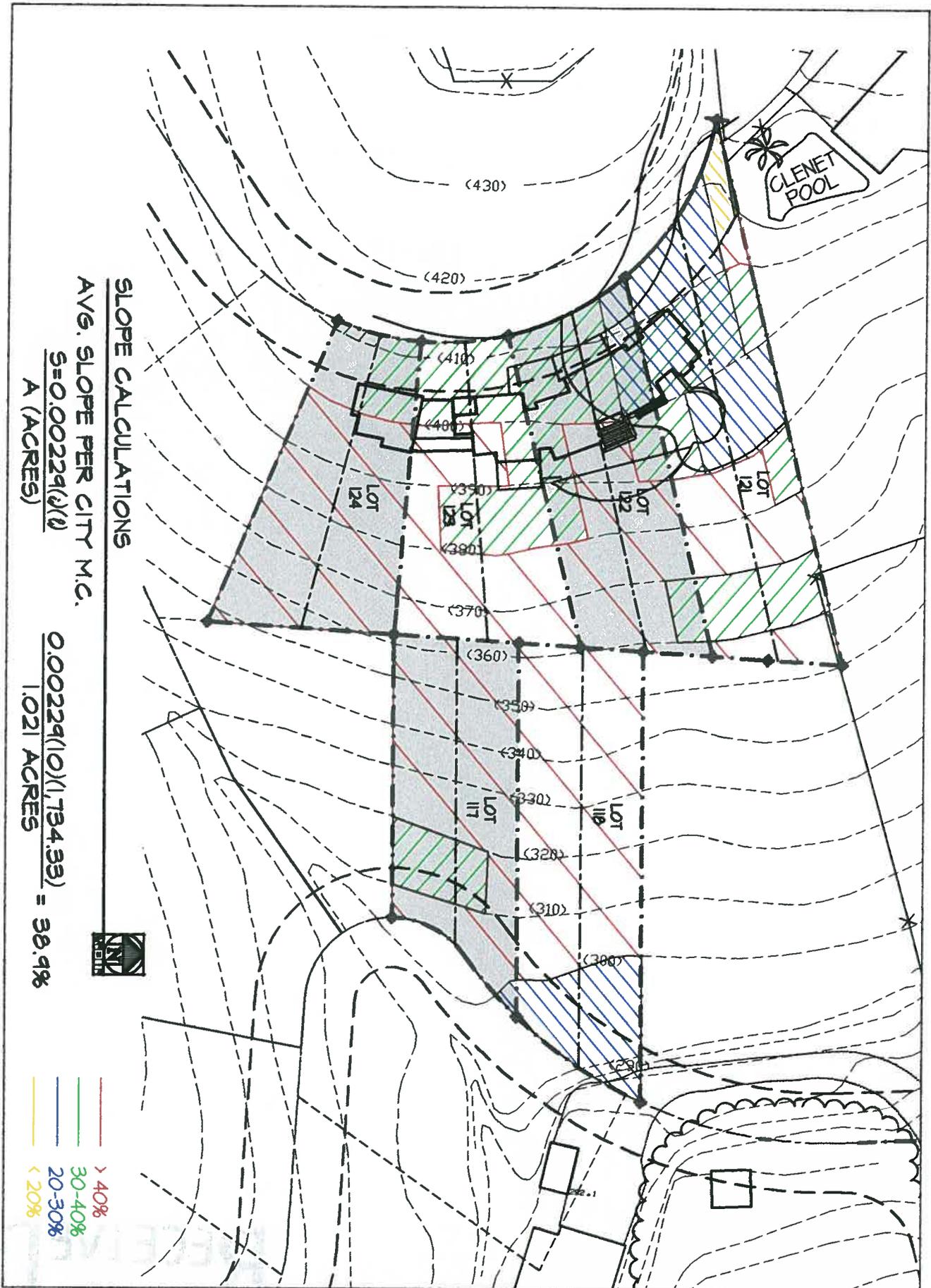
Due to the slope of the property and the requirement to clear conditions stipulated in the Conditional Certificate of Compliance, the requested modification approvals do not qualify for a CEQA exemption. Although no development was proposed with the initial application submittal, CEQA requires the City to review the impacts of foreseeable buildout of the property. The City's Master Environmental Assessment maps identify the project vicinity as an area of erosive soils, California Annual Grassland, visual sensitivity, and major hillside with slopes in excess of 30%. To proceed for approval consideration, the information requested in the application review letter on geology, stormwater management, and biological impacts would be necessary, in addition to Single Family Design Board review of future development.

VI. STAFF RECOMMENDATION

Staff recommends that the Planning Commission and Staff Hearing Officer provide conceptual comments for staff and the applicant on the proposed project.

Exhibits:

- A. Clenet Slope Density Exhibit
- B. Letter from Kathleen Weinheimer dated January 6, 2010
- C. ABR Minutes from August 8, 2005
- D. Planning Commission Minutes from June 5, 2008
- E. Conditional Certificate of Compliance for 1213 Harbor Hills Drive
- F. Application Review Letter dated September 25, 2009



SLOPE CALCULATIONS
 AVG. SLOPE PER CITY M.C.

$$\frac{S=0.00229(2)(0)}{A \text{ (ACRES)}} = 0.00229(10)(1,734.33) = 39.4\%$$

$$\frac{S=0.00229(2)(0)}{A \text{ (ACRES)}} = 0.00229(10)(1,734.33) = 39.4\%$$

- < 20% (yellow)
- 20-30% (blue)
- 30-40% (green)
- > 40% (red)

<p>DATE: 12/15/11 DRAWN BY: [Signature] CHECKED BY: [Signature]</p>	<p>CLENET SLOPE DENSITY 125 HARBOR HILLS DRIVE SANTA BARBARA, CA</p>	<p>SCALE 1" = 100'</p>
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EXHIBIT A

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

January 6, 2010

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

Re: 1213 Harbor Hills

Dear Chairwoman Larson and Members of the Planning Commission:

As some members of the Commission may recall, this application was reviewed by the Commission in June of 2008, when the applicant was requesting a two lot subdivision. For those new to the Commission, this application involves the consolidation of a number of small lots in the former Rogers' Tract, a piece of property on the Mesa divided and sold many years ago in anticipation of oil development. In the intervening years, the lots have been sold many times. Since the late 1970s, the City has been encouraging the owners of these lots to combine them and present proposals for residential development. When this project was last before the Commission for conceptual review, the majority of the Commissioners were of the opinion that a two lot subdivision on the approximately 64,200 square foot site was not supportable, as approval would require a modification of roughly 25,000 square feet. At that time, the Commission recommended that the applicant try to secure more land so that both lots could more closely meet the 45,000 square foot requirement. Unfortunately, Ms. Clenet was unable to reach an agreement with any of her neighbors to acquire additional square footage or additional lots. As such, the only option remaining was for the applicant to revise the project to eliminate one of the home sites, together with two of the eight lots, thereby designing a project which essentially meets the requirements of the Zoning Ordinance. The details of this project and the requested modifications follow.

The Revised Project

As stated above, the applicant and her partners originally sought approval of a two lot subdivision of approximately 64,200 square feet in the E-1 zone. This lot area was

EXHIBIT B

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of the Planning Commission

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achieved by consolidating eight of the former small parcels, each approximately 8,000 square feet in size, six of which belonged to Ms. Clenet, and two of which were controlled by Gathercole, LLC. Because of the steep nature of the property, the slope density provisions increase the minimum lot size for each new lot from 15,000 square feet to 45,000 square feet. When the Commission declined to support the modification needed to accomplish this subdivision, the decision was made not to proceed with the proposed design, but rather to develop only the Clenet parcels with one home site, leaving the Gathercole parcels available for sale to other adjacent property owners, including one where an affordable condominium project has been proposed. Ms. Clenet proceeded in obtaining a Conditional Certificate of Compliance for the six parcels under her control, with the assumption that the six would more than meet the 45,000 square foot minimum lot size requirement. It wasn't until the final engineering work was underway that it was discovered that the proposed lot did not "close" as expected, but rather was 521 square feet short of the required 45,000 square foot requirement.

The applicant had hoped that this minor deviation could be supported by staff. Therefore, she was dismayed to learn, via a DART letter from staff in September of 2009, that the staff was of the opinion that the Planning Commission was opposed to any lot area modification for this project. We believe however, that the Commission's statements at the prior hearing were not as clear: the only modification under discussion was of significant size and was found to be unacceptable. There simply was no discussion of whether the Commission could support a modification that constituted little more than 1% of the required lot area. As such, we are returning to the Commission for verification of the Commission's position before proceeding further.

Reasons to Support the Modification

As you know, a modification can be approved if, among other reasons, it is consistent with the purposes and intent of the Zoning Ordinance and necessary to secure an appropriate improvement on a lot, prevent unreasonable hardship, or promote uniformity of development. The purpose and intent of the Zoning Ordinance provisions governing this zoning classification is to promote single family home development such as this application for a 4,200 square foot dwelling, which is well below the FAR standards for a lot of this size. In addition, this application furthers the City's policy of assisting owners in the Rogers' Tract in developing their parcels in accordance with the Zoning Ordinance. Given the minor nature of the requested modification, we believe that this project can be found consistent with this policy and the purposes of the Zoning Ordinance.

Turning to the tests for determining whether a modification can be approved, we would suggest that this application meets all three criteria. First, the modification is necessary

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to secure an appropriate improvement on the lot in that the lot has been granted a conditional certificate of compliance, is of a size equal to or greater than the majority of the surrounding lots (including several of which were recently approved), and the proposed dwelling is of an appropriate size and location on the lot such that the construction will fit within the contours of the hillside without excessive grading or disruption of the existing slope.

The second basis for approving a modification is that it is necessary to prevent unreasonable hardship. As described above, when the Certificate of Compliance for these six lots was requested, the total square footage was calculated at slightly over 45,000 square feet. This allowed Ms. Clenet to proceed with an application which was believed to meet the Zoning Ordinance requirements without involving the other partners who had an interest in the remaining two lots which were part of the original application. The original two home development included all eight lots with the idea that one of the two proposed homes could be sold to pay off the partners. Without the second home to sell, it is infeasible to include all eight lots in one home site. Unfortunately, after the Certificate of Compliance was issued and this application prepared, the discrepancy in the square footage was discovered, which necessitated the minor modification of approximately 1% of the lot area. Denial of this request for such minor relief would clearly impose an unreasonable hardship on the applicant, particularly in light of the limited usefulness of the 521 square foot reduction requested. Given the steep nature of the site, and the fact that the vast majority of the lot will remain undeveloped, a minor deviation from the 45,000 square foot requirement will be virtually undetectable.

The third basis for a modification is equally applicable to this project, as it will promote uniformity of development. Most of the homes on this hillside have been constructed on lots of less than 45,000 square feet, including several of the substantially larger homes in the recently approved Mesa at Santa Barbara LLC subdivision (in which four of the six homes received street frontage modifications and two of the six received lot area modifications substantively greater than the modification requested here). Clearly, a minor modification of lot area of 521 square feet will not alter the hillside plan, but rather will promote uniformity of development. Most notably, modifications for both street frontage and lot size were granted to the lot immediately contiguous to the Clenet development and in the same zoning classification with the same slope density requirements (owner: Rafi Javid). Anticipating development of the Clenet site, the Planning Commission included the approval of a joint driveway to serve both the Javid and Clenet lots in the Javid project. Mr. Javid's approved lot at roughly 28,000 square feet is significantly smaller than that proposed by Ms. Clenet.

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of the Planning Commission

January 6, 2010

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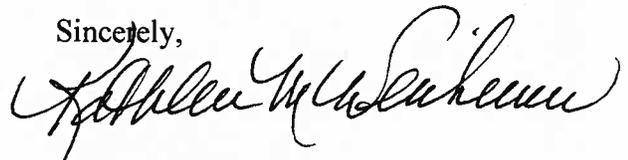
Benefits of the Project

As mentioned above, the City adopted a policy in the late 1970s to work cooperatively with the owners of property in the Rogers' Tract to resolve development issues and avoid condemnation of these lots. The proposal before you today furthers that policy by combining six of the undersized lots into one lot which comes within approximately 1% of meeting the Zoning Ordinance size requirements. If the applicant is allowed to develop this site with an appropriately sized, environmentally sensitive single family residence, not only will this further the goal of resolving some of the remaining Rogers' Tract issues, it will enhance the fire safety of the neighborhood through active brush clearance and maintenance, as the site will no longer be covered solely with chaparral and tumbleweed. Further, downslope properties will benefit from increased drainage controls, thereby lessening the existing erosion and runoff problems which have plagued other portions of the hillside for decades. If the property is left undeveloped, these fire and erosion issues will continue unabated.

Conclusion

In order to develop this site, two modifications have been requested: public street frontage and a minor lot area modification. Limited access to the site from the terminus of Harbor Hills Drive necessitates the public street frontage modification, which will enable the home to be developed on the upper portion of the site, without extensive grading of the hillside or scaring of the slope with long driveways or roadways. The requested lot area modification meets not one but three of the standards necessary for the approval of a modification, and is of such a minor nature as to be virtually undetectable on this steep hillside. If this request for such a small variation cannot be supported, it is unclear what lot area modification could ever be granted. We ask that you provide direction to staff to find this application appropriate and to support the requested modifications. Thank you very much.

Sincerely,



Kathleen M. Weinheimer
Attorney for Sharon Clenet

AUGUST 8, 2005 - ABR MINUTES

1213 HARBOR HILLS DR

Assessor's Parcel Number: 035-180-031
Application Number: MST2005-00492
Owner: Sharon Clenet, Trustee
Applicant: Lloyd Malear
Architect: Design Arc
Agent: John Dohm

(Proposal for a new, 4,350 square foot, two story single-family residence including an attached 615 square foot, two-car garage on a 28,762 square foot lot in the Hillside Design District. The proposal includes site walls, driveway, a swimming pool, a spa and approximately 1,516 cubic yards of grading.)

3:35

Mark Shields, Architect; John Dohm, Agent; present.

Public comment opened at 3:44p.m.

Richard Parker, neighbor, is concerned that the drainage ditch will be located towards his property and that it is currently undersized. Mr. Parker would like the drainage system to be redirected so it does not flow down towards his property.

Public comment closed at 3:46p.m.

Motion: Continued indefinitely with the following comments: 1) The applicant has used many of the Hillside Design Guideline techniques by digging into the hill and wrapping around the hillside with the flow of the topography. 2) The Board is concerned with the breadth and scale of the building as seen from Cliff Drive, and recommends breaking up the pieces of architecture into more of a village style scale. 3) Study the covered deck components. 4) The Board is concerned with the height of the pool retaining wall and all the exposed retaining walls. It is understood they will be a maximum of 6-foot high and follow the natural grade. 5) The applicant is to return with adjacent footprints and square footages of the surrounding homes. 6) One Board member suggested to study relocating the garage to the high end of the driveway.

Action: Wienke/Eichelberger, 6/0/0. Bartlett stepped down.

JUNE 5, 2008 - PC MINUTES

APPLICATION OF MIKE GONES, AGENT FOR SHARON CLENET-PURPERO AND ANTHONY PURPERO, 1213 HARBOR HILLS DRIVE, 035-480-037, 035-480-038, 035-480-039, 035-480-040, 035-480-041, E-1 ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 3 UNITS/ACRE (MST2005-00492)

The proposed project involves the subdivision of eight vacant parcels into two single family residential lots. The existing parcels are located in a portion of the Rogers Tract known to be subdivided in violation of the Subdivision Map Act. The average slope of the site is 41%. The areas of the proposed lots would be 30,261 square feet and 33,961 square feet. The proposal also includes conceptual development of driveways and single family residences on each proposed lot.

The purpose of the concept review is to allow the Planning Commission an opportunity to review the proposed project design at a conceptual level and provide the applicant and staff with feedback and direction regarding the proposed land use and design. **No formal action on the development proposal will be taken at the concept review, nor will any determination be made regarding environmental review of the proposed project.** Upon review and formal action on the application for the development proposal, the proposed project would likely require the following discretionary applications:

Tentative Subdivision Map to allow the subdivision of eight Rogers Tract parcels into two lots (SBMC Chapter 27.07);

Lot Area Modifications to allow the creation of two lots with areas less than the required 45,000 square feet (SBMC § 28.92.110);

Street Frontage Modifications to allow less than the required 90 feet of street frontage on each proposed lot (SBMC § 28.92.110);

Public Street Frontage Waivers to allow the creation of lots with no street frontage (SBMC §22.60.300); and

Design Review Approvals by the Single Family Design Board with Neighborhood Preservation Ordinance and Sloped Lot findings (SBMC §22.69.050).

RECUSALS: To avoid any actual or perceived conflict of interest Commissioner Bruce Bartlett recused himself due to his firm working with the Applicant.

Daniel Gullett, Associate Planner, gave the Staff presentation.

Mike Gones, Civil Engineer/Agent; Mark Shields, Architect; and Kathy Weinheimer, Legal Counsel, gave the applicant presentation.

Chair Myers opened the public hearing at 5:47 p.m. and, as no one else wished to speak, the public hearing was closed.

The Commission made the following comments:

1. The majority of the Commission would not be able to support modifications of the slope density requirements. Lot area modification findings could not be made.
2. A project with a single house on the site would be supportable.
3. Concerned that the maintenance of down slopes would be inadequate and that the unmaintained slopes would be very visible to the community and could become hazardous.
4. Not concerned with street frontage waiver.
5. Would like to see another way to accomplish project. The proposed siting of the houses could work. Compatibility with neighborhood and appropriate design must be considered.
6. The trail issue should be addressed in the future.

RECORDING REQUESTED BY AND WHEN)
RECORDED, PLEASE RETURN TO:)
)
City Engineer)
City of Santa Barbara)
P.O. Box 1990)
Santa Barbara, CA 93102-1990)

RECEIVED
AUG 28 2009
CITY OF SANTA BARBARA
PLANNING DIVISION

CONDITIONAL CERTIFICATE OF COMPLIANCE

ADDRESS: 1213 Harbor Hills
APN's: Three portions of 035-480-037; 035-480-039; 035-480-040; 035-480-041

RECITALS

A. Sharon Clenet, Trustee of the Sharon Lynn Clenet Trust, dated August 27, 1998, owns Parcels One through Three and Gathercole LLC, a California Limited Liability Company owns Parcels Four through Six (hereinafter Sharon Clenet and Gathercole LLC shall be collectively referred to as the "Owners") in the City of Santa Barbara, County of Santa Barbara, State of California, more particularly described as follows, and identified in attached Exhibit A for informational purposes only, (hereinafter referred to as the "Real Property");

B. This Conditional Certificate of Compliance is issued for the following parcels of Real Property, and is shown on the attached Exhibit A for informational purposes only:

That portion of the Outside Pueblo Lands of the City of Santa Barbara, in the City of Santa Barbara, County of Santa Barbara, State of California, described as follows:

Remnant portion of land - PARCEL ONE

(Portion of APN: 035-480-037; AKA Lot 117 from Rogers Tract Map)

THAT PORTION OF THE OUTSIDE PUEBLO LANDS OF THE CITY OF SANTA BARBARA, IN THE CITY OF SANTA BARBARA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHERLY END OF THE EASTERLY LINE OF PARCEL NO. 1 AS DESCRIBED IN THE DEED FROM HORACE E. ROGERS AND WIFE, TO SANTA BARBARA COUNTY TITLE COMPANY, RECORDED IN BOOK 188 AT PAGE 175 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE SOUTH 80° 27' WEST 45 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTH, TANGENT TO THE LAST MENTIONED COURSE AND HAVING A RADIUS OF 178.67 FEET; THENCE SOUTHWESTERLY

AND WESTERLY ALONG SAID CURVE THROUGH A DELTA OF 45° 27' 10", A DISTANCE OF 141.74 FEET TO THE TRUE POINT OF BEGINNING; THENCE, CONTINUING NORTHWESTERLY ALONG SAID CURVE THROUGH A DELTA OF 10° 32' 50", A DISTANCE OF 32.89 FEET TO THE BEGINNING OF A REVERSING CURVE CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 35 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A DELTA OF 153°41'30", A DISTANCE OF 32.80 FEET; THENCE NORTH 7° 14' 30" WEST 114.40 FEET; THENCE NORTH 86° 27' EAST 50.10 FEET; THENCE SOUTH 7° 14' 30" EAST 150.01 FEET TO THE TRUE POINT OF BEGINNING.

THE PROPERTY AS ABOVE DESCRIBED IS SHOWN AS 117 ON A MAP OF A SURVEY MADE BY A LICENSED SURVEYOR FILED IN BOOK 20 AT PAGE 44 OF RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Remnant portion of land - PARCELTWO

(Portion of APN 036-480-037; AKA Lot 118 from Rogers Tract Map)

THAT PORTION OF THE OUTSIDE PUEBLO LANDS OF THE CITY OF SANTA BARBARA, IN THE CITY OF SANTA BARBARA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHERLY END OF THE EASTERLY LINE OF PARCEL NO. 1 AS DESCRIBED IN THE DEED FROM HORACE E. ROGERS AND WIFE, TO SANTA BARBARA COUNTY TITLE COMPANY, RECORDED IN BOOK 188 AT PAGE 175 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE SOUTH 80° 27' WEST 45 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTH, TANGENT TO THE LAST MENTIONED COURSE AND HAVING A RADIUS OF 178.67 FEET; THENCE SOUTHWESTERLY AND WESTERLY ALONG SAID CURVE THROUGH A DELTA OF 26° 08' 10", A DISTANCE OF 81.50 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTHWESTERLY ALONG SAID CURVE THROUGH A DELTA OF 19° 19', A DISTANCE OF 60.24 FEET; THENCE NORTH 7° 14' 30" WEST 150.01 FEET; THENCE NORTH 86° 27' EAST, 50.11 FEET; THENCE SOUTH 7° 14' 30" EAST, 179.87 FEET TO THE TRUE POINT OF BEGINNING.

THE PROPERTY AS ABOVE DESCRIBED IS SHOWN AS 118 ON A MAP OF A SURVEY MADE BY A LICENSED SURVEYOR FILED IN BOOK 20 AT PAGE 44 OF RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

¹ First American Title Co. PTR dated March 6, 2009 listed this as 53°41'30"

Remnant Portion of Land - PARCEL THREE

(Portion of APN 035-480-037; AKA Lot 121 from Rogers Tract Map)

THAT PORTION OF THE OUTSIDE PUEBLO LANDS OF THE CITY OF SANTA BARBARA, IN THE CITY OF SANTA BARBARA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY END OF THAT CERTAIN COURSE IN PARCEL NO. 4, AS DESCRIBED IN THE DEED FROM HORACE E. ROGERS AND WIFE TO SANTA BARBARA COUNTY TITLE COMPANY, RECORDED IN BOOK 188 AT PAGE 175 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID COURSE BEING DESCRIBED IN SAID DEED AS HAVING A BEARING OF SOUTH 40° 03' EAST AND LENGTH OF 125 FEET; THENCE SOUTHEASTERLY AND EASTERLY ALONG SAID CENTER LINE, BEING A CURVE CONCAVE TO THE NORTHEAST TANGENT TO THE LAST MENTIONED COURSE AND HAVING A RADIUS OF 110 FEET THROUGH A DELTA OF 98° 12' 40", A DISTANCE OF 188.55 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTHEASTERLY ALONG SAID CURVE THROUGH A DELTA OF 86°²-36° 47' 20", A DISTANCE OF 70.63 FEET; THENCE TANGENT TO SAID CURVE NORTH 4° 57' EAST 4.32 FEET; THENCE SOUTH 20° 33' EAST, 226.60 FEET; THENCE SOUTH 86° 27' WEST 52.28 FEET; THENCE NORTH 20° 33' WEST 157.40 FEET TO THE TRUE POINT OF BEGINNING.

THE PROPERTY AS ABOVE DESCRIBED IS SHOWN AS 121 ON A MAP OF A SURVEY MADE BY A LICENSED SURVEYOR FILED IN BOOK 20 AT PAGE 44 OF RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Together with a Road Easement

AN EASEMENT FOR A PRIVATE ROADWAY OVER, ALONG AND ACROSS THOSE CERTAIN STRIPS OR PARCELS OF LAND AS DESCRIBED IN SAID DEED TO SANTA BARBARA COUNTY TITLE COMPANY ABOVE REFERRED TO.

EXCEPTING THEREFROM THAT PORTION OF PARCEL 4 AS DESCRIBED IN SAID DEED, INCLUDED WITHIN THE LINES OF PARCELS 1 TO 3.

EXCEPTING THEREFROM ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER SAID LAND BELOW A DEPTH OF 1000 FEET UPON THE SURFACE OF SAID LAND, WITHOUT, HOWEVER, THE RIGHT OF ENTRY UPON THE SURFACE OF SAID LAND OR 1000 FEET BELOW THE SURFACE OF SAID LAND, AS EXCEPTED BY THEODORE D. SHELDON, ET UX., IN DEED RECORDED FEBRUARY 10, 1965 AS INSTRUMENT NO. 4768 IN BOOK 2090, PAGE 1495 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

² 36 degrees, from R/S Bk.20 p.44

Remnant Portion of Land - PARCEL FOUR

(APN 035-480-039; AKA Lot 122 from Rogers Tract Map)

THAT PORTION OF THE OUTSIDE PUEBLO LANDS OF THE CITY OF SANTA BARBARA, IN THE CITY OF SANTA BARBARA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY END OF THAT CERTAIN COURSE IN PARCEL NO. 4, AS DESCRIBED IN THE DEED FROM HORACE E. ROGERS AND WIFE TO SANTA BARBARA COUNTY TITLE COMPANY, RECORDED IN BOOK 168, PAGE 175 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID COURSE BEING DESCRIBED IN SAID DEED AS HAVING A BEARING OF SOUTH 40° 03' EAST AND A LENGTH OF 125 FEET; THENCE SOUTHEASTERLY AND EASTERLY ALONG SAID CENTER LINE, BEING A CURVE CONCAVE TO THE NORTHEAST TANGENT TO THE LAST MENTIONED COURSE AND HAVING A RADIUS OF 110 FEET THROUGH A DELTA OF 70° 37' 10" A DISTANCE OF ~~135.68~~³ 135.58 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTHEASTERLY ALONG SAID CURVE THROUGH A DELTA OF 27° 35' 30" A DISTANCE OF 52.97 FEET; THENCE SOUTH 20° 33' EAST ~~157.40~~⁴ 157.40 FEET; THENCE SOUTH 86° 27' WEST 52.97 FEET; THENCE NORTH 20° 40' 10" WEST 129.28 FEET TO THE TRUE POINT OF BEGINNING.

SAID LAND IS SHOWN AS LOT 122 ON MAP OF ROGERS TRACT RECORDED IN BOOK 20, PAGE 44 OF MAPS AND SURVEYS, RECORDS OF SAID COUNTY.

Remnant Portion of Land - PARCEL FIVE

(APN 035-480-040; AKA Lot 123 from Rogers Tract Map)

THAT PORTION OF THE OUTSIDE PUEBLO LANDS OF THE CITY OF SANTA BARBARA, IN THE CITY OF SANTA BARBARA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY END OF THAT CERTAIN COURSE IN PARCEL NO. FOUR AS DESCRIBED IN DEED FROM HORACE E. ROGERS, ET UX., TO SANTA BARBARA COUNTY TITLE COMPANY, RECORDED JUNE 19, 1929 AS INSTRUMENT NO. 7173, IN BOOK 188, PAGE 175 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; SAID COURSE BEING DESCRIBED IN SAID DEED AS HAVING A BEARING OF SOUTH 40° 03' EAST AND A LENGTH OF 125 FEET; THENCE SOUTHEASTERLY, ALONG THE CENTER LINE REFERRED TO IN SAID PARCEL FOUR, BEING A CURVE CONCAVE TO THE NORTHEAST TANGENT TO LAST MENTIONED COURSE, AND HAVING A RADIUS OF 110 FEET THROUGH A DELTA OF 52° 21' 10"⁵ ~~52° 22' 20"~~ A DISTANCE OF 100.51 FEET TO THE TRUE POINT OF BEGINNING OF THE DESCRIPTION OF THE

³ Typo corrected using Record delta from R/S, Bk.20 p.44

⁴ Typo corrected. 157.40 per R/S Bk.20 p.44

⁵ Minute and second correction from R/S Bk.20 p.44

LAND HEREIN DESCRIBED; THENCE CONTINUING SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18° 15' 50" A DISTANCE OF 35.07 FEET; THENCE SOUTH 20° 40' 10" EAST 129.28 FEET; THENCE SOUTH 86° 27' WEST 75.00 FEET; THENCE NORTH 2° 24' 20" WEST 118.73 FEET TO THE TRUE POINT OF BEGINNING.

SAID LAND IS SHOWN AS LOT 123 ON MAP OF THE ROGERS TRACT RECORDED IN BOOK 20, PAGE 44 OF MAPS AND SURVEYS, RECORDS OF SAID COUNTY.

Remnant Portion of Land - PARCEL SIX

(APN 035-480-041; AKA Lot 124 from Rogers Tract Map)

THAT PORTION OF THE OUTSIDE PUEBLO LANDS OF THE CITY OF SANTA BARBARA, IN THE CITY OF SANTA BARBARA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY END OF THAT CERTAIN COURSE IN PARCEL NO. FOUR AS DESCRIBED IN DEED FROM HORACE E. ROGERS, ET UX., TO SANTA BARBARA COUNTY TITLE COMPANY, RECORDED JUNE 19, 1929 AS INSTRUMENT NO. 7 173, IN BOOK 188, PAGE 175 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; SAID COURSE BEING DESCRIBED IN SAID DEED AS HAVING A BEARING OF SOUTH 40° 03' EAST AND A LENGTH OF 125 FEET; THENCE SOUTHEASTERLY, ALONG THE CENTER LINE REFERRED TO IN SAID PARCEL FOUR, BEING A CURVE CONCAVE TO THE NORTHEAST TANGENT TO LAST MENTIONED COURSE, AND HAVING A RADIUS OF 110 FEET THROUGH A DELTA OF 34° 19' A DISTANCE OF 65.88 FEET TO THE TRUE POINT OF BEGINNING OF THE DESCRIPTION OF THE LAND HEREIN DESCRIBED; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18° 02' 20" A DISTANCE OF 34.63 FEET; THENCE SOUTH 2° 24' 20" EAST 118.73 FEET; THENCE SOUTH 86° 27' WEST 75.00 FEET; THENCE NORTH 15° 38' EAST 132.13 FEET TO THE TRUE POINT OF BEGINNING.

SAID LAND IS SHOWN AS LOT 124 ON MAP OF THE ROGERS TRACT RECORDED IN BOOK 20, PAGE 44 OF MAPS AND SURVEYS, RECORDS OF SAID COUNTY.

Together with a Road Easement

AN EASEMENT FOR A PRIVATE ROADWAY OVER, ALONG AND ACROSS THOSE CERTAIN STRIPS OR PARCELS OF LAND DESCRIBED AS PARCELS 1 TO 7, INCLUSIVE, IN SAID DEED FROM HORACE E. ROGERS AND WIFE, TO SANTA BARBARA COUNTY TITLE COMPANY. RECORDED JUNE 9, 1929 AS INSTRUMENT NO. 7173 IN BOOK 188, PAGE 175 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM ANY PORTION OF SAID STRIPS OR PARCELS INCLUDED WITHIN THE LINES OF PARCELS B - ONE, B- TWO, AND B - THREE ABOVE DESCRIBED.

C. The Real Property is subject to the following Notices of Violation recorded on December 5, 1979, as Instrument Nos. 79-57167 (Lots 117, 118 & 121); 79-57195 (lots 122 & 124) and, 81-23962 (Lot 123), of Official Records of said County.

D. Pursuant to California Government Code Section 66499.35, in response to written application and request by the Owners of the Real Property, this Conditional Certificate of Compliance is issued by the City Engineer of the City of Santa Barbara, and recorded in the Official Records of said County.

E. This Conditional Certificate of Compliance is issued for the Real Property identified in Recital A.

F. This Conditional Certificate of Compliance relates only to issues of compliance or noncompliance with the Subdivision Map Act and local ordinances enacted pursuant thereto. The parcels described herein may be sold, leased, or financed without further compliance with the Subdivision Map Act or any local ordinance enacted thereto. Development of the Real Property may require the issuance of a permit or permits, or other grant or grants of approval.

G. This Conditional Certificate of Compliance is issued by the City of Santa Barbara and recorded in the Official Records of Santa Barbara County to give constructive notice of the conditions that must be fulfilled or implemented prior to the issuance of any permit or other grant of approval for the development of any parcel of the Real Property.

H. Prior to the issuance of any permit or other grant of approval for the development of any parcel of the Real Property, the following specific conditions shall be fulfilled or implemented as to such parcel:

1. ZONING REQUIREMENTS:

The Real Property shall be combined or added to (by lot line adjustment, voluntary merger, or other process recognized by the City of Santa Barbara) as necessary to comply with the requirements of the E-1 Zone for a newly created lot, as such requirements existed on the date of Owners' acquisition of each parcel of Real Property, including minimum lot area of 45,000 square feet for a lot with an average slope in excess of 30% and not less than 90 feet of frontage on a public street.

2. PUBLIC STREET REQUIREMENTS:

As determined by the City Public Works Department, the public street improvements shall include, but not be limited to, new alley entrance; replace curb gutter and sidewalk where damaged; street light with underground wiring; appropriate directional and regulatory traffic control devices per MUTCD w/CA supplements; connection to City sewer and water, adequate drainage and storm drain improvements; and slurry seal or other required repair of existing public street as identified by Public Works. The improvement plans shall be prepared by a registered Civil Engineer in a form to be reviewed and approved by the

Santa Barbara City Engineer.

3. ASSIGNMENT OF WATER EXTRACTION RIGHTS:

The Owner of the Real Property shall execute and submit an Agreement Relating to the Assignment of Water Extraction Rights, in a form approved by the City Attorney, irrevocably offering to dedicate and assign to the City of Santa Barbara the exclusive right to extract water from under the Real Property, which may be subsequently accepted by the City Council of the City of Santa Barbara by adoption of a resolution of the Council and the subsequent recordation of the resolution in the Official Records of the County of Santa Barbara.

I. Compliance with the foregoing conditions by the Owners of the Real Property described herein shall not be required until such time as a permit or other grant of approval for development of the Real Property is issued by the City of Santa Barbara.

J. All permits of the City of Santa Barbara needed by the Owners of the Real Property described herein for the development of improvements, including any development of improvements to implement any of the above conditions, and permits and other grants of approval for the development of the real property in the future shall be subject to the conditions listed above.

Continued next page

NOTICE:

~~The Real Property described herein may be difficult to conform to current development standards given the limited lot area and slope of the real property. Hillside development is carefully regulated in the City; there are General Plan policies and design guidelines that need to be considered if development is proposed in the future.~~ **The City's Master Environmental Assessment (MEA) Maps indicate that the property is in an area of high erosion potential and that the Lavigia Fault Zone is in the vicinity of the property. Development of the Real Property described herein and adjacent parcels is expected to be limited due to these constraints; the City may require technical studies in order to assess development potential and to address hazards related to such development.**

FUTURE DEVELOPMENT:

Future development will be subject to the standards in effect at the time of review. Any application will require identification of minimum building and development envelopes, location of utility lines/connections, and vehicular access to the site. How these standards will apply to the development of the Real Property will vary depending on when and what type of development is proposed on the site.

NOW, THEREFORE, the City of Santa Barbara and Owners hereby declare as follows:

1. This Conditional Certificate of Compliance shall be recorded in the Official Records of the County of Santa Barbara to run with the land and to serve as constructive notice to the Owners, and to any subsequent vendees, grantees, heirs, transferees or assignees of the real property, of the conditions that shall be that fulfilled and implemented prior to any subsequent issuance of City permits or other grants of approval for development of any parcel of the Real Property.

2. The conditions described above in Recital G shall be fulfilled and implemented prior to the issuance of a permit or other approval for the development of any parcel of the Real Property.

Continued next page

3. This Conditional Certificate of Compliance is for the benefit of and runs with the Real Property, it is an instrument affecting the title and possession of the Real Property, and it shall be binding upon the successors in interest of Owners.

OWNERS
By Sharon Lynn Clenet TTEE
Sharon Lynn Clenet, Trustee

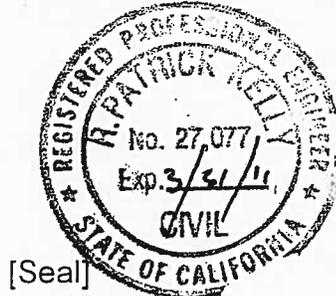
By Sharon Lynn Clenet mgr.
Sharon Lynn Clenet
Managing Member of Gathercole, LLC

MAILING ADDRESS:
1211 Harbor Hills Drive
Santa Barbara, CA 93105
(805) 965-3466

CITY CERTIFICATE

The City of Santa Barbara, acting through its City Engineer, hereby issues this Conditional Certificate of Compliance and consents to its recordation in the Official Records of Santa Barbara County.

By: Pat Kelly
City Engineer
RCE No. 27077 Exp. 3/31/11



ACKNOWLEDGMENT

STATE OF CALIFORNIA)
COUNTY OF Santa Barbara)

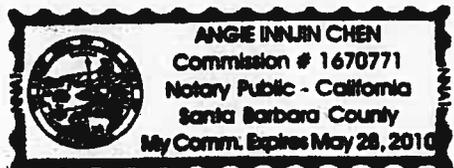
On 5/20/09, before me, Angie Chen, a Notary Public,
personally appeared Sharon Chenet

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature Angie Chen
Printed Angie
My Commission Expires 5/28/10
Principal office Located in County of Santa Barbara



[Seal]

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
COUNTY OF Santa Barbara)

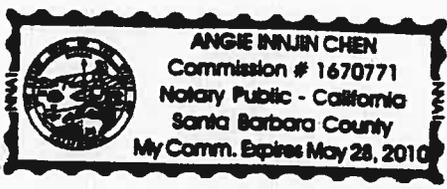
On 5/20/09, before me, Angie Chen, a Notary Public,
personally appeared Sharon Chenet

_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature Angie Chen
Printed Angie Injin Chen
My Commission Expires 5/28/10
Principal office Located in County of Santa Barbara



[Seal]



City of Santa Barbara Planning Division

30-DAY DEVELOPMENT APPLICATION REVIEW TEAM (DART) COMMENTS – SUBMITTAL #1

September 25, 2009

Mike Gones
Civil Engineer
1518 Bath Street
Santa Barbara, CA 93101

SUBJECT: 1213 HARBOR HILLS DR, MST#2009-00385, APN#035-480-037 (portion), -039, -040, -041

DART MEETING DATE: September 29, 2009, from 1:15 - 2:00 p.m., 630 Garden Street, Housing & Redevelopment Conference Room, 2nd Floor

Dear Mr. Gones:

I. INTRODUCTION

The City accepted the development application for the subject project for 30-day review on August 26, 2009. The project consists of a lot area modification for a reduction of the required minimum 45,000 square feet of lot area to 44,479 square feet and a modification to provide less than the required 90 feet of public street frontage. The information reviewed by the DART included an applicant letter dated August 19, 2009, a slope density exhibit, a floor area/slope density study, a foundation exploration dated March 11, 2008, a site plan and elevations dated June 3, 2008 and a Conditional Certificate of Compliance site plan dated August 19, 2009.

The City has 30 days from the date a development application is accepted for processing to determine if the application is "complete" (i.e., contains all of the required information necessary for project analysis and decision). During the 30-day application review period, the development application is forwarded to various City land development departments and divisions for their review, comments, and completeness determination. The City is required to notify a project proponent within the 30-day application review period of its determination as to development application completeness.

If a development application is determined to be "incomplete," the City will specify in writing to the project proponent the additional information required. The application will be placed "on-hold" until the required information is received. Not later than 30 days from receipt of the additional information, the City will again determine if the application is "complete." If the application remains incomplete, the City will again transmit its determination to the project proponent and specify the additional information required. If the City determines the application is "complete", processing will continue. Further processing includes environmental review of the proposed project, analysis for compliance with applicable plans, policies,

ordinances, codes etc., and action on the proposed project application by the appropriate decision-making body(ies).

Also, during the 30-day application review period, I was assigned as the lead contact regarding this project. Any questions or concerns you may have relative to the processing of the development application should be directed to me at (805) 564-5470 or by e-mail at dgullett@SantaBarbaraCA.gov.

II. STAFF SUMMARY

Staff has reviewed the subject application is unable to support the requested lot area modification. Both staff and the Planning Commission previously indicated that a lot of less than the required minimum lot size would not be supported.

As noted in the submitted application, the average slope of the property is 38.9% and the slope density ordinance requires three times the minimum lot area for the zone. The project proposes a lot area with approximately 521 square feet less than the required 45,000 square feet of lot area.

To approve the project the Staff Hearing Officer must find that the requested modifications are consistent with the purposes and intent of the zoning ordinance and necessary to 1) secure an appropriate improvement on a lot, 2) prevent unreasonable hardship, 3) promote uniformity of improvement or 4) construct an affordable housing development. The application letter states that the intent of the slope density ordinance is to provide for more flexibility in constructing a house on a steep slope, where the Conservation Element states that the intent of the slope density ordinance is to prevent the unnecessary scarring of hillsides through regulations of densities on various slopes. Staff does not believe that the findings for approval can be made and cannot recommend approval for the project as proposed.

If you wish to continue with the process with the lot area proposed, please contact me to schedule a Staff Hearing Officer review of the project for consideration of denial. Project denial is expressly exempted from CEQA review pursuant to CEQA Guidelines Section 15270, which allows the initial screening of a project on its merits prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved.

Although no development is currently proposed, CEQA requires the City to analyze the foreseeable buildout of the lot in the analysis. If the final modification review authority (Staff Hearing Officer, Planning Commission, or City Council) determines that the project can continue through the process, an Initial Study, pursuant to CEQA, would be required to determine the appropriate level of environmental review (i.e., Negative Declaration or Environmental Impact Report) and the following additional information would be required for application completeness and CEQA review.

III. REQUIRED ADDITIONAL INFORMATION

Staff has determined that the development application for the subject project is "incomplete," and additional information is required. Staff has identified the following information as necessary in order to adequately review the proposed development project. **Please only submit the following information if the final decision-making body allows the application to proceed.**

A. Planning Division

1. **Conditional Certificate of Compliance Requirements.** Consistent with the Subdivision Map Act, the Conditional Certificate of Compliance for the subject property requires that the specific conditions be fulfilled or implemented prior to any permit or grant of approval for development. Please describe how the proposal complies with the requirements in Section H of the Conditional Certificate of Compliance.
2. **SFDB Review.** Since the project involves a vacant lot in the Hillside Design District with an average slope of greater than 15%, Single Family Design Board (SFDB) Vacant Lot review is required in addition to conceptual review of a residence on the property prior to a consideration of modification approval for the project. Design review application submittals and fees will be required prior to application completeness.
3. **SWMP Compliance.** Any increase in site runoff must be avoided per the City's adopted Storm Water Management Plan (SWMP), and the NPDES General Permit for Storm Water Discharges. The City and State require that onsite capture, retention, and treatment of storm water be incorporated into the design of the project. Due to these requirements, we do not recommend development on sites with slopes 20% or greater. The average slope on the proposed project site is approximately double this (38.9%), which poses drainage challenges and significant impacts to water quality due to the inability to retain or treat storm water onsite and the potential effects of retaining water onsite where the infiltration of water can create instability.
4. **Stormwater Capture and Treatment.** As required by the State General Permit, storm water runoff best management practices (BMPs) shall provide detention such that the post-development peak storm water runoff discharge rate shall not exceed the pre-development rate for a 25-year 24-hour storm event. In addition the State General Permit requires that the larger of the following two volumes be retained on site: *The volume difference between the pre- and post-conditions for the 25-year, 24-hour design storm or the volume generated from a one-inch, 24-hr storm event.* The State General Permit also requires certain water quality treatment requirements for volume-based and flow-based BMPs. An offsite bioretention basin may accomplish the retention and water quality treatment goals listed above, if a more level, stable area below the project site can be utilized for this purpose. An easement will be required if an offsite bioretention basin is proposed. We recommend passive/natural capture and filtration design options as opposed to mechanical/underground options, which pose maintenance problems and often do not treat runoff as efficiently.

Please refer to the City's *Storm Water BMP Guidance Manual* for additional information on requirements and BMP options.

5. **Geologic Assessment.** Provide a geologic assessment that substantiates hillside stability and analyzes the proposed drainage plan to ensure erosion does not cause

problems and slope stability is not compromised by any landscape features designed to retain and treat flows on the site.

6. **Biology Report.** Provide a complete biological assessment with a general overview of the project site and identification of potential impacts due to grading, drainage, access, and development and building envelopes and identify mitigation as appropriate.
7. **Plan Corrections/Additional Information.**
 - (a) Your application letter indicates that 45 feet of public street frontage would be provided. Please show and dimension the length of public street frontage on the plan.
 - (b) Please change the title of C-1 to avoid confusion with the request.
 - (c) Please update the Assessor Map on C-1 to reflect the current parcel configuration of the Mesa LLC duplex project.
 - (d) Show the footprint of the proposed driveway and residence on the lot immediately to the north (APN 035-480-070).
 - (e) Show the driveway to the proposed residence on A-1.
 - (f) Show fire department required defensible space zones on A-1.
 - (g) Propose building and development envelopes. The development envelope should include all areas of ground disturbance and for drainage facilities.
 - (h) Provide a civil grading plan showing cut and fill of all areas and indicating the method of calculation. Calculate quantities of cut, fill, import, export and excavation/recompaction.
 - (i) Show the calculations for average slope using the formula contained in SBMC§28.15.080.
8. **Subsequent Application Submittal.** Please submit a copy of this letter, indicating how each of the comments contained herein have been addressed.
9. **Project Changes.** If, when you resubmit your DART application, your project changes in any way from the current proposal (change in the number of dwelling units, floor area, parking spaces, building height, window location, etc.), please provide a concise explanation of all of the changes. Be advised that changes to the project may result in additional requests for information, and if deemed significant, may require submittal of a revised application (at staff's discretion) and associated fees.

IV. ADVISORY COMMENTS

A. Planning Division

1. **Development Proposal.** Staff strongly recommends that you include at least 45,000 square feet of lot area in your proposal, which would relieve the necessity for a lot area modification. For an alternative proposal you may include additional or different substandard Rogers Tract parcels (if certificates of compliance have

been issued) or propose a lot line adjustment to provide the minimum lot area. Also, rather than separately requesting approvals for the modifications and design review, staff recommends that these requests be submitted concurrently to minimize cost and time spent in environmental and application review.

Please note that since the Conditional Certificate of Compliance has been issued, the property can now legally be sold, leased or financed without condition clearance. The conditions only need to be met for development proposals or permit approvals.

2. **General Plan Policies.** Please note that staff is concerned with potential inconsistencies with the proposal and the following City General Plan policy:

Conservation Element's Visual Resource Goals: *Prevent the scarring of hillside areas by inappropriate development and*

Protect significant open space areas from the type of development which would degrade the City's visual resources.

Conservation Element Visual Resource Policy 2.0: *Development on hillsides shall not significantly modify the natural topography and vegetation.*

Conservation Element Visual Implementation Strategy 2.1: *Development which necessitates grading on hillsides with slopes greater than 30% should not be permitted.*

3. **Design Guidelines.** Please note that the Single Family Residence Design Guidelines apply to the development of this parcel and provide a tool for both the SFDB and the Staff Hearing Officer to help determine if appropriate findings and approvals can be made.

Relevant Single Family Residential Hillside Housing Design Guidelines include:

26.5 Fit in with hillside topography and background

26.6 Avoid interrupting natural ridgelines and skylines. Set the house below these.

29.2 Preserve slopes greater than 30% by avoiding grading and clearing.

30.1 Set house on the site so that the length of the driveway is minimized.

30.2 Minimize the visibility of driveway cuts on the property.

30.4 Design driveway slope with the natural topography.

32.3 Avoid crowding or overwhelming neighboring residences.

B. Engineering Division

Lot Line Adjustment Processing. If you choose to process a Lot Line Adjustment in order to meet your lot area requirements, please include that request in your proposal. Public Works staff will process the Lot Line Adjustment over the counter after you have received Discretionary approval.

V. ADDITIONAL APPLICATIONS REQUIRED

Based on the information submitted, the subject project requires the following additional applications for the following reasons:

A. Planning Division

Single Family Design Board Application

B. Engineering Division

Required Agreement.

The *Agreement Assigning Water Extraction Rights* reaffirms the City's pre-existing Pueblo water rights. This agreement is prepared by staff and recorded concurrently with the Parcel Map, prior to issuance of Public Works or Building Permits. This agreement does not require Council approval because the City Council has delegated review and approval authority for these agreements to the Public Works Director.

VI. FEES

Please be informed that fees are subject to change at a minimum annually. Additionally, any fees required following discretionary approvals will be assessed during the Building Plan Check phase and shall be paid prior to issuance of the building permit. Based on the information submitted, the subject project requires the following additional fees for the following reasons:

A. Planning Division

Prior to the application being deemed complete:

Initial Study Fee \$8,077.00
Negative Declaration Fee (assumed as appropriate level of CEQA) \$800.00
Single Family Design Board Fee \$1,325.00

Following discretionary approvals:

Plan Check Fee TBD
LDT Recovery Fee 30% of all Planning Fees

B. Engineering Division

Following discretionary approvals:

Fees will be assessed only if work in the right of way is proposed TBD

C. Transportation Division

Following discretionary approvals:

Plan Check Fee TBD

D. Building & Safety Division

Following discretionary approvals:

Fee TBD

VII. NEXT STEPS:

If you choose to proceed with the application, please contact me to schedule the project for hearing by the Staff Hearing Officer. If the final modification review authority allows the application to proceed, please schedule an appointment with me to provide the required additional information, specified in Section III of this letter.

VIII. CONTACTS

The following is a list of the contact personnel for the various City departments and/or divisions working on the processing of your application:

Planning Division, 564-5470..... Daniel Gullett, Associate Planner
Fire Department, 564-5702 Alan Reitz, Fire Inspector I
Engineering Division, 564-5363..... Victoria Johnson, Project Engineer II
Transportation Division, 564-5385..... Stacey Wilson, Associate Transportation Planner
Building & Safety Division, 564-5485 Chris Hansen, Plan Check Supervisor

IX. CONCLUSIONS/GENERAL COMMENTS

Your application has been deemed "incomplete," however, you may appeal the decision to require additional information. An appeal must be filed at the Community Development Department's Planning and Zoning Counter within 10 days of the date of this letter. The appeal must consist of written notification indicating your grievance with the determination that your application is "incomplete" and the appropriate appeal fee. The appeal will be scheduled for review by the appropriate decision making body and you will receive notice of the hearing date.

These comments constitute your DART review. The project is scheduled for review at a meeting on September 29, 2009 at 1:15 p.m. with staff from the Planning, Transportation, Engineering, Building and Safety Divisions and the Fire Department. Please review this letter carefully prior to our scheduled meeting date. We will answer your questions on the DART comments at that time. If you do not feel it is necessary to meet with Staff to discuss the contents of the letter or the project, please call me at (805) 564-5470 by September 28, 2009. If we do not hear from you by this date, we will assume that you will be attending the scheduled meeting. If you have any general or process questions, please feel free to contact me.

Sincerely,



Daniel Gullett, Associate Planner

cc: Sharon Clenet, 1211 Harbor Hills Drive, Santa Barbara, CA 93109
Planning File
Debra Andaloro, Senior Planner II
Michael Berman, Environmental Analyst
Mark Wilde, Supervising Civil Engineer

30-DAY DEVELOPMENT APPLICATION REVIEW TEAM COMMENTS (#1)

1213 HARBOR HILLS DRIVE (MST2009-00385)

SEPTEMBER 25, 2009

PAGE 8 OF 8

Victoria Johnson, Project Engineer II
Rocky Peebles, Water System Superintendent
Manual Romero, Wastewater System Superintendent
Joe Poire, Fire Battalion Chief
Alan Reitz, Fire Inspector I
Steve Foley, Supervising Transportation Planner
Stacey Wilson, Associate Transportation Planner
Chris Hansen, Building Inspection/Plan Check Supervisor
Autumn Malanca, Water Resources Specialist