



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 009-14

#### 296 SCHULTE LANE

AMENDMENT TO CONDITIONS OF APPROVAL FOR 3688 FOOTHILL ROAD,  
AS OUTLINED IN PLANNING COMMISSION RESOLUTION No. 015-92 FOR LOT FOUR OF THE SUBDIVISION  
APRIL 10, 2014

**APPLICATION OF REBERT PESTER, ARCHITECT FOR STONE 2000 FAMILY TRUST,  
296 SCHULTE LANE, APN 055-230-004, A-1 ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN  
DESIGNATION: LOW DENSITY RESIDENTIAL, (MST2013-00406)**

The proposed project involves relocating the previously approved grading envelope on property located at 296 Schulte Lane. The subject property was created as part of the five-lot subdivision of 3688 Foothill Road, which was approved by the Planning Commission on May 7, 1992. The project site is 2.2 acres and is currently vacant. The previously approved grading envelope is proposed to be relocated from the area of the existing orchard (formerly the tennis court and surrounding area) to an area immediately north of the previously approved grading envelope. The intent in relocating the grading envelope is to construct a new single-family residence while maintaining the existing orchard. The proposed grading envelope would have a slope of 29%.

The discretionary action required for this project is an Amendment to the conditions of approval and previously approved grading envelope for Lot 4 (296 Schulte Lane) of the subdivision of 3688 Foothill Road, as approved by Planning Commission Resolution 015-92 and shown on the approved Tentative Subdivision Map.

An Addendum to the Negative Declaration adopted for the original subdivision has been prepared and the Planning Commission considered the Addendum with the Negative Declaration prior to making a decision on the project pursuant to the California Environmental Quality Act Guidelines Section 15164.

**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 3 2014.
2. Revised Conditions of Approval (Exhibit A), dated April 10, 2014
3. Site Plans
4. Correspondence received in support of the project:
  - a. George and Elaine Kitagawa, Santa Barbara, hand-delivered
  - b. Don Galloway, Santa Barbara, hand-delivered
  - c. Amy Tracewell, Santa Barbara, hand-delivered

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

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

**A. ENVIRONMENTAL FINDINGS**

The Planning Commission has considered the Addendum dated March 18, 2014 with the Negative Declaration approved by the Planning Commission on May 7, 1992 (SB-150-91) prior to making a decision on the project. Together they are determined to be adequate to serve as the environmental documentation for this project and satisfy all the requirements of CEQA. The Planning Commission has determined that no subsequent ND is required pursuant to CEQA Guidelines Sections 15162 and 15614 because:

1. Project changes do not require major revisions of the previous ND because there are no new significant environmental effects and there is no increase in the severity of previously identified significant effects, as identified in the Addendum.
2. There have been no substantial changes with respect to the circumstances under which the project is undertaken; therefore, no major revisions of the ND are required to address new significant environmental effects or an increase in the severity of previously identified significant effects, as identified above.
3. There is no new information of substantial importance that shows that the project will have any significant effects not discussed in the ND or that significant effects previously examined will be more severe than shown in the ND. The project proponent has not declined to adopt any identified mitigation measures or alternatives.

**B. GENERAL FINDINGS**

The findings to support approval of the Tentative Map for the subdivision of 3688 Foothill Road, which were made by the Planning Commission on May 7, 1992 in Resolution No. 015-92, can still be made recognizing the relocation of the Lot 4 grading envelope. The grading envelope relocation is consistent with the findings for approval of the original Tentative Map. The project is consistent with the City's Zoning Ordinance and General Plan, as outlined in Section VI of the staff report. The site is physically suitable for the proposed development and the design of the project is consistent with the surrounding neighborhood, will not cause substantial environmental damage and will not cause serious health problems, as discussed in Sections VII and VII of the staff report. The associated conditions of approval, as outlined in Resolution No. 015-92, are hereby amended to reflect relocation of said grading envelope.

II. Said approval is subject to the following conditions:

A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

1. Pay Land Development Team Recovery Fee (30% of all planning fees, as calculated by staff) at time of building permit application.
2. Record any required documents (see Recorded Conditions Agreement section below) prior to issuance of a building permit.

B. **Recorded Conditions Agreement.** Prior to issuance of a building permit on the Real Property, the Owner shall execute a *written instrument*, which shall be prepared by Planning staff, 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 April 10, 2014 is limited to a revision to the previously approved grading envelope on Lot 4 of the 5-lot subdivision of 3688 Foothill Road, which was approved by the Planning Commission on May 7, 1992 (Resolution No. 015-92). The previously approved grading envelope shall be relocated from the area of the existing orchard (formerly the tennis court and surrounding area) to an area immediately north of the previously approved grading envelope. The intent in relocating the grading envelope is to construct a new single-family residence while maintaining the existing orchard, as shown on the plans signed by the chairperson of the Planning Commission on said date and on file at the City of Santa Barbara.
2. **Development Rights Restrictions.** The owner shall limit the location of buildings, structures and habitable space to within the identified grading envelope, as shown on the approved plans. The Owner shall continue to be responsible for (i) maintenance of the entire parcel, and (ii) compliance with orders of the Fire Department. The approved grading envelope shall be shown on the construction plans for the residence on the Real Property.
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. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state. 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 Owner 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.
5. **Pesticide or Fertilizer Usage Near Creeks.** The use of pesticides or synthetic fertilizer shall be prohibited outside the grading envelope, as it drains into Creek 139, which is a tributary to Barger Creek.
6. **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.

**C. General Condition.**

1. **Prior Conditions.** These conditions are in addition to the conditions identified in Planning Commission Resolution 015-92.

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

This motion was passed and adopted on the 10th day of April, 2014 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 4 NOES: 1 (Pujo) ABSTAIN: 0 ABSENT: 2 (Bartlett, Lodge)

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

**PLEASE BE ADVISED:**

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