City of Santa Barbara
California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 046-09
1402 GRAND AVENUE AND 860 JIMENO ROAD
LOT LINE ADJUSTMENTS
JUNE 3, 2009

APPLICATION OF RICHELE MAILAND AGENT FOR MIDWEST INSTITUTION, LLC & JOSEPH A. YOB, 1402 GRAND AVENUE & 860 JIMENO ROAD, 029-110-036 & 029-110-037, A-1/E-1 AND E-1 SINGLE FAMILY RESIDENTIAL ZONES, GENERAL PLAN DESIGNATION: 1 UNIT/ACRE (MST2008-00402)

The proposed project consists of a Lot Line Adjustment between the properties located at 1402 Grand Avenue (Parcel 1) and 860 Jimeno Road (Parcel 2). The lot line adjustment will result in a transfer of 3,140 sq. ft. of lot area from Parcel 2 to Parcel 1. The proposal includes the installation of automatic gates at the driveway entry for 1402 Grand Avenue, the landscaping screening of as-built Alan block walls south of the driveway, landscaping of an as-built turnaround area to limit its usage to a turnaround and prevent parking within the setback, and alterations to the house at 860 Jimeno Road including window and door changes.

The discretionary application required for this project is a Lot Line Adjustment (LLA) to change the property line between Parcel 1, 1402 Grand Avenue (APN 029-110-036) and Parcel 2, 860 Jimeno Road (APN 029-110-037) (SBMC §27.40 & Gov. Code §66412).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality guidelines Section §15301 (Alterations to Small Structures) and §15305 (Minor Alteration in Land Use Limitations).

WHEREAS, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, two people appeared to speak in opposition of the application, and the following exhibits were presented for the record:

1. Staff Report with Attachments, May 27, 2009.
2. Site Plans
3. Correspondence received expressing concerns about the project:

   Paula Westbury, 650 Miramonte Drive

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer:

Approved the subject application making the following findings and determinations:

I. Approved the project making the finding that the proposed lot line adjustment is appropriate for the area and is consistent with the City's General Plan and Building and Zoning Ordinances, as

shown in section VI.A -C. The lot line adjustment would create two legal lots that conform to the zoning requirements in the A-1 and E-1 zones as described in Sections V. and VI.C., dated May 27, 2009.

II. Said approval is subject to the following Conditions of Approval for 1402 Grand Avenue:

A. **Design Review.** The project is subject to the review and approval of the Single Family Design Board (SFDB). SFDB shall not grant preliminary approval of the project until the following Staff Hearing Officer land use conditions have been satisfied for the property located at 1402 Grande Avenue:

1. A one-car carport shall be constructed to provide one covered parking space in the location identified as the concrete parking area. The northern most parking space is the preferred location along the existing fence.

2. The proposed driveway turnaround shall be a hammerhead not to exceed a maximum of 14 foot width. The applicant shall work with Transportation staff and the SFDB to reduce the amount of paving and decomposed granite as much as possible, especially in the required setbacks to discourage the use of these areas for parking. A physical barrier shall be placed between the turnaround area and the adjacent landscaped areas to discourage access parking.

3. Large boulders shall be placed along the turnaround edge to prevent parking in areas not designated as the approved turnaround and within the required setback.

4. The decomposed granite shall be removed from under the Oak tree on the 1402 Grand Avenue property by hand and replaced with bark.

5. A small tree shall be planted in the small triangular planter.

6. Irrigation shall be shown on the plans for the Rosemary shrubs.

7. The exterior lighting for the health room shall be placed on a motion detector.

8. The driveway entry gate shall be setback a minimum distance of 20 feet from the front property line or shall be reduced to a maximum height of 3.5 feet

9. **Tree Protection Measures.** The landscape plan shall include the following tree protection measures, intended to minimize impacts on trees:

   a. **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s).

   b. **Arborist's Report.** Include a note on the plans that recommendations/conditions contained in the arborist's report prepared by Duke McPhereson, dated May 27, 2009, shall be implemented.

10. **Irrigation System.** The irrigation system shall be designed and maintained with the most current technology to prevent a system failure, and watering of vegetation on the steep slope shall be kept to the minimum necessary for plant

survival. The drip system along the bluff edge shall be removed after one full season of plant growth.

11. **Permeable Paving.** The turnaround area shall remain a permeable paving system that will allow a portion of the paved area runoff to percolate into the ground.

13. **Unit Size.** The size of existing residence to be verified prior to return to the SFDB.

14. **Zoning Compliance Declaration.** A Zoning Compliance Declaration shall be recorded against 1402 Grand Avenue.

B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute *a written instrument prepared by Community Development staff*, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on June 3, 2009 is limited to a Lot Line Adjustment, construction of a one-car carport, and improvements shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.

2. **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).

3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement. The following tree protection shall be incorporated:

   a. **(Oak) Tree Protection.** The existing tree(s) shown on the Landscape Plan approved by the SFDB shall be preserved, protected, and maintained (in accordance with the recommendations contained in the arborist's report prepared by Duke McPherson, dated March 26, 2009. A copy of this report shall be attached to the recorded conditions as an exhibit.) The following provisions shall apply to any oak trees to remain on the property:

      (1) No irrigation systems shall be installed within three feet of the drip line of any oak tree.

(2) The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.

4. **Geotechnical Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from landslides, erosion, retreat, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.

C. **Community Development Requirements with Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit and finalized prior to Building or Public Works Permit issuance:

1. **Lot Line Adjustment Required.** The Owner shall submit an executed *Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof or Declaration of Lot Line Adjustme*nt to the Public Works Department, including the legal description of the subject properties prior to, and following the lot line adjustment. A licensed surveyor shall prepare the legal description and said Agreement/Declaration shall be recorded in the Office of the County Recorder.

2. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.

D. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.

1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Single Family Design Board, outlined in Section A above.

2. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a

Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

3. **Conditions on Plans/Signatures.** The final Staff Hearing Officer Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Archaeologist contract submitted to Community Development Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

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

E. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.

1. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading,

contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the applicant shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

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 Staff Hearing Officer's action approving the Lot Line Adjustment for 1402 Grand Avenue shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §27.40.100. The applicant may apply for an extension of this approval as provided in Section 27.40.100.B.

III. Said approval is subject to the following Conditions of Approval for 860 Jimeno Road:

A. **Design Review.** The project is subject to the review and approval of the Single Family Design Board (SFDB). SFDB shall not grant preliminary approval of the project until the following Staff Hearing Officer land use conditions have been satisfied for the property located at 860 Jimeno Road:

1. **Tree Protection Measures.** The landscape plan shall include the following tree protection measures, intended to minimize impacts on trees:

a. **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s).

b. **Arborist's Report.** Include a note on the plans that recommendations/conditions contained in the arborist's report prepared by Duke McPhereson, dated March 26, 2009, shall be implemented.

2. **Irrigation System.** The irrigation system shall be designed and maintained with the most current technology to prevent a system failure, and watering of vegetation on the steep slope shall be kept to the minimum necessary for plant survival. The drip system along the bluff edge shall be removed after one full season of plant growth.

3. **Unit Size:** The size of existing residence to be verified prior to return to the SFDB.

B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute *a written instrument prepared by Community Development staff*, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on June 3, 2009 is limited to a Lot Line Adjustment

and improvements shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.

2. **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).

3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement. The following tree protection shall be incorporated:

   a. **(Oak) Tree Protection.** The existing tree(s) shown on the Landscape Plan approved by the SFDB shall be preserved, protected, and maintained (in accordance with the recommendations contained in the arborist's report prepared by Duke McPherson, dated March 26, 2009. A copy of this report shall be attached to the recorded conditions as an exhibit.) The following provisions shall apply to any oak trees to remain on the property:

      (1) No irrigation systems shall be installed within three feet of the drip line of any oak tree.

      (2) The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.

C. **Community Development Requirements with Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit and finalized prior to Building or Public Works Permit issuance:

1. **Lot Line Adjustment Required.** The Owner shall submit an executed *Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof or Declaration of Lot Line Adjustme*nt to the Public Works Department, including the legal description of the subject properties prior to, and following the lot line adjustment. A licensed surveyor shall prepare the legal description and said Agreement/Declaration shall be recorded in the Office of the County Recorder.

2. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.

D. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.

1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Single Family Design Board, outlined in Section A above.

2. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

   If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

   If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

   If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

3. **Emergency Evacuation Plan.** Provide an emergency evacuation plan subject to approval by the Fire Department.

4. **Conditions on Plans/Signatures.** The final Staff Hearing Officer Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Archaeologist contract submitted to Community Development Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

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

E. **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 Staff Hearing Officer's action approving the Lot Line Adjustment for 860 Jimeno Road shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §27.40.100. The applicant may apply for an extension of this approval as provided in Section 27.40.100.B.

This motion was passed and adopted on the 3rd day of June, 2009 by the Staff Hearing Officer of the city of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Staff Hearing Officer at its meeting of the above date.

Gloria Shafer, Staff Hearing Officer Secretary

6-9-09
Date