



# City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 039-07

2017 GARDEN STREET AND 225 E. MISSION STREET

MODIFICATIONS AND LOT LINE ADJUSTMENT

MAY 9, 2007

**APPLICATION OF BRETT ETTINGER, ARCHITECT FOR PROPERTY OWNERS RICHARD AND ROSEMARY SANDERS, 2017 GARDEN STREET, APN 025-323-007 AND 225 E. MISSION STREET, APN 025-323-008, E-1, SINGLE RESIDENTIAL UNIT ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, THREE UNITS/ACRE (MST2006-00463)**

The proposed project involves a Lot Line Adjustment between Parcel 1 (2017 Garden Street, APN 025-323-007) and Parcel 2 (225 E. Mission Street, APN 025-323-008). The lot line adjustment would increase the lot area of 2017 Garden Street from 13,019 square feet (.30 acre) to 15,684 square feet (.36 acre) and decrease the lot area of 225 E. Mission Street from 37,385 square feet (.86 acre) to 34,720 square feet (.80 acre). The intent of the lot line adjustment is to bring the lot size of 2017 Garden Street into conformance with the minimum required lot area size in the E-1 zone, as well as to increase the viability of the rear yard for 2017 Garden Street. Remodeling and additions are proposed to an existing 1,809 square foot single-story residence and attached 447 square foot attached two-car garage located at 2017 Garden Street. The project will result in a 3,025 square foot two-story residence with attached 551 square foot two-car garage, a 458 square foot detached accessory structure, and a swimming pool and spa on the 15,684 square foot lot in the Mission Area Special Design District. Modifications are requested for additions to encroach into the front and interior yard setbacks.

The discretionary applications required for this project are:

1. A Modification to allow the entry awning and front entry steps to encroach into the required front yard setback (SBMC § 28.15.060);
2. A Modification to allow structural encroachments and alterations in the required northerly yard setback (SBMC § 28.15.060);
3. A Modification to allow structural encroachments and alterations in the required southerly interior yard setback (SBMC § 28.15.060); and
4. A Lot Line Adjustment (LLA) to change the property line between Parcel 1 (2017 Garden Street, APN 025-323-007) and Parcel 2 (225 E. Mission Street, APN 025-323-008) (SBMC§27.40).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15305 (minor lot line adjustments).

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

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

1. Staff Report with Attachments, May 2, 2007.
2. Site Plans

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

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

**A. Front Yard Modification for 2017 Garden Street**

The Staff Hearing Officer finds that the requested modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The modification to allow the entry awning and steps to encroach into the required front yard setback is minor in nature. The awning is intended to provide front door protection and provide articulation and human scale to the Garden Street elevation. Additionally, the 12" high steps are necessary to transition from existing grade to the finished floor level. The ABR has reviewed these elements and found them to be appropriate and acceptable.

**B. Northerly Interior Yard Modification for 2017 Garden Street**

The Staff Hearing Officer finds that the requested modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The modification allows a modest addition to two existing bedrooms on the first floor and alterations to the three windows on the northwest wall of the residence. The increased expansion into the required northerly interior yard setback is considered minor in nature and allows for a uniform improvement to the ground floor bedrooms and architectural enhancement to the northwest façade of the residence. Additionally, the ABR has conceptually reviewed the window size, design and materials and found them to be appropriate and acceptable.

**C. Southerly Interior Yard Modification for 2017 Garden Street**

The Staff Hearing Officer finds that the requested modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The modification to encroach into the interior yard setback is considered minor in nature and would allow improved access into the garage by removing the mechanical room inside and the stairway currently obstructing the entrance in front of the garage. Additionally, the proposed garage addition would allow for an entry into the house from the garage as well as provide a man door at the rear of the garage for access from the rear yard.

**D. Lot Line Adjustment (Gov. Code §66412 and SBMC §27.04.030)**

The proposed lot line adjustment is appropriate for the area and is consistent with the City's General Plan and Building and Zoning Ordinances. The lot line adjustment would increase the lot area of 2017 Garden Street from 13,019 square feet (0.30 acre) to 15,684 square feet (0.36 acre) and decrease the lot area of 225 E. Mission Street from 37,385 square feet (0.86 acre) to 34,720 square feet (0.80 acre). The E-1 zone requires

a minimum lot area of 15,000 square feet. The intent of the lot line adjustment is to bring the lot size of 2017 Garden Street into conformance with the minimum required lot area size in the E-1 zone, as well as to increase the viability of the rear yard for 2017 Garden Street. The property line between the two parcels will be reconfigured to follow the existing arc-shaped hedge so that it is included as part of the courtyard and fountain currently existing on the 2017 Garden Street property.

II. Said approval is subject to the following conditions:

- A. **Recorded Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner(s) of the 2017 Garden Street parcel (APN 025-323-007) and 225 E. Mission Street (APN 025-323-007), shall execute a written instrument, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural water courses, conduits and any access road, as appropriate. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health or damage to the Real Property or any adjoining property.
  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 Architectural Board of Review (ABR).
  3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan.
  4. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on May 9, 2007 is limited to a Lot Line Adjustment between 2017 Garden Street and 225 E. Mission Street, and a residential addition of approximately 1,333 square feet, a garage addition of approximately 104 square feet and an accessory structure of approximately 458 square feet and improvements for 2017 Garden Street as shown on the architectural plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
  5. **Zoning Compliance Declaration.** A Zoning Compliance Declaration shall be completed and recorded that prohibits the conversion of the property into two units unless the secondary dwelling unit requirements are met.
  6. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance and most currently adopted Energy Code. No floodlights shall be allowed. Exterior lighting shall be shielded and directed toward the ground.

7. **Tree Protection.** The existing Norfolk Island Pine tree(s) shown on the Site Plan shall be preserved, protected and maintained in accordance with the recommendations contained in the arborist's report prepared by Duke McPherson dated December 8, 2006. A copy of this report shall be attached to the recorded conditions as an exhibit.
  8. **Street Tree Protection.** The street trees within the City's right-of-way shall be preserved and protected.
- B. **Design Review.** The following is subject to the review and approval of the Architectural Board of Review (ABR), or successor board:
1. **Tree Protection Measures.** The landscape plan and grading plan shall include the following tree protection measures:
    - a. **Fencing.** Fencing or protective barriers around the tree(s) during construction.
    - b. **Landscaping Under Trees.** Landscaping under the tree(s) that is compatible with the preservation of the tree(s).
    - c. **Arborist's Report.** Include a note on the plans that recommendations/conditions contained in the arborist's report prepared by Duke McPherson, dated December 8, 2006, shall be implemented.
  2. **Existing Tree Preservation.** The existing tree(s) shown on the approved Site Plan to be saved shall be preserved and protected and fenced at the dripline during construction.
  3. **Pedestrian Pathway.** A separate pedestrian pathway shall be provided along the driveway to the residence at 2017 Garden Street from the sidewalk through the use of a different textured or colored paving material.
  4. **Permeable Paving.** Incorporate a permeable paving system for the project driveway that will allow a portion of the driveway runoff to percolate into the ground.
  5. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Exterior lighting shall be shielded and directed toward the ground.
  6. **Wooden Terrace.** The wooden terrace proposed to encroach into the northwest interior yard setback shall not exceed 10 inches in height.
- C. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.
1. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property. Said agreement will be prepared by Engineering Division Staff for the Owner's signature.

2. **Drainage Calculations.** The Owner shall submit drainage calculations justifying that the existing on-site and proposed on-site drainage system adequately conveys a minimum of a 25-year storm event.
  3. **Lot Line Adjustment Required.** The Owner shall submit an executed Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof/Declarations of Lot Line Adjustment to the Public Works Department, including the legal description of the subject properties prior to, and following the lot line adjustment. A licensed surveyor shall prepare the legal description and said Agreement/Declaration shall be recorded in the Office of the County Recorder.
  4. **Recordation of Lot Line Adjustment Agreements.** After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department.
- D. **Community Development Requirements Prior to Building or Public Works Permit Application/Issuance.** The following shall be finalized prior to, and/or submitted with, the application for any Building or Public Works permit:
1. **Arborist's Monitoring.** Submit to the Planning Division a contract with a qualified arborist for monitoring of all work within the dripline of the Norfolk Island Pine during excavation, grading and construction. The contract shall include a schedule for the arborist's presence during excavation, grading and construction activities, and is subject to the review and approval of the Planning Division.
  2. **Soils Report.** Submit to the Building and Safety Division a soils report.
  3. **Final Staff Hearing Officer Resolution Submittal.** The final Staff Hearing Officer Resolution shall be submitted, indicating how each condition is met with drawing sheet and/or note references to verify condition compliance. If the condition relates to a document submittal, describe the status of the submittal (e.g., Final Map submitted to Public Works Department for review), and attach documents as appropriate.
- E. **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 Architectural Board of Review outlined in Section B above.
  2. **Post-Construction Erosion Control and Water Quality Plan.** Provide an engineered drainage plan that addresses the existing drainage patterns and demonstrates how storm water from the new impervious surfaces will be discharge into the public storm drain system without crossing onto an adjoining property.

3. **Technical Reports.** All recommendations of the soils report and drainage plan, approved by the Building and Safety Division, shall be incorporated into the construction plans.
4. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be salvaged and sent to the City Corporation Annex Yard.
5. **Water-Conserving Fixtures.** All plumbing fixtures shall be water-conserving devices in new construction, subject to the approval of the Water Resources Management Staff.
6. **Conditions on Plans/Signatures.** The final Planning Commission Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

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

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

1. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below:

|                                    |                          |
|------------------------------------|--------------------------|
| New Year's Day .....               | January 1st*             |
| Martin Luther King's Birthday..... | 3rd Monday in January    |
| Presidents' Day.....               | 3rd Monday in February   |
| Memorial Day.....                  | Last Monday in May       |
| Independence Day .....             | July 4th*                |
| Labor Day .....                    | 1st Monday in September  |
| Thanksgiving Day .....             | 4th Thursday in November |

Following Thanksgiving Day .....Friday following Thanksgiving Day  
Christmas Day .....December 25th\*

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

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

2. **Covered Truck Loads.** Trucks transporting fill material to and from the site shall be covered from the point of origin.
3. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
4. **Tree Protection.** All trees not indicated for removal on the site plan shall be preserved, protected and maintained, in accordance with the Tree Protection Plan and any related Conditions of Approval.
5. **Tree Protection.** Notes on the grading plan that specify the following:
  - a. No grading shall occur under the driplines of the existing tree(s).
  - b. A qualified Arborist shall be present during any excavation adjacent to or beneath the dripline of the Norfolk Island Pine tree which is required to be protected.
  - c. All excavation within the dripline of the tree shall be done with hand tools.
  - d. Any roots encountered shall be cleanly cut and sealed with a tree-seal compound.
  - e. No heavy equipment, storage of materials or parking shall take place under the dripline of the tree.
  - f. Any root pruning and trimming shall be done under the direction of a qualified Arborist.
6. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and an archaeologist from the most

current City Qualified Archaeologists List shall be retained by the applicant. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

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

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

- G. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, etc.) subject to the review and approval of the Public Works Department. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
  2. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility undergrounding and installation of street trees.
  3. **Existing Street Trees.** Submit a letter from a qualified arborist, verifying that the existing street trees have been properly pruned and trimmed.
  4. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.
- H. **Litigation Indemnification Agreement.** In the event the Staff Hearing Officer 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.

This motion was passed and adopted on the 9th day of May, 2007 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.

  
\_\_\_\_\_  
Kathleen Goo, Staff Hearing Officer Secretary

  
\_\_\_\_\_  
Date

**PLEASE BE ADVISED:**

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
3. Subsequent to the outcome of any appeal action your next administrative step should be to apply for Architectural Board of Review (ABR) approval and then a building permit.
4. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.

**5. NOTICE OF APPROVAL TIME LIMITS:**

The Staff Hearing Officer's action approving the Modifications, shall terminate two (2) year from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. A Building permit for the use authorized by the approval is issued within twenty-four (24) months of granting the approval. An extension may be granted by the Community Development Director, if the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
2. The approval has not been discontinued, abandoned or unused for a period of six months following the earlier of (a) an Issuance of a Certificate of Occupancy for the use, or (b) two (2) years from granting the approval.
3. The project also includes approval of a Development Plan, Tentative Subdivision Map or a Coastal Development Permit, in which case the longer approval period shall prevail.