



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 018-05

1237 E. COTA STREET

TSM, MODIFICATIONS, STREET FRONTAGE WAIVER

MARCH 17, 2005

APPLICATION OF SOPHIE CALVIN, AGENT FOR MITCHELL MOREHART, PROPERTY OWNER, 1237 E. COTA STREET, APN 031-190-016, R-1 ONE-FAMILY RESIDENTIAL ZONE AND R-2 TWO-FAMILY RESIDENTIAL ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL - 5 UNITS PER ACRE (MST2003-00697)

The proposed project involves the subdivision of an existing 32,941 square foot lot into three parcels. Parcel 1, which contains the existing residence, is proposed to be 16,886 square feet, Parcel 2 is proposed to be 7,030 square feet, and Parcel 3 is proposed to be 9,025 square feet. No new residential development is proposed at this time, other than utility extensions and a new driveway.

The discretionary applications required for this project are:

1. Modifications to allow all three parcels to have less than the required 60 feet of frontage on a public street (SBMC § 28.15.080);
2. Waiver from the requirement that each lot created by a new subdivision shall front upon a public street or private driveway serving no more than two lots (SBMC §22.60.300); and
3. Tentative Subdivision Map (TSM) to divide one parcel into three residential parcels (SBMC Title 27).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15315.

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 10 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, March 9, 2005, continued from January 6, 2005.
2. Site Plans
3. Correspondence received in opposition to the project:
 - a. Celia Angeles, 615 Chiquita Rd., #B, Santa Barbara, CA 93103
 - b. Elizabeth Gallery, 1125 E. Ortega St., Santa Barbara, CA 93103
 - c. Troy Lobdell, 1201 Diana Rd., Santa Barbara, CA 93103

- d. Jean-Luc Bidegain & Laura Benson, 1232 Diana Rd., Santa Barbara, CA
- e. Mitchell E. Morehart, 1232 Diana Rd., Santa Barbara, CA 93103
- f. Sarah Fenstermaker, 1202 Diana Ln., Santa Barbara, CA 93103
- g. Linda M. James, no address submitted
- h. Jeanne & Arthur Templeton, 1225 Diana Ln., Santa Barbara, CA 93101
- i. Lee Mirrer, no address submitted

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

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

A. STREET FRONTAGE MODIFICATIONS (SBMC §28.15.080)

The modifications are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure an appropriate improvement on the lot. The property is a flag lot that does not currently satisfy the required lot frontage requirements. The subdivision would create two additional lots that take access off of East Cota Street through a shared private driveway. The development satisfies the minimum Fire Department access requirements and does not compromise public health or safety.

B. PUBLIC ROAD WAIVER (SBMC §22.60.300)

The driveway would provide adequate access to the proposed parcels. The proposed driveways are acceptable to the Fire Department and Public Works Department.

The proposed driveway and adjacent paved areas will provide adequate access for fire suppression vehicles, as required by applicable fire regulations.

There is adequate provision for maintenance of the proposed driveway because the owners of the proposed lots would be required to adequately maintain the private driveways pursuant to an agreement with the subdivider, to be recorded prior to or concurrent with recordation of the Parcel Map.

The waiver is in the best interests of the City and will improve the quality and reduce impacts of the proposed development. Development of a public road to serve the proposed lots would not improve the quality or reduce the impacts of the development.

C. TENTATIVE MAP (SBMC §27.07.100)

The Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara. The proposed lots are consistent with the General Plan land use and density requirements of five units per acre. With the approval of the required modifications, the Tentative Subdivision Map is consistent with the zoning ordinance because the proposed lots satisfy the minimum lot size specified in the R-1 zone and the slope density requirements. The site is physically suitable for the potential future development.

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 following conditions shall be imposed on the use, possession and enjoyment of the Real Property and shall be executed by the Owner with the Parcel Map on an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property" which shall be reviewed and approved as to form and content by the City Attorney, Community Development Director and/or Public Works Director, which shall be recorded by the City in the Office of the County Recorder:
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. **Maintenance Agreement Required.** The Owners shall record in the office of the Santa Barbara County Recorder a private covenant, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide an express method for the appropriate and regular maintenance of the private driveway and other private items such as shared sewer laterals and shared sewage lift stations, drainage facilities, etc., and which provides appropriate means of sharing the cost of such regular maintenance among the various owners of the benefited parcels. The maintenance agreement shall be reviewed for adequacy by the City Attorney, and as to content by the Community Development Director and Public Works Director.
 4. **Allowed Development.** The development of the Real Property approved by the Planning Commission on March 17, 2005 is limited to the subdivision of a 32,941 square foot lot into three parcels, Parcel 1 would be 16,886 square feet, Parcel 2 would be 7,030 square feet and Parcel 3 would be 9,025 square feet, and the improvements shown on the Tentative Map, Preliminary Improvement Plan and Utility Plan signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
 5. **Future Development.** The following are required for all future development of the new parcels:
 - a. Future residential development of the lots shall be limited to the building envelopes shown on the Tentative Parcel Map to protect existing oak trees and provide an additional buffer to the properties to the northwest.
 - b. The roof peak of any new building shall not exceed a height of 25 feet above natural grade (as identified on the Tentative Parcel Map signed by the chairman

of the Planning Commission on March 17, 2005 and on file at the City of Santa Barbara).

- c. The Architectural Board of Review shall review the proposed single-family residential units when they are submitted to the City.
 - d. New residential units constructed on the lots must be protected by fire sprinklers.
6. **Tree Protection.** The existing oak trees shown to be saved on the Preliminary Improvement Plan signed by the chairman of the Planning Commission on March 17, 2005, shall be preserved, protected and maintained. All protection measures identified in the Arborist Report prepared by Kenneth Knight and dated July 12, 2004, shall be followed. If any tree is not adequately protected such that it does not survive, replacement shall be required at a three to one ratio with 24" boxed trees. All oaks to be preserved shall be fenced during any activities involving earth movement.
 7. **Oak Tree Protection.** The use of herbicides or fertilizers shall be prohibited within the drip line of any oak tree.
 8. **Water Rights Assignment.** Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property. This assignment of rights shall not include a right of surface entry on or from the Real Property.
- B. **Design Review.** The following is subject to the review and approval of the Architectural Board of Review (ABR) when residential development of Lots 2 and 3 is proposed:
1. **Open Yard.** Required open yard areas shall be located in the vicinity of the northwest property lines, closest to the adjacent Diana Road properties.
 2. **Privacy Fence.** A privacy fence and/or hedge shall be installed along the northwest property line for privacy. Said fence shall be consistent with all requirements of the Municipal Code.
 3. **Trees.** Two 24-inch box trees shall be planted to provide additional screening of future development on the property.
 4. **Building Height.** Buildings shall be limited to two stories in height.
 5. **Guest Parking.** One guest parking stall shall be provided on Lots 2 and 3.
 6. **Permeable Pavement.** Use permeable driveways wherever permitted by the Fire Department.
 7. **Compatibility.** Homes along Diana Road shall be used in determining architectural and size compatibility.
- C. **Public Works Submittal Prior to Parcel Map Recordation or Building or Public Works Permit Issuance.** The Owner shall submit the following or evidence of

completion of the following to the Public Works Department prior to the issuance of a Building Permit, Public Works Permit, or prior to the recordation of the Parcel Map for the project:

1. **Parcel Map Submittal.** The Owner shall submit to the Public Works Department, a Parcel Map prepared by a licensed land surveyor or registered Civil Engineer. The Parcel Map shall conform to the requirements of the City Survey Control Ordinance.
2. **Street Improvement Plans.** Improvement plans for construction of improvements on East Cota Street Street. As determined by the Public Works Department, the improvements shall include but not be limited to City standard sidewalk, a driveway apron modified to meet Title 24 requirements, crack seal to the centerline of the street along property frontage, underground utilities, connection to City water and sewer mains, drainage systems including but not limited to curb drain outlets, slot/trench drain at back of driveway approach, on-site detention as shown on the approved construction plans for Building and Safety, and the final hydrology report, erosion protection, preserve and/or reset contractor stamp and/or survey monuments in right-of-way, storm drain stenciling, on-site biofilter/swale as shown on the approved construction plans for Building and Safety, and provide adequate positive drainage from site. The building plans shall be prepared by a registered Civil Engineer or licensed Architect and reviewed and signed by the City Engineer.
3. **Private Driveway Improvements.** The proposed private driveway will be constructed to the standards provided in the Subdivision Design and Improvement Standards and as approved by the Building & Safety official.
4. **Private On-site Detention.** The proposed private on-site detention structures for containing surface runoff shall be approved by the Building & Safety Official.
5. **Dedications.** The owner shall dedicate the following easements as shown on the approved Tentative Subdivision Map, and described below, subject to approval as to form by the City Attorney and content by the Public Works Director and Community Development Director.
 - a. An easement for storm drainage purposes 16 feet wide through Lots 1 and 2 for the benefit of Lot 3, and through Lot 1 for the benefit of Lot 2.
 - b. An easement for water, sewer, and other utility purposes, 16 feet wide. through Lots 1 and 2 for the benefit of Lot 3, and through Lot 1 for the benefit of Lot 2.
 - c. A 16 foot wide reciprocal access for vehicles and pedestrians through Lots 1 and 2 for the benefit of Lot 3, and through Lot 1 for the benefit of Lot 2.
6. **Storm Drain Operation and Maintenance Plan Required.** The Owner(s) shall maintain drainage system, storm drain water interceptor and other storm water control devices in accordance with the Operations and Maintenance Procedure Plan approved by the Public Works Department.

7. **Storm Water Control Guidelines.** The owner shall apply storm water quality control guidelines to the project per the Public Works Department Construction Project Best management Practices.
 8. **Best Management Practices.** New residential projects shall address water quality through the use of best management practices (BMPs) as determined by the City. BMPs shall be applied in the following order of priority: site design, source control, and treatment control. Furthermore, projects shall seek to reduce post-development runoff volumes from pre-development volumes through such measures as infiltration, evapo-transpiration and storage/reuse.
- D. **Required prior to Parcel Map Recordation.** The owner shall record a Zoning Compliance Declaration stating that no dwelling units in excess of the maximum allowed by law shall be developed or maintained on Parcel 1, and establishing that no portion of any permitted residential unit shall be used as a separate dwelling unit.
- E. **Required Prior to Building Permit Issuance.** The following requirements shall be completed prior to applying for a building permit. Evidence of completion shall be submitted with the application for a building permit:
1. **Contractor and Subcontractor Notification.** All contractors and subcontractors shall be notified in writing of site rules, restrictions and Conditions of Approval.
 2. **Arborist Monitoring.** Owner shall execute a contract with a qualified arborist for monitoring of all construction work within the critical root zone of all oak trees identified to be protected in the Arborist Report prepared by Kenneth Knight and on the Preliminary Improvement Plan.
 3. **Building Permit Plan Requirements.** The following requirements shall be incorporated into the construction plans submitted to the Building and Safety Division with applications for building permits. All of these construction requirements shall be carried out in the field and completed prior to the issuance of a Certificate of Occupancy:
 - a. **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.

- b. **Fire Vehicle Access.** Driveway access for fire vehicles shall be 16-20 ft. wide (as called out on the Preliminary Improvement Plan signed by the chairman of the Planning Commission on January 6, 2005), all-weather concrete or asphalt pavement capable of supporting a 40,000 lb. fire truck. Vertical clearance shall be a minimum of 13 feet-6 inches (13'-6").
 - c. **No Parking.** No Parking signs are required in the 22 foot turnaround area located on Parcel 1.
 - d. **Utilities.** Provide individual water, electricity, gas meter, and building sewer for each residential unit.
 - e. **Drainage Control.** Any sheet flow runoff from the driveway/parking areas shall be directed through an adequately sized bio-filter (vegetated filter strips, grassy swale) or other filtration-oriented Best Management Practice (BMP) prior to its discharge into the storm drain.
4. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 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 1 st *
Martin Luther King's Birthday	3 rd Monday in January
Presidents' Day	3 rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 th *
Labor Day	1 st Monday in September
Thanksgiving Day	4 th Thursday in November
Following Thanksgiving Day	Friday after Thanksgiving Day
Christmas Day	December 25 th *

*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 at night, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in SBMC § 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.

5. **Water Sprinkling During Grading.** During site grading and transportation of fill materials, regular water sprinkling shall occur using reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph.

6. **Covered Truck Loads.** Trucks transporting fill material to and from the site shall be covered from the point of origin.
7. **Disturbed Soil Stabilization.** After clearing, grading, earth moving and/or excavation is completed, the entire area of disturbed soil shall be treated to prevent wind pickup of soil. This may be accomplished by:
 - Seeding and watering until grass cover is grown;
 - Spreading soil binders;

Sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind; or
 Other methods approved in advance by the Air Pollution Control District.

8. **Tree Protection.** All trees not specifically indicated for removal on the site plan shall be preserved, protected and maintained.
9. **Arborist's Monitoring.** Schedule for the qualified Arborist's presence during grading and construction activities near the tree(s) that are to be preserved pursuant to applicable conditions contained herein.
10. **Conditions on Plans/Signatures.** All Planning Commission Conditions of Approval shall be provided on a full size drawing sheet as part of the drawing sets. 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. **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.
 3. **Cross Connection Inspection.** The applicant shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist if a dedicated fire line is required by Fire Department.
- G. **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 TENTATIVE SUBDIVISION MAP (INCLUDING NEW CONDOMINIUMS AND CONDOMINIUM CONVERSIONS) TIME LIMITS:

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

This motion was passed and adopted on the 17th day of March, 2005 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Planning Commission at its meeting of the above date.


Liz N. Ruiz, Planning Commission Secretary

8-11-05
Date

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