



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 038-05

3649 CAMPANIL DRIVE

LOT LINE ADJUSTMENT, LOT FRONTAGE MODIFICATION,
AND PUBLIC STREET FRONTAGE WAIVER

MAY 12, 2005

APPLICATION OF JOHN JOHNSON, AGENT FOR JOHN M. AND C. BARBARA JOHNSON, TRUSTEES AND WILLIAM W. AND SOLVEIG O. BERTKA, TRUSTEES, PROPERTY OWNERS, 3649 CAMPANIL DRIVE, APN 047-102-032 & APN 047-010-046, A-1: ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, MAJOR HILLSIDE (MST2004-00094)

The project consists of a lot line adjustment between APN 047-102-032, a 0.408-acre lot and APN 047-010-046, a 52.10-acre lot, located in the Campanil neighborhood. The proposed lot sizes would be 3.2 acres and 49.19 acres respectively. No development is proposed as part of this project.

The discretionary applications required for this project are:

1. Lot Line Adjustment to change the property line between APN 047-102-032 and APN 047-010-046 (Gov. Code §66412);
2. Modification to allow APN 047-010-046 to have no street frontage instead of the required 100 feet (SBMC§28.15.080); and
3. Waiver of the requirement that APN 047-010-046 front upon a public street (SBMC§22.60.300).

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

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

1. Staff Report with Attachments, May 5, 2005
2. Site Plans
3. Correspondence received in opposition to the project:
Mark & Jerese Burke, 3627 Campanil Drive

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

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

A. **Findings for the Lot Frontage Modification**

The lot frontage modification to allow Lot 2 to have no public street frontage is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the site, the improvement being the lot line adjustment and the resulting increase in size of Lot 1 to conform to the A-1 zoning requirements.

B. **Findings for Lot Line Adjustments**

The proposed lot line adjustment would allow Lot 1 to obtain the lot area needed to meet the minimum lot size required in the A-1 zone for parcels with an average slope greater than 30%.

II. Said approval is subject to the following conditions:

A. **Recorded Agreement.** Prior to the recordation of the Lot Line Adjustment 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 recorded by the Owner in a written instrument which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director:

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. **Allowed Development.** The development of the Real Property approved by the Planning Commission on May 12, 2005 is limited to a lot line adjustment between APN 047-102-032, a 0.408-acre lot and APN 047-010-046, a 52.10-acre lot shown on the set of plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara. Future developments will be subject to review by the Architectural Board of Review, as required by SBMC Chapter 22.22. No development shall be allowed outside the development envelopes except vegetation management required by the Fire Department. No buildings shall be allowed outside the building envelope.

B. **Public Works Submittal.** The Owner shall submit the following or evidence of completion of the following to the Public Works Department prior to recordation of the Lot Line Adjustment.

1. **Lot Line Adjustment.** The Owner shall submit an executed Agreement Relating to Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof 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 legal descriptions and said Agreement shall be recorded in the Office of the County Recorder.

2. **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. This assignment shall be documented by a written instrument approved as to form by the City Attorney and recorded in the Office of the County Recorder.
 3. **Public Trail Easement.** Owner shall dedicate to the City of Santa Barbara, a ten foot wide public trail easement across APN 047-010-046.
 4. **Public Street Determination.** A determination shall be made by staff that Lot 1 fronts a public street.
- C. **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.

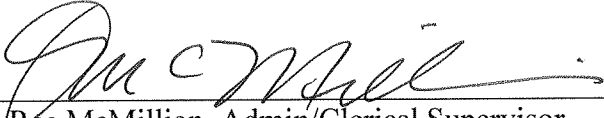
Applicant/owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification 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.

This motion was passed and adopted on the 12th day of May, 2005 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 4 NOES: 2 (Jostes & White) ABSTAIN: 0 ABSENT: 1 (Larson)

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.

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Deana Rae McMillion, Admin/Clerical Supervisor

9-22-05

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.