



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 040-05

3 SOLANA COURT AND 447 ALAN ROAD MODIFICATIONS AND LOT LINE ADJUSTMENT

JUNE 2, 2005

APPLICATION OF SOUTER LAND USE CONSULTING, AGENT FOR PROPERTY OWNERS, BEVERLY WEST DOULTON, 3 SOLANA COURT, APN 047-071-012, AND STEPHEN D. AND MARIA ROWBOTTAM, 447 ALAN ROAD, APN 047-071-013, E-3/SD-3: ONE-FAMILY RESIDENCE AND COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL, ONE UNIT/ACRE (MST2004-00117)

The project consists of a Lot Line Adjustment between Parcel 1 (3 Solana Court, APN 047-071-012) and Parcel 2 (447 Alan Road, APN 047-071-013). No new development is proposed.

The discretionary applications required for this project are:

1. Modification to allow Parcel 1 (3 Solana Court, APN 047-071-012) to have less than the required lot area in the E-3 Zone (SBMC§28.15.080);
2. Modification to allow Parcel 2 (447 Alan Road, APN 047-071-013) to have less than the required lot area in the E-3 Zone (SBMC§28.15.080);
3. Modification to allow a fence on Parcel 2 to exceed three and one-half feet (3-1/2') within ten feet (10') of the front lot line (SBMC§28.87.170); and
4. Lot Line Adjustment (LLA) to change the property line between Parcel 1 (3 Solana Court, APN 047-071-012) and Parcel 2 (447 Alan Road, APN 047-071-013) (Gov. Code §66412).

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 no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, May 26, 2005
2. Site Plans

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 Modifications**

Lot Area Modifications: The lot area modifications are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure an appropriate improvement on the lots.

Fence Height Modifications: The fence height modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot, and to meet State law provisions requiring a five foot tall fence around swimming pools.

B. **Findings for the Lot Line Adjustment**

The proposed lot line adjustment is appropriate so that the parcels can be configured in the manner in which the parcels have historically been developed and used.

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 June 2, 2005 is limited to a lot line adjustment between 3 Solana Court (APN 047-071-012), a 7,070 square foot lot and 447 Alan Road (APN 047-071-013), a 8,163 square foot 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.

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 Owners 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. **Reduce Fence Height.** The height of the existing fence on Parcel 2 shall be reduced to a height of three and one-half (3 ½) feet, except for that portion enclosing the swimming pool which shall be reduced to five feet to meet State law requirements. A gate shall be installed to meet State law requirements. The height shall be measured from the sidewalk.
- 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 2nd day of June, 2005 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 0 ABSTAIN: 0 ABSENT: 2 (Larson & Myers)

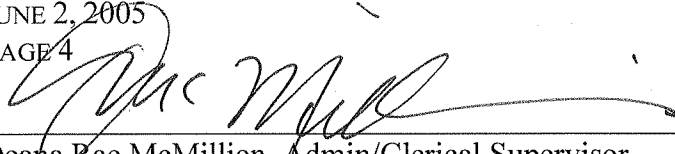
I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Planning Commission at its meeting of the above date.

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3 SOLANA COURT & 447 ALAN ROAD

JUNE 2, 2005

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Deana Rae McMillion, Admin/Clerical Supervisor

10-20-05
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.