



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 032-06

40 PINE DRIVE

MODIFICATIONS, PUBLIC STREET WAIVER AND TENTATIVE SUBDIVISION MAP

JULY 20, 2006

APPLICATION OF BRENT DANIELS, L AND P CONSULTANTS, AGENT FOR JUSTIN J. AND MICHELLE M. PAWL, PROPERTY OWNERS, 40 PINE DRIVE, APN 049-100-019, E-3/PUD, ONE FAMILY RESIDENCE AND PLANNED UNIT DEVELOPMENT ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL, FIVE UNITS/ACRE, (MST2004-00676)

The project was continued from the March 9, 2006 meeting of the Planning Commission. The proposal consists of a merger of two existing parcels and a subsequent subdivision to create two new parcels. Parcel A is an existing 20,839 square foot lot that contains one single family residence and a shed. Parcel B is an existing 1,942 square foot lot that serves as an access driveway for Parcel A. Both parcels have access along an existing private driveway to Pine Drive. The total lot area of both parcels is 22,781 square feet. The subdivision would result in one 11,216 square foot parcel and one 11,565 square foot parcel. A recommendation to allow the existing private driveway connecting to Pine Drive to become a public street will be considered.

The discretionary applications required for this project are:

1. A Modification to allow Parcel 1 to have no street frontage instead of the required 60 feet or less than the required 60 feet if the private portion of Pine Drive becomes public (SBMC§28.15.080);
2. A Modification to allow Parcel 2 to have no street frontage instead of the required 60 feet. (SBMC§28.15.080);
3. A Public Street Waiver to allow the approval of a subdivision where access is provided by a private driveway that serves more than two lots (SBMC § 22.60.300); and
4. Tentative Subdivision Map for a merger of two lots and a subdivision to create two lots (SBMC§27.07).

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

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, 3 people appeared to speak in favor of the application, and 5 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, July 13, 2006.
2. Site Plans.

3. Correspondence received in support of the project:
 - a. Bruce Burnworth, 2430 Pine Drive.
 - b. Michael and Lorie Porter, 2410 Pine Drive.
 - c. Jamie Young, 12 Pine Drive.
 - d. Ben and Shannon Titus, 32 Pine Drive.
 - e. Patrick Tack, 17 Pine Drive.
 - f. Michael Acosta, 27 Pine Drive.
4. Correspondence received in opposition to the project:
 - a. Donald Adams, 43 Pine Drive.
 - b. Martha Hogan, 43 Pine Drive.

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)*

To approve a modification for a parcel to have no street frontage, or less than the required street frontage, it must be found that the modification is consistent with the purposes and intent of the Zoning Ordinance and that it is necessary to secure an appropriate improvement on a lot, prevent unreasonable hardship, or promote uniformity of improvement.

B. *Public Street Waiver (SBMC§22.60.300)*

1. The private road will provide adequate access to the subject property and other properties using said roadway.
2. The private road and adjacent paved areas will provide adequate access for fire suppression vehicles as required by applicable fire regulations, including but not limited to turnaround area, width, grade and construction.
3. There is adequate provision for maintenance of the proposed private road by either of the following:
 - a. There is a recorded agreement that provides for adequate maintenance of said road, or
 - b. The owner of the subject property has agreed to adequately maintain said private road and said agreement has been or will be recorded prior to recordation of the parcel map.
4. The waiver is in the best interests of the City and will improve the quality and reduce the impacts of the proposed development.

C. *Tentative Subdivision Map (SBMC§27.07.100)*

The proposed Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance. The site is physically suitable for the proposed development and the density of development. The development is not likely to cause substantial environmental damage or serious public health problems nor conflict with easements, acquired by the public at large, for access through or use of property within the proposed development.

II. Said approval is subject to the following conditions:

In consideration of the project approval granted by the Planning Commission and for the benefit of the owner(s) and occupant(s) of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession and enjoyment of the Real Property:

- A. Recorded Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property", 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. **Approved Development.** The development of the Real Property approved by the Planning Commission on July 20, 2006 is limited to a subdivision to create two parcels (Parcel 1 would be 11,216 square feet and Parcel 2 would be 11,565 square feet) and the improvements shown on the Tentative Subdivision Map signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara. Any future residence on Parcel 2 shall not exceed 3,000 square feet, excluding the garage.
 3. **Noise Protection Requirements.** Any future development of the Real Property shall incorporate the recommendations of the March 2005 Acoustical Analysis prepared by Davey & Associates into the project design.
 4. **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).
 5. **Maintenance of Drainage System.** Owner shall be responsible for maintaining the drainage system in a functioning state. Should any of the project's surface or subsurface drainage structures fail or result in increased erosion, the Owner

shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building permit is required to authorize such work.

6. **Pavement Reconstruction and Maintenance of Private Road.** Owner shall be responsible for the pavement reconstruction and maintenance of the private portion of Pine Drive, including the turnaround area. Said improvements shall be constructed and maintained to the standards provided in the Subdivision Design and Improvement Standards and as approved by the Public Works Department and/or the Building and Safety Division.
 7. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:
 - a. **Private Road Maintenance.** An express method for the appropriate and regular maintenance of the private portion of Pine Drive in accordance with condition A.6 above, turnaround area, private driveway, and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the parcels.
 - b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
 - c. **Trash and Recycling.** Adequate space shall be provided and maintained for trash and recycling purposes.
 - d. **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.
- B. **Public Works Submittal Prior to Parcel Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Parcel Map for the project:
1. **Parcel Map.** The Owner shall submit to the Public Works Department for approval, 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. **Parcel Map Dedications.** Easements (as shown on the approved Tentative Subdivision Map) and shown on the Parcel Map or as a separate concurrent instrument subject to approval by the Public Works Department and/or the Building and Safety Division:
 - a. Access and Utility Easement (water, sewer, storm drainage and other utility purposes) for vehicles, pedestrians and utilities through Parcel 1 for the benefit of Parcel 2.
 - b. "Irrevocable Offer of Street Easement Deed". To the extent of Owner's interest in the existing private portion of Pine Drive, Owner shall irrevocably offer to dedicate to the City a public street easement located north of the public portion of Pine Drive.
3. **Easement.** Owners shall demonstrate that they hold an easement for the turnaround portion of the hammerhead over 46 Pine Drive approximately ten feet in width and 44 feet in length as shown on the approved Tentative Subdivision Map. Said area shall be developed as a turnaround area and shall remain open and available as such for public use.
4. **Easement.** Owners shall demonstrate that they hold an easement for access, drainage, utilities and other incidental purposes approximately six feet in width and 82 feet in length over 46 Pine Drive as shown on the approved Tentative Subdivision Map.
5. **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.
6. **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.
7. **Private Road Improvement Plans.** The Owner shall submit building plans for pavement reconstruction of the private portion of Pine Drive in accordance with condition A.6 above, the turnaround area, and the private driveway... As determined by the Public Works Department, the improvements shall also include connection to City water and sewer mains, preserve and/or reset any existing contractor stamps or survey monuments, 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.
8. **Land Development Agreement.** The Owner shall submit an executed Agreement for Land Development Improvements, prepared by Engineering Division Staff, an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement. The Land Development Agreement shall require, among other

things, that the Owner shall, at its sole cost and expense, complete all of the required improvements in a good and workmanlike manner in accordance with all City standards, specifications and applicable laws, rules and regulations to the satisfaction of the City Engineer within one (1) year after the effective date of the agreement or prior to the issuance of a certificate of occupancy for any structure built on any lot or parcel shown on the Parcel Map for the Development, whichever date occurs first.

- C. **Design Review Required.** All new development on Parcels 1 and 2 shall be subject to the review and approval of the Architectural Board of Review (ABR). Any future residence on Parcel 2 shall not exceed 3,000 square feet, excluding the garage.
- D. **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. **Recordation of Parcel Map and Concurrent Agreements.** Owner shall provide evidence of recordation of the approved Parcel Map, the Agreement Relating to Subdivision Map Conditions Imposed on Real Property, and any separately recorded easements or irrevocable offers of dedication to the Public Works Department.
 - 2. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building permit.
- E. **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. **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.
- F. **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. **Private Road Improvements.** The private road and turnaround area shall be constructed pursuant to condition A.6 above.
 - 2. **Noise Protection Requirements.** Any future development of the Real Property shall incorporate the recommendations of the March 2005 Acoustical Analysis prepared by Davey & Associates into the project design.
 - 3. **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., Parcel 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.

G. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field for the duration of project construction for the driveway and any future home on the new parcels:

1. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.
2. **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 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 following 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 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.

3. **Construction Parking/Storage.** Construction parking and storage shall be provided as follows:
 - a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director.
 - b. Storage or staging of construction materials and equipment within the public right-of-way is prohibited.
 4. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
 5. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number, work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.
- H. **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 on the building plans.
 3. **Complete Private Road Improvements.** Private road improvements as shown on the building plans.
 4. **Check Valve/Anti-backflow Device.** The owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross connection Specialist.
- I. **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.

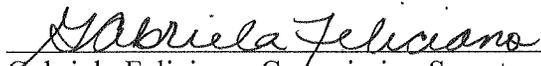
NOTICE OF TENTATIVE SUBDIVISION MAP TIME LIMITS:

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 §27.07.110 or the provisions of the California Subdivision Map Act.

This motion was passed and adopted on the 20th day of July, 2006, by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 2 (Jostes/Larson) ABSTAIN: 0 ABSENT: 0

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.



Gabriela Feliciano, Commission Secretary



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.