



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: April 6, 2006
AGENDA DATE: April 20, 2006
PROJECT ADDRESS: 406, 410, 414, 418, 420 Paseo del Descanso (MST2005-00684)

TO: Planning Commission
FROM: Planning Division, (805) 564-5470
Jan Hubbell, AICP, Senior Planner
Chelsey Swanson, Assistant Planner

I. PROJECT DESCRIPTION

The project consists of a proposal to re-subdivide five existing developed residential lots to correct a surveying error, which resulted in four houses encroaching over interior lot lines. The project also requires approval for modifications to interior yard setbacks on all five lots and modification of the street frontage requirement for Parcel 2.

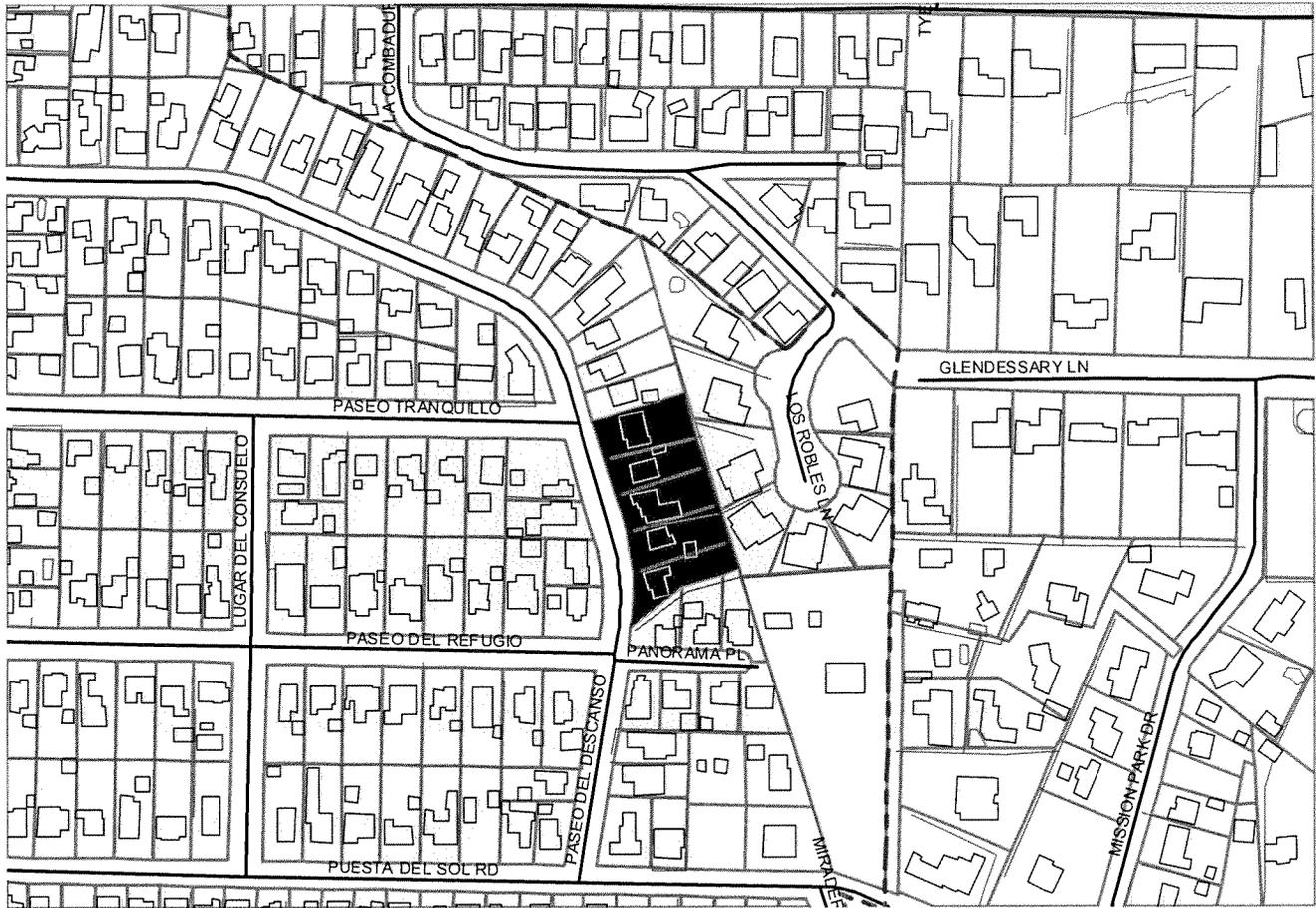
II. REQUIRED APPLICATIONS

The discretionary applications required for this project are:

1. Six Modifications to allow encroachments into the interior yard setbacks for Parcels 1, 2, 3, 4, and 5 (SBMC §28.15.060);
2. A Modification of the street frontage requirement for Parcel 2 (SBMC §28.15.080); and
3. A Tentative Subdivision Map to re-subdivide five lots (SBMC 27.07).

III. RECOMMENDATION

The proposed project conforms to the City's Zoning and Building Ordinances and policies of the General Plan. In addition, the project will resolve an existing problem for present and future owners of the affected parcels without increasing density or development potential for the neighborhood. Therefore, Staff recommends that the Planning Commission approve the project, making the findings outlined in Section VII of this report, and subject to the conditions of approval in Exhibit A.



Vicinity Map – 406, 410, 414, 418, and 420 Paseo del Descanso

APPLICATION DEEMED COMPLETE:
DATE ACTION REQUIRED:

March 9, 2006
May 27, 2006

IV. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant:	Mr. Joseph Waters, Waters Land Surveying, Inc.	Property Owners: Marian Robinson, Timothy and Elaine Stevenson, Jay and Judy Allen, Jessica and Philip Warring, Michael and Rachel Rauver
Parcel Number:	053-101-031, 053-205-002, 003, 004, 005	Zoning: E-3
General Plan:	Residential, 5 units/ acre	Topography: 2% slope
Existing Use:	Single-Family Residential	
Adjacent Land Uses: North - Residential South - Residential East - Residential West - Residential		

B. PROJECT STATISTICS

	Existing Lot Area (sq. ft.)	Proposed Lot Area (sq. ft.)
Parcel 1	10,845	9,922
Parcel 2	9,000	8,682
Parcel 3	9,000	9,094
Parcel 4	9,294	9,392
Parcel 5	8,204	9,244

V. ZONING ORDINANCE CONSISTENCY

Standard	Requirement/ Allowance	Existing	Proposed
Setbacks -Front -Interior	20' 6'	20' 6'	No change <6'
Lot Area Required	7,500 sq. ft.	>7,500 sq. ft.	>7,500 sq. ft.
Open Yard	1,250 sq. ft.	>1,250 sq. ft.	>1,250 sq. ft.

The proposed project would meet the requirements of the E-3 Zone, with the exception of interior yard setbacks for all five parcels and minimum street frontage for Parcel 2, for which modifications are requested.

VI. BACKGROUND

The proposed project is a result of discovering a surveying error, which resulted in four houses and one garage encroaching over interior lot lines. The property owners of Parcel 2 (418 Paseo del Descanso) decided to demolish their existing house and build a new residence. In the planning stages of their project, they discovered that their existing garage encroaches onto the neighboring parcel to the north (Parcel 1), and that the neighboring parcel to the south (Parcel 3) encroaches over their south lot line. Therefore, in order to continue processing their application for a new home, it was recognized that the incorrectly surveyed property lines would need to be corrected, and this application was submitted with the cooperation of four of their immediately affected neighbors. The proposed new parcel boundaries generally follow existing physical boundaries (fences), where property owners have assumed their property lines to be located. The required application is a tentative map instead of a lot line adjustment because, per the Subdivision Map Act, lot line adjustments can only be between four or fewer parcels.

VII. ISSUES

A. INTERIOR YARD SETBACK MODIFICATIONS

Six modifications are requested for four of the existing houses and one existing garage on the five subject parcels to be located within the interior yard setbacks of 6'. All parcels require interior yard modifications for the northern interior yard setbacks and Parcel 3 requires an additional modification for the southern interior yard setback, for a total of six interior yard setbacks. The modifications would result in each existing home encroaching 1.1' to 0.5' into the interior yard setback, with the exception of proposed Parcel 2, which would result in an existing garage to encroach 5.9' into the 6' interior yard setback. A project has been approved by the Architectural Board of Review (ABR) for Parcel 2 to demolish the existing house and garage and rebuild a new house and garage, pending approval of this application and further permitting processes with the City. Upon approval of the proposed Tentative Map, if constructed, the new residence and garage would be located outside of all setbacks. If the project was not followed through with, although it would be located 0.1' from the property line, the existing garage would be contained within the subject parcel and would no longer be located partially on the neighboring property to the north. All other interior yard setback modifications would result in approximately a 1' reduction to the required interior yard setback and would involve existing structures only. Therefore, staff is supportive of all six modification requests and believes that the findings can be made that the modifications are consistent with the purposes and intent of the Zoning Ordinance and necessary to prevent unreasonable hardship.

B. STREET FRONTAGE MODIFICATION

As a result of the new parcel boundaries, Parcel 2 would have a reduced street frontage of 55.76' instead of 60', which is required in the E-3 Zone for newly created lots. Parcels 1, 3, 4, and 5 would all meet the minimum street frontage requirement. Staff is supportive of this

modification request and believes the minimal reduction of street frontage is necessary for the purpose of correcting the inaccurately surveyed property lines.

C. DESIGN REVIEW

This project was not subject to design review because no new development is proposed as part of this application. Future development proposed on each parcel would be subject to the Neighborhood Preservation Ordinance.

D. COMPLIANCE WITH THE GENERAL PLAN

All five parcels are located in an area identified as the East San Roque Neighborhood within the Land Use Element of the General Plan. The Land Use Element recognizes that this neighborhood is made up of primarily single-family homes, with some multi-family development and commercial offices near Miradero Drive, and that it is almost completely developed with little room for additional growth. Most of this neighborhood calls for a density of five dwelling units per acre, with a small portion along Miradero Drive having a density of 12 dwelling units per acre.

The proposed project is located in an area with a density of five dwelling units per acre. Parcels 1 through 4 currently meet this density, and Parcel 5 does not. As a result of this project, Parcels 1, 3, and 4 would remain consistent with this density and Parcel 5 would become conforming to density; however, Parcel 2 would become slightly non-conforming to General Plan density. Parcel 2 would have a new lot are of 8,682 square feet; whereas the minimum density for five units per acre is approximately 8,712 square feet. However, the average lot area for all five parcels is approximately 9,266 square feet, which results in 4.76 units per acre, meeting the overall density of five dwelling units per acre for the subdivision. Further, all structures are existing and the number of units that exist or can be constructed on each parcel would not change. Therefore, the project would be consistent with all applicable policies of General Plan.

E. ENVIRONMENTAL REVIEW

Staff has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301, Existing Facilities, and Section 15305, Minor Alterations in Land Use Limitations.

VIII. FINDINGS

The Planning Commission finds the following:

A. MODIFICATIONS FOR INTERIOR YARD SETBACKS (SBMC §28.15.060)

The six requested interior yard setback modifications would involve existing structures only and would not change the distance between each existing home. Further, future development would be subject to the required interior yard setbacks. Finally, the

modifications are consistent with the purposes and intent of the Zoning Ordinance and are necessary to prevent unreasonable hardship.

B. MODIFICATION FOR STREET FRONTAGE (SBMC §28.15.080)

The modification for meeting the required minimum street frontage for Parcel 2 would be a minimal reduction to the existing street frontage and necessary to correct the inaccurate survey for all five parcels. The modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to prevent unreasonable hardship.

C. THE 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. No new development is proposed as part of this application, and the project will resolve an existing problem for present and future owners of the affected parcels without increasing density or development potential for the neighborhood. The use will remain consistent with the vision for this neighborhood of the General Plan. The project will not cause substantial environmental damage, or cause serious public health problems.

Exhibits:

- A. Conditions of Approval
- B. Tentative Map
- C. Applicant's letter, dated December 22, 2005

PLANNING COMMISSION CONDITIONS OF APPROVAL

406, 410, 114, 418, 420 PASEO DEL DESCANSO
TENTATIVE SUBDIVISION MAP, INTERIOR YARD SETBACK MODIFICATIONS, AND
STREET FRONTAGE MODIFICATION
APRIL 13, 2006

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.
- B. **Public Works Submittal Prior to Final 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 Final Map for the project:
1. **Final Map.** The Owner shall submit to the Public Works Department for approval, a Final Map prepared by a licensed land surveyor or registered Civil Engineer. The Final Map shall conform to the requirements of the City Survey Control Ordinance.
 2. **Water Rights Assignment Agreement.** The Owners 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 Owners' signature.
 3. **Off-Site Public Street Improvement Plans.** The Owner shall submit building plans for construction of improvements along the property frontage on Paseo del Descanso. As determined by the Public Works Department, the improvements shall include the following: underground service utilities for APN 053-205-002 only, preserve and/or reset survey monuments, existing private sewer lateral(s) serving the property shall be TV inspected and repaired and provide adequate positive drainage from site. The building plans shall be prepared by a registered civil engineer or licensed architect. Any work in the public right of way requires a public works permit.

- 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. Recordation of Final Map.** After City Council approval, the Owner shall provide evidence of recordation 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.
- 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:
- Final Planning Commission Resolution Submittal.** A copy of the final Planning Commission 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. 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.
- F. 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 APPROVAL TIME LIMITS:

The Planning Commission's action approving the Modifications shall terminate two (2) years 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 sought within twelve months of the approval. An extension may be granted by the Planning Commission 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) one (1) year 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.

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 §27.07.110.



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RECEIVED

JAN 09 2006

CITY OF SANTA BARBARA
PLANNING DIVISION

Attn: Planning Division
Community Development Department
City of Santa Barbara
630 Garden Street
Santa Barbara, CA 93101
December 22, 2005

Subject: 406, 410, 414, 418, 420 Paseo del Descanso; APN's 053-101-031, 053-205-002, 003, 004, 005.

I represent Marian Robinson, Timothy and Elaine Stevenson, Jay and Judy Allen, Phillip and Jessica Warring, and Michael and Rachel Fauver, who live at the above addresses. Our Master Application was submitted as part of the project's PRT review. Per the PRT comments, we hereby apply for a Tract Map, to adjust the lines of 406, 410, 414, 418, and 4120 Paseo del Descanso. In addition, we request a street frontage modification for 418 Paseo del Descanso, and interior setback modifications for each of the parcels, which are listed below. Approval of our request will correct a surveying error which resulted in four houses encroaching over their interior lot lines.

The problem came to light when Tim and Elaine Stevenson (parcel 2) decided to replace their older residence with a new one. They discovered that their garage encroaches onto Marian Robinson's parcel (parcel 1), and that the neighboring Allen residence (parcel 3) encroaches over their south lot line. In order to proceed with their house reconstruction, Mr. and Mrs. Stevenson were required to identify the full extent of the error, and enlist the cooperation of their four neighbors in its resolution. This is the resultant project application.

MODIFICATIONS

We request the following modifications:

Proposed Parcel 2

The lot line adjustment would place the Stevensons' garage 0.1 ft. from their north property line. This is the only severe modification requested, and it would be temporary. Mr. and Mrs. Stevenson intend to demolish the house and garage and build a new residence which would meet current setback requirements. The proposed residence has received favorable comments at ABR conceptual review. Copies of the applicable ABR minutes are attached.

We understand, per the PRT letter, that the window facing the property line will have to be filled in with one-hour-rated construction material.

In addition, the Stevensons' parcel's street frontage is proposed to be reduced to 55.76 ft. The E-3 Zone District requires a minimum street frontage of 60 feet. Therefore, we request a street frontage modification to allow parcel 2 to have 55.76 feet of street frontage.

We request five interior setback modifications which approximate the 5-foot setback which was applicable on these lots for many years. The required setback was changed later to six feet. Specifically, the modifications requested are:

Parcel 1: 5.2 ft., north line

Parcel 3: 5.5 ft., north line
4.9 ft. south line

Parcel 4 4.9 ft. north line

Parcel 5 5 ft. north line

The proposed parcel lines follow the appurtenant landscape and development infrastructure. The parcels all exceed the Zone District's size requirement. This is an opportunity to clean up a problem which, until last year, was unknown to the landowners.

EXEMPTION FROM UNDERGROUNDING UTILITIES

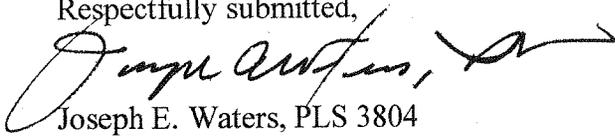
The City's standard procedure is to require utility wires to be put underground, as a condition of any Tract Map. We request exemption from this Standard Condition, as it would constitute a serious hardship. We understand that Mr. and Mrs. Stevenson will be required to underground their utility lines as part of house reconstruction project. However, the remaining properties will not agree to this requirement, as they request no construction permits.

We request expeditious processing of this proposal so that Mr. and Mrs. Stevenson can move forward with their reconstruction project.

Stevenson et al Lot Line Adjustment Application/Page 3

Thank-you for your attention to this matter.

Respectfully submitted,



Joseph E. Waters, PLS 3804

Agent for Marian Robinson, Timothy and Elaine Stevenson, Jay and Judy Allen, Philip and Jessica Warring, and Michael and Rachel Fauver.

Enclosures:

PRT Master Application	1 copy
Planning Commission Submittal Cover Sheet	1 copy
Cover Letter	10 copies
Tentative Map	10 copies
Preliminary Title Report	2 copies

Cc: Timothy Stevenson