



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 022-11
1550 AND 1600 W. MOUNTAIN DRIVE
TENTATIVE SUBDIVISION MAP
OCTOBER 13, 2011

**APPLICATION OF ELIZABETH HANNIN-YU AGENT FOR THE GARDNER FAMILY TRUST,
1550 & 1600 W. MOUNTAIN DRIVE, 021-050-033, A-1 ZONES, GENERAL PLAN DESIGNATION:
RESIDENTIAL 1 UNIT/ACRE (MST2010-00371)**

The project consists of a proposal to subdivide an existing 18.26-acre lot into two parcels. Parcel 1, 1600 West Mountain Drive (Piano House), is proposed to be 14.6 net acres (15.6 gross acres). Parcel 2, 1550 West Mountain Drive (Book House), is proposed to be 2.5 net acres (2.7 gross acres). The lot split proposal does not include additional development. However, the project site is actively under construction.

The discretionary application required for this project is a Tentative Subdivision Map to allow the division of one lot into two parcels (SBMC 27.07).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act 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 no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, October 6, 2011.
2. Site Plans
3. Correspondence received in support of the project:
 - a. List names, address
4. Correspondence received in opposition to the project:
 - a. List names, address

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

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

The Tentative Map (SBMC §27.07.100)

The Tentative Subdivision Map is consistent with the Subdivision Map Act, and the General Plan and Zoning Ordinance of the City of Santa Barbara as discussed in Sections VI and VII of this staff report. The site is physically suitable for the proposed development due to the development being restricted to the relatively flat topography of the property thereby protecting the steep slopes and natural vegetated areas within the canyon. The project is consistent with the density provisions of the Municipal Code and the General Plan as demonstrated in Sections VI and VII of the staff report, and the proposed use is

consistent with the vision for this neighborhood because the project protects areas designated as major hillside and open space, and does not increase the existing density of the neighborhood. The design of the project and the inclusion of development envelopes will not cause substantial environmental damage because it restricts development within the canyon, public views are preserved by preventing scarring of the hillside and open space areas created by grading or vegetation removal to allow development, and the division of the existing property into two parcels will not cause serious public health problems because the single family residences are consistent with the existing pattern of development, will not increase the existing density, and development has been setback from the existing steep slopes as discussed in Section VII of this staff report.

II. Said approval is subject to the following conditions:

A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

1. Pay Land Development Team Recovery Fee.
2. Make application to the Public Works counter to obtain City Council approval of the Parcel Map and Agreement(s) and to record said documents.

Details on implementation of these steps are provided throughout the conditions of approval.

B. **Recorded Conditions Agreement.** Prior to recordation of the Parcel Map 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 concurrent with the Parcel Map, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Planning Commission on October 13, 2011 is limited to two (lots) 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. The project consists of a proposal to subdivide an existing 18.3-acre lot into two lots. Parcel 1, the piano house site, is proposed to be 15.6 gross acres (14.6 net acres); which is developed with a 2,190 sf residence, 782 sf garage, and a 908 sf accessory building. Parcel 2, the book house site, is proposed to be 2.7 gross acres (2.5 net acres); which is developed with a 5,010 sf residence, a 885 sf carport and a 630 sf accessory building. The lot split proposal does not include additional development.
2. **Development Rights Restrictions.** In order to ensure that portions of the Real Property remain in their natural state, Owner shall not make any use of the restricted portion of the Real Property as designated on the approved Tentative Subdivision Map. The restricted portion of the Real Property consists of the following areas: Lot 1 – The portion that is located outside the Development Envelope, as shown on the tentative map; Lot 2 – The area that is located outside the Development Envelope, as shown on the tentative map; and the area below the 715 foot elevation (contour) line. The Owner shall not conduct any development within the restricted area of each lot including, but not limited to, grading, irrigation, structures, ornamental landscaping, agriculture or utility service lines. The restricted areas shall be shown on the Parcel Map. The Owner shall continue to be

responsible for maintenance of the restricted area in compliance with orders of the Fire Department. Any brush clearance shall be performed without the use of earth moving equipment.

3. **Uninterrupted Water Flow.** The Owner shall provide for the continuation of any historic uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
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 Single Family Design Board (SFDB).
5. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan, including any tree protection measures. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement.
6. **Sewer Connection Requirement.** Owner agrees to connect to the City sewer system when a sewer main is constructed in Mountain Drive at a point adjacent to Owner's Real Property, per Santa Barbara Municipal Code Chapter 14.44. Owner shall, at Owner's sole expense, connect to the City sewer system within one year of being advised in writing that the City sewer main is operable and available for such a connection. In the event Owner fails to comply with this condition of approval, City may enter the Real Property and make such a sewer connection with the cost of the connection becoming a lien on the real property to be paid in connection with property taxes and assessments imposed on Owner's Real Property.
7. **City Water Connection Requirement.** Owner agrees to connect to the City water system if at some point in the future a City water main is constructed in Mountain Drive at a point adjacent to Owner's Real Property and such connection is deemed by the Public Works Director to be in the City's interest. Owner shall, at Owner's sole expense, connect to the City water system within one year of being advised in writing that the City water main is operable and available for such a connection. In the event Owner fails to comply with this condition of approval, City may enter the Real Property and make such a water connection with the cost of the connection becoming a lien on the real property to be paid in connection with property taxes and assessments imposed on Owner's Real Property.
8. **Pesticide or Fertilizer Usage Near Creeks.** The use of pesticides or fertilizer shall be prohibited within the restricted development area, which drains directly into Coyote Creek.
9. **Geotechnical Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from landslides, erosion, retreat, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the

City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.

- C. **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 and prior to the issuance of any permits for the project except a demolition or other appropriate (as determined by City staff) permit for work in anticipation of primary project improvements:
1. **Parcel Map.** The Owner shall submit to the Public Works Department for approval, a draft 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. **Water Rights Assignment Agreement.** At the time that the Owner connects to the City water system pursuant to Condition B.7., the Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff prepares said agreement for the Owner's signature.
 3. **Required Private Covenants.** The Owner shall submit a draft copy of the private covenants, reciprocal easement agreement, or similar private agreements required for the project, concurrently with the Parcel Map.
- D. **Requirements Prior to Recordation of Agreements/Parcel Map.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the **Recordation of Agreements/Parcel Map** for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.
1. **Community Development Department.**
 - a. **Recordation of Parcel Map and Agreements.** After City Council approval, the Owner shall provide evidence of recordation of the map and agreements to the Community Development Department.
 - b. **Zoning Compliance Declaration.** The Owner shall record a Zoning Compliance Declaration for the property to be known as 1550 W Mountain Drive due to the floor plan configuration of both the residence and the detached accessory space to assure that the use property is restricted to a single family residence.
 - c. **Conditions on Plans/Signatures.** The final Planning Commission & Staff Hearing Officer Resolutions shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the 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.

E. General Conditions.

1. **Prior Conditions.** These conditions supersede the conditions identified in Staff Hearing Officer Resolution 026-09 and 091-09.
2. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
3. **Approval Limitations.**
 - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
 - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission.
 - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
4. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid prior to issuance of any building permit or recordation of the Map, whichever comes first.
5. **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 being notified of a lawsuit regarding 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 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.

This motion was passed and adopted on the 13th day of October, 2011 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 0 ABSTAIN: 0 ABSENT: 2 (Jacobs, 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.



Julie Rodriguez, Planning Commission Secretary



Date

PLEASE BE ADVISED:

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