



# City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 002-09  
1730 CALLE PONIENTE AND 1415 LA CIMA  
MODIFICATION AND LOT LINE ADJUSTMENT  
JANUARY 14, 2009

APPLICATION OF LAUREN TEMKIN, TRUSTEE OF THE KISHA TRUST FOR 1730 CALLE PONIENTE, (APN 041-040-004) AND JAY H. KUEHNLE & DYNA KUEHNLE AKA DIANA B. KUEHNLE, OWNERS OF 1415 LA CIMA ROAD, (041-040-056), R-1 SINGLE FAMILY ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL FIVE UNITS/ACRE (MST2007-00649).

The proposed project involves the transfer of 6,876 square feet of land from the lot at 1415 La Cima Road to the lot at 1730 Calle Poniente; both lots are located within the Hillside Design District. The transfer will result in lot areas of 116,155 square feet for the property at 1415 La Cima and 13,549 square feet for the property at 1730 Calle Poniente.

The discretionary applications required for this project are:

1. Street Frontage Modifications (two) to allow the two subject lots to have less than the required 60 feet of frontage on a public street (SBMC §28.15.080 and §28.92.110.A); and
2. A Lot Line Adjustment (LLA) to change the property line between 1730 Calle Poniente (APN 041-040-004) and 1415 La Cima Road (APN 041-040-056) (SBMC §27.40 & Gov. Code §66412).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15305. (Minor Alteration in Land Use Limitations).

**WHEREAS**, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

**WHEREAS**, one person appeared to requesting clarification of the application, and the following exhibits were presented for the record:

1. Staff Report with Attachments, January 7, 2009.
2. Site Plans

**NOW, THEREFORE BE IT RESOLVED** that the City Staff Hearing Officer:

- I. Approved the project making the following findings and determinations:
  - A. **STREET FRONTAGE MODIFICATIONS (SBMC §28.15.080 AND §28.92.110.A)**

The modifications are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure an appropriate improvement on a lot. Neither of the existing lots has frontage on a public street and this legal non-conforming situation will not be changed or intensified by the approval of this Lot Line Adjustment. The proposed lot configuration is consistent with the surrounding pattern of development.

B. **LOT LINE ADJUSTMENT (GOV. CODE §66412 AND §SBMC 27.04.030)**

The proposed lot line adjustment is appropriate for the area and is consistent with the City's General Plan and Building and Zoning Ordinances. The lot line adjustment would result in two legal lots that conform to the minimum lot area, setback and open yard requirements in the R-1 zone and would not result in an increase in allowed density on either lot. The resultant lots are consistent with the Land Use Element and the density requirements of the General Plan as described in Section VI C. of the Staff Report.

II. Said approval is subject to the following conditions:

- A. Note #3 on submitted plan shall be revised to indicate that a street frontage modification was granted for both lots.
- B. In consideration of the project approval granted by the Staff Hearing Officer 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:

- I. **Requirements Prior to Lot Line Adjustment 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 the issuance of a Building Permit for the project.

**Lot Line Adjustment Required.** The Owner shall submit an executed *Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof/Declarations of Lot Line Adjustment* 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 the legal description and said Agreement/Declaration shall be recorded in the Office of the County Recorder.

2. **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:**

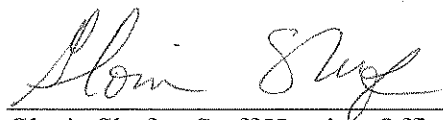
The Staff Hearing Officer's action approving the Lot Line Adjustment shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued within and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
3. 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) two (2) years from granting the approval.

If multiple discretionary applications are approved for the same project, the expiration date of all discretionary approvals shall correspond with the longest expiration date specified by any of the discretionary applications, unless such extension would conflict with state or federal law. The expiration date of all approvals shall be measured from date of the final action of the City on the application, unless otherwise specified by state or federal law.

This motion was passed and adopted on the 14th day of January, 2009 by the Staff Hearing Officer of the city of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Staff Hearing Officer at its meeting of the above date.



Gloria Shafer, Staff Hearing Officer Secretary

1-16-2009

Date

**PLEASE BE ADVISED:**

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If the scope of work exceeds the extent described in the Modification request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.