



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 037-11 824 AND 828 SUMMIT ROAD LOT AREA MODIFICATION, STREET FRONTAGE MODIFICATION AND LOT LINE ADJUSTMENT AUGUST 10, 2011

APPLICATION OF NEIL KORPINEN AGENT FOR NEIL KORPINEN AND ERIC R. ERICKSON, 824 SUMMIT ROAD, APN 015-172-007 AND BOB AND JUNE CHRISTENSEN, 828 SUMMIT ROAD, APN 015-172-008, A-2 ZONES, GENERAL PLAN DESIGNATION: 2 UNITS/ACRE (MST2011-00237)

The proposed project consists of a Lot Line Adjustment between the properties located at 824 Summit Rd. (APN 015-172-007) & 828 Summit Rd. (APN 015-172-008), which will result in a transfer of 4,094 sq. ft. of lot area to 824 Summit Rd. The minimum lot size in the A-2 Zone is 37,500 square feet for lots having a slope of between 10% and 20%. The resulting lots will be 26,548 square feet with a 12.4 % average slope (824 Summit) and 42,325 square feet with a 14.74% average slope (828 Summit). The project does not include the construction of any improvements.

The discretionary applications required for this project are:

1. A Lot Area Modification is requested to allow the property at 824 Summit Rd. to provide less than the minimum lot area required for the A-2 Zone. (SBMC §28.15.080 & §28.92.110);
2. A Street Frontage Modification is requested to allow the property at 824 Summit Road to continue to provide less than the minimum street frontage of 100 feet (SBMC §28.15.080 & §28.92.110); and
3. A Lot Line Adjustment (LLA) to change the property line between 824 Summit Road (APN 015-172-007) and 828 Summit Road (APN 015-172-008) (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, no one appeared to speak either in favor or in opposition of the application thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, August 3, 2011.
2. Site Plans
3. Correspondence received in opposition to the project:
 - a. Paula Westbury, Santa Barbara, CA.

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

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

A. Lot Area Modification

The Modification of the lot area requirement for 824 Summit Road (APN 015-172-007) is consistent with the purposes and intent of the zoning ordinance and is necessary to secure an appropriate improvement on the lot. The existing lot is non-conforming to the minimum lot size requirements of the General Plan and Zoning Ordinance. The proposed Lot Line Adjustment would bring the property into conformance with the minimum density requirements of the General Plan and closer to conformance with the Zoning Ordinance.

B. Street Frontage Modification

The Modification of the street frontage requirement for the property at 828 Summit Road (APN 015-172-008) is consistent with the purposes and intent of the zoning ordinance and is necessary to secure an appropriate improvement on the lot. The existing functional non-conforming linear street frontage at Summit Road will remain unchanged and there is insufficient street frontage for both of the subject properties to conform to the minimum standard of 100 linear feet of street frontage.

C. Lot Line Adjustment (Gov. Code §66412 and SBMC §27.04.030)

With the approval of the lot area modification at 824 Summit Road and the street frontage modification at 828 Summit Road, the proposed lot line adjustment is appropriate for the area and is consistent with the City's General Plan and Building and Zoning Ordinances, in that it would increase the size at 824 Summit Road to conform to the General Plan density, and to become closer to conformance with the Zoning Ordinance minimum lot size, without decreasing the lot size at 828 Summit Road to a substandard level.

II. Said approval is subject to the following Conditions of Approval:

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. Record any required documents (see Recorded Conditions Agreement section).
3. Make application and obtain a Public Works Permit (PBW) for the Lot Line Adjustment review and processing.

Details on implementation of these steps are provided throughout the Conditions of Approval.

- B. Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Engineering staff concurrently with the Lot Line Adjustment Agreement and Water Extraction Rights Agreement, 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. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on August 10, 2011 is limited to a Lot Line Adjustment between the properties located at 824 Summit Rd. (APN 015-172-007) & 828 Summit Rd. (APN 015-172-008), which will result in a transfer of 4,094 sq. ft. of lot area to 824 Summit Rd. The resulting lots will be 26,548 square feet with a 12.4 % average slope (824 Summit) and 42,325 square feet with a 14.74% average slope (828 Summit).
 2. **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.
 3. **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).
 4. **Common Area Maintenance.** All common/shared areas/facilities/improvements shall be kept open, available and maintained in the manner in which it was designed and permitted.
 5. **Areas Available for Parking.** All parking areas and access thereto shall be kept open and available in the manner in which it was designed and permitted.
- C. Requirements Prior to Permit Issuance.** 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 issuance of any permit 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. **Public Works Department.**
 - a. **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 in an *Agreement Assigning Water Extraction Rights* (one agreement for each property) Engineering Division Staff prepares said agreement for the Owner's signature.
 - b. **Lot Line Adjustment Required.** The Owner shall submit an executed *Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof* to the Public Works Permit Counter. A surveyor licensed in the state of California shall prepare the legal description and required exhibits to attach to the subject Agreement or Declaration for

the subject properties, which shall be recorded in the Office of the County Recorder.

2. Community Development Department.

- a. **Recordation of Agreements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in condition B "Recorded Conditions Agreement" to the Community Development Department prior to issuance of any building permits.
- b. **Conditions on Plans/Signatures.** The final Resolution 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 required conditions, and agree to abide by any and all conditions which are 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.

D. General Conditions.

- 1. **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 Distri 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.
- 2. **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 Staff Hearing Officer.

- 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.
3. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of the lot line adjustment application.
4. **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.

This motion was passed and adopted on the 10th day of August 2011 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.



Kathleen Goo, Staff Hearing Officer Secretary



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.
4. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
5. **NOTICE OF LOT LINE ADJUSTMENT TIME LIMITS:** The Staff Hearing Officer's action approving the Lot Line Adjustment shall expire 24 months from the date of approval. The applicant may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.40.100.