



# City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 033-16

1556 ALAMEDA PADRE SERRA AND 1807 LASUEN ROAD

MODIFICATIONS

MAY 11, 2016

**APPLICATION OF MARK LLOYD, APPLICANT FOR JOHN & CAROL NAGY, OWNERS OF 1556 ALAMEDA PADRE SERRA, APN 019-183-013, AND MARK AND ROCHELLE BOOKSPAN, OWNERS OF 1807 LASUEN ROAD, APN 019-183-002; E-1 (ONE FAMILY RESIDENCE) ZONE; GENERAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL (MAX 3 DU/ACRE) (MST2016-00041)**

The project consists of a lot line adjustment transferring approximately 811 square feet of lot area from 1807 Lasuen Road (Parcel 2) to 1556 Alameda Padre Serra (Parcel 1). Following the adjustment, proposed Parcel 1 would be increased in size from 7,997 square feet to 8,808 square feet and proposed Parcel 2 would be reduced in size from 32,436 to 31,625 square feet. The adjustment affects an interior lot line and would not change the development potential of either lot. The E-1 Zone requires that, for lots with an average slope between 10% and 20%, the required minimum lot size is 22,500 square feet and a minimum lot frontage of 90'. Therefore, 1556 Alameda Padre Serra requires a Lot Area Modification per and a Lot Frontage Modification. There is also an as-built fountain that will be within the newly created interior setback requiring an interior setback modification. No development is proposed as part of the project.

The discretionary applications required for this project are:

1. One Lot Area Modification to allow the creation of a 8,808 square foot lot (Parcel 1) where a 22,500 square foot lot is required in the E-1 Zone (SBMC 28.15.080 and 28.92.110.A); and
2. One Lot Frontage Modification for Parcel 1 to have less than the required 90' of frontage on a public street in the E-1 Zone (SBMC 28.15.080 and 28.92.110.A); and
3. One Interior Setback Modification for the fountain to be located within the interior setback on proposed Parcel 2 at 1807 Lasuen Road (SBMC §28.15.060.B and SBMC §28.92.110.A); and
4. A Lot Line Adjustment to transfer 811 square feet from 1807 Lasuen Road to 1556 Alameda Padre Serra (SBMC Ch. 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 Act Guidelines Section 15305.

**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, May 4, 2016.
2. Site Plans

**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 (SBMC §28.92.110)**

The Lot Area Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. Existing Parcel 1, 1556 Alameda Padre Serra, is nonconforming to the minimum lot size requirement of the General Plan and Zoning Ordinance. The lot line adjustment would bring the lot more into conformance with minimum density requirements of the General Plan and minimum lot size of the Zoning Ordinance, as described in Section IV of the written Staff Report dated May 4, 2016. The adjustment affects an interior lot line and would not change the development potential of either lot. No additional development is proposed.

**B. Street Frontage Modification (SBMC §28.15.080 and §28.92.110.A)**

The Street Frontage Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on a lot as detailed in Section of IV of the written Staff Report dated May 4, 2016, because the legal non-conforming situation will not be changed or intensified by the approval of this Lot Line Adjustment and the proposed lot configuration is consistent with the existing development pattern of the lots. The sixty foot of frontage will remain the same as it has been historically.

**C. Interior Setback Modification (SBMC §28.15.080 and §28.92.110.A)**

The Interior Setback Modification for the as-built fountain is consistent with the purpose and intent of the Zoning Ordinance and necessary to secure an appropriate improvement on the lot. The fountain is an existing improvement that is located approximately 17 feet from the existing property line and with the reconfiguration of the rear property line, the fountain would be less than 2' from the property line. The lot line adjustment does not affect the physical location of the fountain and the lot line adjustment is at the request of the property owner of 1556 Alameda Padre Serra, which has the greatest potential to be adversely affected by the location of the fountain.

**D. Lot Line Adjustment (SBMC §27.40.040 and Gov. Code §66412)**

The proposed Lot Line Adjustment is appropriate for the area and is consistent with the City's General Plan and Building and Zoning Ordinances. With the approval of the lot area modifications, 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 of 1556 Alameda Padre Serra to bring it closer to conformance with the Zoning Ordinance minimum lot size of the E-1 Zone. The property at 1807 Lasuen Road would comply with the lot area requirements for both the Zoning Ordinance and the City's General Plan.

I. Said approval is subject to the following Conditions of Approvals:

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 (30% of all planning fees, as calculated by staff) at time of building permit application.
2. Submit an application for the lot line adjustment to the Public Works Department (PBW).

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

B. **Community Development Department Requirements for Lot Line Adjustment Approval.** The Owner shall submit the following, or evidence of completion of the following, to Community Development for review and approval prior to processing the approval of the Lot Line Adjustment Map:

1. **“As-Built” Fountain and Garden Wall.** The Applicants shall submit an application for a building permit to remove, relocate or permit the “as-built” fountain and garden wall.

C. **Public Works Department.** The Owner shall submit or show evidence of completion of the following to the Public Works Department for review and approval:

1. **Lot Line Adjustment Required.** The Owners shall submit an executed *Agreement related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof* or *Declarations of Lot Line Adjustment* to the Public Works Department. 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. See Lot Line Adjustment handout for details (available at the City of Santa Barbara Website/Public Works Department).
2. **Water Rights Assignment Agreement.** The Owner of each property – 1556 Alameda Padre Serra and 1807 Lasuen Road - shall assign the exclusive Right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights* to the City of Santa Barbara. The Engineering Division Staff will prepare said agreement for the Owner’s signature, which will be processed concurrently with the Lot Line Adjustment application for both lots.
3. **Required Private Covenants.** The Owner shall submit a copy of the draft private covenants required for the project concurrently.

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 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.

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. **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 11<sup>th</sup> day of May, 2016 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 MODIFICATION APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Performance Standard Permit or Modifications shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
  - a. An extension is granted by the Community Development Director prior to the expiration of the approval; or
  - b. A Building permit for the use authorized by the approval is issued and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
6. **NOTICE OF LOT LINE ADJUSTMENT TIME LIMITS:** The Staff Hearing Officer 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.
7. **NOTICE OF TIME LIMITS FOR PROJECTS WITH MULTIPLE APPROVALS (S.B.M.C. § 28.87.370):**

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 land use 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 longest discretionary land use approval related to the application, unless otherwise specified by state or federal law.