City of Santa Barbara
California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 022-05
1624 SAN ANDRES STREET/ 626 & 628 MULBERRY AVENUE
TENTATIVE SUBDIVISION MAP AND CONDOMINIUM CONVERSION
APRIL 7, 2005

APPLICATION OF KELLY BRODISON, ON DESIGN ARCHITECTS, LLC, AGENT FOR JEFFREY AND SUSAN MENELLI, PROPERTY OWNERS, 1624 SAN ANDRES STREET AND 626 & 628 MULBERRY AVENUE, APN 043-221-016, R-3: LIMITED MULTIPLE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 12 UNITS /ACRE (MST2003-00810)

The project consists of a proposal to convert an existing 1,040 square foot, single-family residence (1624 San Andres St.) with two uncovered parking spaces and an existing 2,888 square foot, two-story duplex with four covered parking spaces (626 & 628 Mulberry Ave.) into three (3) condominium units. A new one-car carport is proposed to replace one of the uncovered parking spaces for 1624 San Andres Street.

The discretionary applications required for this project are:

1. Tentative Subdivision Map for a one-lot subdivision for the conversion of three (3) residential units into condominium units (SBMC§27.07); and
2. Condominium Conversion Permit to convert three (3) residential units to three (3) condominium units (SBMC§28.88).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15315 (minor land divisions) and Section 15303 (new construction or conversion of small structures).

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, 0 people appeared to speak in favor of the application, and 1 person appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, March 31, 2005
2. Site Plans

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

Approved the subject application making the following findings and determinations:

A. **Condominium Conversion (SBMC§28.88.120)**

1. All provisions of the Condominium Conversion Ordinance are met and the project will not be detrimental to the health, safety, and general welfare of the community.

2. The proposed conversion is legally non-conforming with the density requirement of the Land Use Element of the General Plan.

3. The proposed conversion will conform to the Santa Barbara Municipal Code in effect at the time the application was deemed complete, except as otherwise provided in the Condominium Conversion Ordinance.

4. The overall design (including project amenities) and physical condition of the conversion will result in a project, which is aesthetically attractive, safe, and of quality construction.

5. The units have not been "affordable rental units" therefore; affordability restrictions do not apply to the project.

6. The project is exempt from the provisions of Section 28.88.130 because the project consists of fewer than four units.

7. The Applicant has not engaged in coercive retaliatory action regarding the tenants after the submittal of the first application for City review through the date of approval.

B. **Tentative Subdivision Map Findings (SBMC §27.07.100)**

The tentative subdivision map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara. The site is physically suitable for the proposed condominium conversion and the density of development, and the proposed use is consistent with the vision for this neighborhood of the General Plan. The design of the project is not likely to cause substantial environmental damage, and associated improvements will not cause serious public health problems or conflict with easements, acquired by the public at large, for access through or use of property within the proposed development.

II. Said approval is subject to the following conditions:

A. **Recorded Agreement.** Prior to the issuance of any Public Works permit or building permit for the project on the Real Property, the following conditions shall be imposed on the use, possession and enjoyment of the Real Property and shall be recorded by the Owner with the Parcel Map on an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property" which shall be reviewed as to form by the City Attorney and as to content by the Public Works Director and the Community Development Director:

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.

2. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats or trailers shall be stored on the Real Property.

3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan as approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan.

4. **Allowed Development.** The development of the Real Property approved by the Planning Commission on April 7, 2005 is limited to three condominiums and the improvements shown on the set of plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.

5. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:

   (a) **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium parcels.

   (b) **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.

   (c) **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.

   (d) **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition and which also provides that such covenants may be enforced by the owners' association in accordance with the requirements of the state Subdivision Sales Law.

B. **Required Prior to Building Permit Issuance.** The following shall be finalized and specified in written form and submitted with the application for a building permit:

1. **San Andres Street Public Improvements.** The Owner shall submit building plans for construction of improvements along the subject property road frontage on San Andres Street. As determined by the Public Works Department, the improvements shall include saw cut and replace any cracked and/or uplifted panels to City standards, crack seal to the centerline of the street, underground utilities, drainage system including curb drain outlets to San Andres St., preserve and/or reset contractor stamp and/or survey monuments, provide directional/regulatory traffic control signs, storm drain stenciling, drought-tolerant parkway landscaping, including a Magnolia street tree, and provide adequate positive drainage from site. Where tree roots are the cause of the damage, the roots are to be pruned under the direction of the City Arborist. The building plans shall be prepared by a registered civil engineer or licensed architect and reviewed by the City Engineer.

2. **Mulberry Avenue Public Improvements.** The Owner shall submit building plans for construction of improvements along the subject property road frontage on Mulberry Avenue. As determined by the Public Works Department, the improvements shall include crack seal to the centerline of the street, underground utilities, drainage system including detention and/or erosion protection with on-site grassy swale, preserve and/or reset survey monuments, and provide adequate positive drainage from site. Where tree roots are the cause of the damage, the roots are to be pruned under the direction of the City Arborist. The building plans shall be prepared by a registered civil engineer or licensed architect and reviewed by the City Engineer.

3. **Storm Water Quality Control.** The Owner shall apply storm water quality control guidelines to the project per the Public Works Department Construction Project Best Management Practices.

C. **Design Review.** The following are subject to the review and approval of the Architectural Board of Review (ABR) prior to the issuance of a building permit or public works permit (as applicable):

1. **Trash Enclosure Provision.** A trash enclosure area for trash and recycling containers shall be provided on the Real Property and screened from view from surrounding properties and the street. Such structure shall be located at least five (5) feet from any building unless protected with fire sprinklers, with final location approved by ABR.

2. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Exterior lighting shall be directed toward the ground.

3. The existing driveways on Mulberry Avenue shall be replaced with permeable enhanced paving.

4. A Magnolia street tree shall be planted in the parkway on San Andres Street.

D. **Public Works Submittal Prior to Parcel Map Recordation.** Owners shall submit the following or evidence of completion of the following to the Public Works Department prior to the recordation of the Parcel Map.

1. **Building Permit Required for Conversion.** Evidence that a conversion permit has been issued for the conversion of the single-family residence and the duplex to condominiums.

2. **Water Rights Assignment.** Owners shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property. This assignment of rights shall not include a right of surface entry on or from the Real Property. This assignment shall be documented by a written instrument approved as to form by the City Attorney and recorded in the Office of the County Recorder.

3. **Parcel Map Preparation.** Owners shall submit a Parcel Map to the Public Works Department acceptable for recordation. The Parcel Map shall be prepared by a licensed land surveyor or registered civil engineer in conformance with current Subdivision Map Act and in conformance with the requirements of the City Survey Control Ordinance.

E. **Building Permit Plan Requirements.** The following requirements shall be incorporated into the construction plans submitted to the Building and Safety Division with applications for building permits. All of these construction requirements shall be carried out in the field and completed prior to the issuance of a Certificate of Occupancy:

1. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and an archaeologist from the most current City Qualified Archaeologists List shall be retained by the applicant. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

   If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be

retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

2. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out and containers shall be provided on site for that purpose in order to minimize construction-generated waste conveyed to the landfill.

3. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) to help reduce truck traffic on adjacent streets and roadways.

4. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara as shown below:

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

Notwithstanding the prohibition above, when, based on required construction type or other appropriate reasons, it is necessary to do work outside the hours allowed, owner/contractor may request a waiver from the construction hour limitations from the Chief of Building and Safety in accordance with the procedure outlined in SBMC§9.16.015, Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of the intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

5. **Construction Contact Sign.** Immediately after building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number, work hours and site rules to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.

6. **Conditions on Plans/Signatures.** All Planning Commission Conditions of Approval shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the above 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.

F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy for the condominium conversion permit, the Owners of the Real Property shall submit the following or evidence of completion of the following to the Public Works Department:

1. **Recordation of Parcel Map.**

2. **Agreement Recordation.** Recordation of the Agreement Relating to Subdivision Map Conditions Imposed on Real Property.

3. **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 the City Arborist.

4. **Complete Public Improvements.** Public improvements constructed as shown on the building plans.

G. **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 TENTATIVE SUBDIVISION MAP (INCLUDING CONDOMINIUM CONVERSIONS) TIME LIMITS:

The Planning Commission's action approving the Tentative Map shall expire two (2) years from the date of approval, per SBMC Section 28.07.110.a & .b, unless the subdivider requests an extension of time, not to exceed two (2) years beyond the expiration of the original two (2) years expiration date or per the allowances provided in the Subdivision Map Act. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code section 27.07.110 or the provisions of the California Subdivision Map Act.

This motion was passed and adopted on the 7th day of April, 2005 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 4 NOES: 1 (Larson) ABSTAIN: 0 ABSENT: 2 (Maguire & White)

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.

Deana Rae McMillion, Admin/Clerical Supervisor

9-22-05
Date

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