



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 005-06

709 WENTWORTH AVENUE

MODIFICATION AND TENTATIVE SUBDIVISION MAP

FEBRUARY 2, 2006

APPLICATION OF CLIFF HICKMAN, AGENT FOR BERNARDO BARRAGAN, JR., TRUSTEE, PROPERTY OWNER, 709 WENTWORTH AVENUE, APN 037-063-009, R-3, LIMITED MULTIPLE FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, TWELVE UNITS/ACRE, (MST2004-00526)

The project consists of a proposal to construct a new two-story, three-unit condominium development with five attached garage spaces totaling 5,010 square feet (gross) on a 6,250 square foot lot. The existing 1,008 square foot, one-story, single-family residence and shed would be demolished.

The discretionary applications required for this project are:

1. A Modification to allow a trash and recycling enclosure to encroach into the required rear and interior yard setbacks (SBMC§28.21.060); and
2. Tentative Subdivision Map for a one-lot subdivision to create three (3) residential condominium units (SBMC§27.07 and 27.13).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Sections 15301 (demolition of structures) and 15303 (new construction of small structures).

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, January 26, 2006
2. Site Plans

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

- I. Approved the subject application making the following findings and determinations:
 - A. **REAR AND INTERIOR YARD SETBACK MODIFICATIONS (SBMC§28.21.060)**

In order for the Planning Commission to approve a modification to allow trash and recycling enclosure to encroach into the rear and interior yard setbacks, it must be found that the modifications are consistent with the purposes and intent of the Zoning

Ordinance and that they are necessary to secure an appropriate improvement on a lot, prevent unreasonable hardship, or promote uniformity of improvement.

All new projects in the City are strongly encouraged to provide equal areas for trash and recycling. On small size lots, it is often difficult to position the enclosures out of the setbacks. The location of the proposed enclosure, at the rear of the lot and adjacent to the public alley, would allow for easy accessibility for trash and recycling pick up. In addition, because there are many structures that are currently either built at or close to the property line along the public alley, it would not be incompatible with the neighborhood. Staff finds that the modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot.

B. TENTATIVE SUBDIVISION MAP FINDINGS (SBMC§27.07.100)

In order for the Planning Commission to approve the tentative subdivision map, it must be found that the proposed development is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara. The site is physically suitable for the proposed development and the density of development. The development is not likely to cause substantial environmental damage or serious public health problems nor conflict with easements, acquired by the public at large, for access through or use of property within the proposed development. Therefore, with the approval of the requested modifications, the proposed tentative subdivision map would be consistent with the General Plan and the Zoning Ordinance.

C. RESIDENTIAL CONDOMINIUM DEVELOPMENT (SBMC§27.13.080)

The proposed project is in compliance with all provisions of the City's Residential Condominium Ordinance, is consistent with the General Plan of the City of Santa Barbara, is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources.

II. Said approval is subject to the following conditions:

In consideration of the project approval granted by the Planning Commission and for the benefit of the owners and occupants 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:

- 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 documented in a written instrument titled, "Agreement Relating to Subdivision Map Conditions Imposed on Real Property", which shall be reviewed and approved as to form and content by the City Attorney, Community Development Director and/or Public Works Director,

executed by the Owner and recorded with the Parcel Map in the Office of the County Recorder:

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. **Approved Development.** The development of the Real Property approved by the Planning Commission on February 2, 2006 is limited to construct a new two-story, three-unit condominium development with five attached garage spaces totaling 5,010 square feet (gross) on a 6,250 square foot lot and the improvements shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
5. **Storm Water Pollution Control Systems Maintenance.** The Owner(s) shall maintain drainage system, storm drain water interceptor and other storm water pollution control devices in accordance with the approved Operations and Maintenance Procedure Plan.
6. **Required Private Covenants.** Prior to the issuance of a Certificate of Occupancy for any residential condominium unit or the sale of any residential condominium unit within the subdivision, whichever comes first, 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, including the private storm drain system and shared sewer laterals, 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. **Design Review.** The following is subject to the review and approval of the Architectural Board of Review (ABR):

- 1. **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.
- 2. **Trash Enclosure Provision.** A trash enclosure with an equal area for 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.
- 3. **Sound wall.** A three foot high wall is required for the Unit 2 balcony as referenced in the Acoustical Analysis report prepared by Davey & Associates dated June 28, 2002.
- 4. **Reuse of Sandstone Onsite.** All sandstone that is removed shall be reused onsite.
- 5. **Pedestrian Pathway.** A pedestrian pathway shall be provided from the entrance of each unit to the street.

C. **Public Works Submittal Prior to Parcel Map Recordation.** 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 and prior to processing the recordation of the Parcel Map for the project:

- 1. **Water Rights Assignment.** Owner 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.
- 2. **Parcel Map Approval.** 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 for review by staff and approval by Council.

3. **Public Improvement Plans.** The Owner shall submit building plans for construction of improvements along the subject property road frontage on Wentworth Avenue. As determined by the Public Works Department, the improvements shall include Type 2 residential driveway apron modified to meet Title 24 requirements, apply crack seal to the centerline of the street along entire subject property frontage, connection to City water and sewer mains, two city standard curb drain outlets, removal of stone pine street tree, plant new Fern Pine street tree, preserve and/or reset any existing survey monuments or contractor's stamps, and provide adequate positive drainage from site. The Owner shall submit building plans for construction of improvements at the public alley entrance on Ortega Street. As determined by the Public Works Department, the improvements shall include remove existing public alley entrance and replace with City standard public alley entrance. The Owner shall submit building plans for construction of improvements along the subject property road frontage on Public Alley. As determined by the Public Works Department, the improvements shall include crack seal to centerline of public alley along entire frontage of property. All existing overhead or aboveground utilities and all proposed new utilities that provide exclusive service to the project site shall be placed underground. The building plans shall be prepared by a registered civil engineer or licensed architect and reviewed and signed by the City Engineer.
- D. **Public Works Requirements Prior to Building Permit Issuance.** 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:
 1. **Recordation of Parcel Map and Agreements.**
 2. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.**
- 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. **Acoustical Analysis Report.** All construction recommendations and ventilation requirements contained in the Acoustical Analysis report prepared by Davey & Associates dated June 28, 2002 shall be implemented.
3. **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. Identify on the plans the location of the container(s).
4. **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.
5. **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 1 st *
Martin Luther King's Birthday	3 rd Monday in January
Presidents' Day	3 rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 th *
Labor Day	1 st Monday in September
Thanksgiving Day	4 th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25 th *

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

When, based on required construction type or other appropriate reasons, it is necessary to do work at night, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in SBMC § 9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of 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.

6. **Construction Parking/Storage.** Construction parking and storage shall be provided as follows:
 - a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Streets, Parking, and Transportation Operations Manager.
 - b. Equipment staging and storage of construction materials and equipment within the public right-of-way is prohibited.
7. **Water Sprinkling During Grading.** During site grading and transportation of fill materials, regular water sprinkling shall occur using reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph.

8. **Covered Truck Loads.** Trucks transporting fill material to and from the site shall be covered from the point of origin.
9. **Disturbed Soil Stabilization.** After clearing, grading, earth moving and/or excavation is completed, the entire area of disturbed soil shall be treated to prevent wind pickup of soil. This may be accomplished by:
 - a. Seeding and watering until grass cover is grown;
 - b. Spreading soil binders;
 - c. Sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind; or
 - d. Other methods approved in advance by the Air Pollution Control District.
10. **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.
11. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
12. **Construction Best Management Practices.** Construction activities shall address water quality through the use of best management practices (BMP's) as approved by the City Building Official.
13. **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
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Contractor	Date	License No.
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Architect	Date	License No.
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Engineer	Date	License No.
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- F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

Repair Damaged Public Improvements. Repair any damaged public improvements along subject property frontage (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 are to be pruned under the direction of the City Arborist.

1. **Complete Public Improvements.** Public improvements shown on the approved building plans shall be completed according to the approved plans.
2. **Anti-Backflow Device.** Provide an approved anti-backflow device placed on the private property side of consumer's service pursuant to Municipal Code Section 14.20.120 and Public Works Construction Standard Detail 5-009.0. The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.

- 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 APPROVAL TIME LIMITS:

The Planning Commission's action approving the Modifications shall terminate one (1) year from the date of the approval, per SBMC 28.87.360, unless:

1. A building permit for the use authorized by the approval is sought within twelve months of the approval. An extension may be granted by the Planning Commission if the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
2. 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) one (1) year from granting the approval.
3. The project also includes approval of a Tentative Subdivision Map, in which case the longer approval period shall prevail.

NOTICE OF TENTATIVE SUBDIVISION MAP TIME LIMITS:

The Planning Commission's action approving the Tentative Subdivision 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 2nd day of February, 2006 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 ABSTAIN: 0 ABSENT: 1 (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

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.