



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 089-06

930 PHILINDA AVENUE

SETBACK MODIFICATION, TENTATIVE SUBDIVISION MAP, AND CONDOMINIUM CONVERSION

DECEMBER 6, 2006

APPLICATION OF LAURA BRIDLEY, AGENT FOR ROSARIO AND LINDA PERRY, OWNERS, 930 PHILINDA AVENUE, APN 029-313-001, C-2, COMMERCIAL ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, TWELVE UNITS/ ACRE (MST2005-00823)

The project consists of converting four existing three-bedroom apartments to four condominiums. An existing carport would be converted into a four-car garage and one new one-car garage would be constructed. A total of five covered spaces and three uncovered spaces would be provided. Several other exterior improvements are proposed, including a new trash enclosure, patio area, retaining wall, and new second-story deck.

The discretionary applications required for this project are:

1. Modification to allow a fountain to be located within the rear yard setback (SBMC 28.21.060 and 28.92.110);
2. Tentative Subdivision Map for a one-lot subdivision to create four (4) condominium units (SBMC §27.07); and
3. Condominium Conversion Permit to convert four (4) existing residential units to four (4) condominium units (SBMC §28.88).

Staff has determined that the project is exempt from further environmental review pursuant to California Environmental Quality Act Guidelines Section 15301, Existing Facilities, for the division of existing multiple-family residences into common interest ownership.

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 in favor of or in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, December 6, 2006.
2. Site Plans

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

- I. Approved the project, which conforms to the City's Zoning and Building Ordinances and policies of the General Plan. In addition, the size and massing of the project are consistent with the surrounding neighborhood and the project meets the intent of the Condominium Conversion Ordinance, making the findings outlined in Section VII of the Staff Report and subject to the conditions of approval.
- 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 Owner shall execute an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property", which shall be 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. **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. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on December 6, 2006 is limited to the conversion of four residential units to condominiums and the improvements shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
 4. **Storm Water Pollution Control Systems Maintenance.** The Owner(s) shall maintain the drainage system, storm drain water interceptor and other storm water pollution control devices in accordance with the Operations and Maintenance Procedure Plan approved by the Building Official and/or the Public Works Director.
 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. **Trash and Recycling.** A covenant that includes a requirement that adequate space shall be provided and maintained for trash and recycling purposes.
- e. **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.

B. **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 and Recycling Containers.** Trash enclosure areas for trash and recycling containers shall be provided on the Real Property and screened from view from surrounding properties and the street. Provide equal sized containers for both trash and recycling.
2. **Landscape Plan.** Plans showing the existing and proposed landscaping, including and more-defined pedestrian access in the hardscape area.
3. **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.

C. **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. **Street Public Improvements.** The Owner shall submit C-1 public improvement or building plans for construction of improvements along the property frontage on Philinda Avenue. The C-1 plans shall be submitted separately from plans submitted for a Building permit. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: sidewalk, driveway apron modified to meet Title 24 requirements, curbs, gutters, asphalt concrete, crack seal to the centerline of the street along entire subject property frontage,

underground service utilities, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations and/or hydrology report for installation of curb drain outlets, slot/trench drain (provide on/off-site storm water BMP plan), preserve and/or reset survey monuments and contractor stamps, and provide adequate positive drainage from site. Existing private sewer lateral(s) serving the property shall be repaired before new dwellings are occupied. Any existing sewer laterals identified to be abandoned, shall be disconnected at the sewer mainline connection. A licensed plumber shall verify if the property requires a backwater valve. If existing lateral already has a backwater valve, then it shall be inspected. The building plans, drainage calculations and hydrology report shall be prepared by a registered civil engineer or licensed architect. Any work in the public right of way requires a public works permit.

2. **Drainage Calculations or a Hydrology Report.** The Owner shall submit drainage calculations or a hydrology report justifying that the existing on-site and proposed on-site drainage system adequately conveys a minimum of a 25-year storm event.

D. **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. **Design Review Requirements Included on Plans:** Plan submitted for building permits shall show all design elements, as approved by Architectural Board of Review.
2. **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.

3. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 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.

4. **Conditions on Plans/Signatures.** The final Staff Hearing Officer Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition

compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Parcel Map submitted to Public Works Department for review). 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.

- E. **Public Works Submittal Prior to Final 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 Final Map.
1. **Certificate of Occupancy for Physical Standards for Condominium Conversions.** Owner shall complete all necessary work in order to comply with the Physical Standards for Condominium Conversions specified in SBMC § 28.88.040 of the Municipal Code and receive a final certification of occupancy for such work.
 2. **Building Permit Required for Conversion.** Evidence that a conversion permit has been issued for the conversion of the four residential units to four condominiums.
 3. **Parcel Map.** 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.
 4. **Dedication.** Easements as shown on the approved Tentative Subdivision Map, subject to approval by the Public Works Department and/or the Building and Safety Division:
 - a. A reciprocal access easement between APN 029-313-001 and APN 029-313-002.

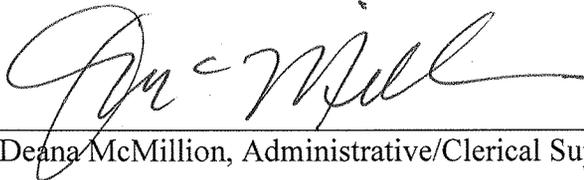
5. **Required Private Covenants.** The Owner shall submit a copy of the recorded private covenants, reciprocal easement agreement, or similar private agreements required for the project.
 6. **Removal or Relocation of Public Facilities.** Removal or relocation of any public utilities or structures must be performed by the Owner or by the person or persons having ownership or control thereof.
 7. **Maintenance Agreement Required.** The Owner shall submit an Executed Agreement for Maintenance of the proposed driveway, subject to the review and approval of the Public Works Director and City Attorney.
 8. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property. Said agreement will be prepared by Engineering Division Staff for the Owner's signature.
- 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 Final Map.
 2. Recordation of the Agreement Relating to Subdivision Map Conditions Imposed on Real Property.
 3. Recordation of Private Covenants.
 4. **Repair Damaged Public Improvements.** Repair any damaged public improvements caused by construction (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.
 5. **Backflow or Backwater Device.** Provide an approved backflow or backflow device for the irrigation meter, placed on the property side of consumer's service pursuant to SBMC §14.20.120.
 6. **Complete Public Improvements.** Public improvements constructed as shown on the building plans.
- G. **Litigation Indemnification Agreement.** In the event the Staff Hearing Officer 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.

This motion was passed and adopted on the 6th day of December, 2006 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.



12-12-06

Deana McMillion, Administrative/Clerical Supervisor 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 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.
3. Subsequent to the outcome of any appeal action your next administrative step should be to apply for Architectural Board of Review (ABR) approval and then a building permit.
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 TENTATIVE SUBDIVISION MAP AND CONDOMINIUM
CONVERSION TIME LIMITS:**

The Staff Hearing Officer's 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 or the provisions of the California Subdivision Map Act.