



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 009-07

320 E. VICTORIA STREET

JANUARY 31, 2007

APPLICATION OF THOMPSON NAYLOR ARCHITECTS FOR VICTORIA GARDEN MEWS, 320 E. VICTORIA STREET, APN 029-131-005, R-3, MULTIPLE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, TWELVE UNITS PER ACRE (MST2004-00511)

The project consists of demolishing a portion of an existing house, storage shed, and six-car garage, restoring and adding onto the existing house, and constructing a three-story, three-unit condominium building at the rear of the property, for a total of four condominium units. The front house would be a two-story, three-bedroom, 2,426 square foot unit. The rear building would include a 1,750 square foot, three-bedroom unit on the ground floor, a 1,700 square foot, two-bedroom unit on the second floor, and a 1,010 square foot, two-bedroom unit on the third floor. There would be a shared cellar for storage totaling approximately 1,785 square feet and a shared lobby area of 446 square feet. Parking would be provided within one garage that accommodates eight vehicles by including hydraulic lifts to allow a total of two cars in each space to be stacked. The project requires modifications to both interior yard setbacks, and a tandem parking design waiver.

The discretionary applications required for this project are:

1. A Modification to allow building elements to encroach into the eastern interior yard setback (SBMC §28.21.060 and §28.92.110.2);
2. A Modification to allow a building encroachment into the western interior yard setback (SBMC §28.21.060 and §28.92.110.2);
3. A Modification to allow a second story deck to encroach into the rear yard setback (SBMC §28.21.060 and §28.92.110.2); and
4. A Tentative Subdivision Map for a one-lot subdivision to create four (4) 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 Section 15303, New Construction of Small Structures, and Section 15315, Minor Land Divisions.

WHEREAS, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, two people 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 31, 2007.
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. ***Interior Yard Modification (§28.92.110.2)***

The requested interior yard setback modification along the eastern portion of the project is consistent with the purposes and intent of the Zoning Ordinance and that it is necessary to secure an appropriate improvement on the lot, prevent unreasonable hardship, or promote uniformity of improvement. The encroachment of the addition to the existing residence would be minor (3") and would allow for an appropriate improvement on the lot that is consistent with the existing walls of the structure. The 1' encroachment of a third story element on the new building does not include habitable space, and would allow for an appropriate improvement on the lot that is consistent with the Zoning Ordinance.

The entrance porch would encroach up to the eastern property line and this element would not be consistent with the intent of the Zoning Ordinance and is denied.

B. ***Interior Yard Modification (§28.92.110.2)***

The requested interior yard setback modification along the western portion of the project is consistent with the purposes and intent of the Zoning Ordinance and that it is necessary to secure an appropriate improvement on the lot, prevent unreasonable hardship, or promote uniformity of improvement. The encroachment of the garage would allow for a unique parking design that is located at the end of an alley and adjacent to a church parking lot. The encroachment does not include habitable space within the interior yard setback and would allow for an appropriate improvement on the lot.

The second story planter located above the garage, which is part of a larger deck, is not fully supported by the Staff Hearing Officer to encroach into the interior yard setback and is to be revised per Condition B.1.

C. ***Rear yard Modification (§28.92.110.2)***

The requested rear yard setback modification is consistent with the purposes and intent of the Zoning Ordinance and that it is necessary to secure an appropriate improvement on the lot, prevent unreasonable hardship, or promote uniformity of improvement. The rear yard modification would allow a second story deck to encroach 4' into the required second story 10' rear yard setback. The rear yard abuts a 20' wide public alley and the deck would be setback a more than adequate distance from the property across the alley. The modification would meet the intent of the Zoning Ordinance (separation of people and improvements) and would allow for an appropriate improvement on the lot.

D. ***Tentative Map (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

development, the project is consistent with the variable density provisions of the Municipal Code and the General Plan, and the proposed use is consistent with the vision for this neighborhood of the General Plan. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems.

E. *The New Condominium Development (SBMC §27.13.080)*

1. There is compliance with all provisions of the City's Condominium Ordinance.
The project complies with the physical standards for condominiums related to parking, private storage space, utility metering, laundry facilities, density, and outdoor living space requirements.
2. The proposed development is consistent with the General Plan of the City of Santa Barbara.
The project can be found consistent with policies of the City's General Plan including the Housing Element and Land Use Element. The project will provide infill residential development that is compatible with the surrounding neighborhood.
3. The proposed development 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.
The project is an infill residential project proposed in an area where residential development is a permitted use. The project is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts. The design has been reviewed by the City's design review board, which found the architecture and site design appropriate.

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. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Historic Landmarks Commission. 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. **Maintenance of Drainage System.** Owner shall be responsible for maintaining the drainage system in a functioning state. Should any of the project's surface or subsurface drainage structures fail or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building permit is required to authorize such work.
5. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on January 31, 2007 is limited to four dwelling units 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.
6. **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 Accessibility.** Trash and Recycling Containers shall contain equal volume, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the landscaping or be hauled offsite by the landscaping maintenance company. If no containers are used for multi-unit

residential developments, include an item in the CC&R stating that the green waste will be hauled offsite.

- e. **Parking Lifts.** The four parking lifts shall be maintained in good operating condition and remain available for the parking of vehicles owned by the residents of the property in the manner for which the parking lifts were designed and permitted.
 - f. **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.
7. **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.
- B. **Design Review.** The following is subject to the review and approval of the Historic Landmarks Commission (HLC):
1. **Second Story Deck/ Planter for Unit 3.** No portion of the second story deck or planter for Unit 3 may encroach beyond a maximum of 3 feet into the westerly interior yard setback.
 2. **Entrance Porch.** The entrance porch to the new building shall not be located within the 6-foot interior yard setback.
 3. **Historic Structures Report.** The following mitigation measures as stated in the Historic Structures Report for the front house shall be implemented:
 - a. Final plans delineating the amount of wood to be removed, the design of the chimney, the porch columns and porch and deck railing, and the roofing material for the Victoria house shall be reviewed by an architectural historian and a letter addendum prepared prior to work taking place.
 - b. The proposed exterior chimney shall be made as slender a profile to the street elevation as possible to be compatible with the Italianate style.
 - c. The main residence shall be documented according to the City's "Required Documentation of Buildings Prior to Demolition" prior to the demolition. Two copies of the archival photographs and plans shall be prepared, one for the City archives and one for the Gledhill Library.
- C. **Public Works Submittal Prior to Parcel Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Parcel Map for the project:

1. **Parcel Map.** The Owner shall submit to the Public Works Department for approval, Parcel Map prepared by a licensed land surveyor or registered Civil Engineer. The Parcel Map shall conform to the requirements of the City Survey Control Ordinance.
2. **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.
3. **Off-Site Public Street Improvement Plans.**
 - a. The Owner shall submit building plans for construction of improvements along the property frontage on East Victoria Street. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: remove one(1) driveway apron on East Victoria Street, remove concrete in parkway, replace sandstone curb to replace driveway apron at frontage, supply and install 1 (residential) standard street light, style to be determined by the Public Works Department and the ABR, crack seal to the centerline of the street along entire subject property frontage, underground service utilities, connection to City water and sewer mains, preserve and/or reset survey monuments and contractor stamps. The building plans shall be prepared by a registered civil engineer or licensed architect. Any work in the public right of way requires a public works permit.
 - b. The Owner shall submit building plans for construction of improvements along the subject property frontage on Alley 1200 Block Laguna Street. As determined by the Public Works Department, the improvements shall include City standard alley style driveway apron, overlay the entire width of public alley, underground utilities, connect to City water, construct minimum 8-inch sewer main the length of the alley from Laguna Street to the project site, and contingent upon whether it is the sewer connection for the project, on-site detention and biofilter/swales to treat runoff, preserve and/or reset contractor stamp and/or survey monuments, and provide adequate positive drainage. 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. Any work in the public right of way requires a public works permit.
4. **Private Access Easement.** Subject to approval by Transportation Planning Staff/ Public Works Department:
 - a. A reciprocal access easement six feet in width for vehicles on APN 029-131-016 in favor of APN 029-131-005.

- 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. **Drainage Calculations.** The Owner shall submit drainage calculations justifying that the existing on-site and proposed on-site drainage system adequately conveys a minimum of a 25-year storm event.
 - 7. **Final Map.** Show elevations at connections in alley for proposed new sewer main, clean-out, and lateral.
- 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 or Public Works Permit for the project.
- 1. **Recordation of Parcel Map and Agreements.** After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department.
 - 2. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building permit.
- E. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.

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., Final 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:

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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.

F. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field for the duration of the project construction.

1. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill.
2. **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.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.
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 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.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §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. **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 Public Works Director.
 - b. Storage or staging of construction materials and equipment within the public right-of-way is prohibited.

5. **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.
 - a. 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.
6. **Covered Truck Loads.** Trucks transporting fill material to and from the site shall be covered from the point of origin.
7. **Expeditious Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used, as directed by the Building Inspector.
8. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.
9. **Street Sweeping.** The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.
10. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
11. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractors name, contractors telephone number, work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.
12. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
13. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.

14. **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.

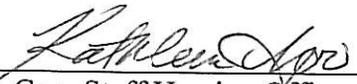
- G. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, etc.) subject to the review and approval of the Public Works Department. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility undergrounding and installation of street trees.
- H. **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 31st day of January, 2007 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 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. **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.
4. **NOTICE OF APPROVAL TIME LIMITS:**

The Staff Hearing Officer's action approving the Modifications shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

 1. The parcel map is approved and recorded. An extension may be granted by the Community Development Director.
 2. The project also includes approval of a Development Plan, Tentative Subdivision Map or a Coastal Development Permit, in which case the longer approval period shall prevail.
5. **NOTICE OF TENTATIVE SUBDIVISION MAP 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.