



# City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 080-09  
714 AND 716 N. VOLUNTARIO STREET  
TENTATIVE SUBDIVISION MAP AND  
CONDOMINIUM CONVERSION PERMIT  
SEPTEMBER 23, 2009

**APPLICATION OF ALEX PUJO ARCHITECT FOR FRANK AND MARILYN KELLY,  
714 & 716 NORTH VOLUNTARIO STREET, APN 031-131-020, R-2 TWO-FAMILY  
RESIDENTIAL ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL 12 UNITS/ACRE  
(MST2009-00126)**

The project consists of the conversion of two existing single-family dwellings to two (2) condominiums on a 9,322 square foot (sf) lot. The addresses are 714 and 716 North Voluntario Street. The residence at 714 N. Voluntario Street is two-story, two-bedroom, 1,255 sf residence with an attached one-car garage and one uncovered parking space. The residence at 716 N. Voluntario Street is two-story, five-bedroom 2,131 sf residence with an attached two-car garage located at the rear of the lot. The open yard is currently met in area between the two units, which exceeds the 1,250 sf minimum open yard requirement.

The discretionary applications required for this project are:

1. A Tentative Subdivision Map for a one-lot subdivision to create two (2) residential condominium units (SBMC 27.07 and 27.13); and
2. A Condominium Conversion Permit to convert two (2) existing residential units to two (2) 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 Guidelines Section 15301.

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

**WHEREAS**, no one people appeared to speak in favor or opposition of the application, and the following exhibits were presented for the record:

1. Staff Report with Attachments, September 16, 2009.
2. Site Plans
3. Correspondence received in opposition to the project:
  - ā. Paula Westbury, 650 Miramonte Drive, Santa Barbara, Ca

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

- I. Approved the subject application making the following findings and determinations:

**A. The Tentative Map (SBMC §27.07.100)**

1. The proposal is to convert two existing single-family residential units into condominiums; therefore, 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 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 as shown in Sections V and VI.C. of the staff report. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems because the improvements already exist. The project does not include any changes to the exteriors of either building. The project includes a seismic retrofit of the basement at 714 North Voluntario Street as a part of the conversion permit.

**B. 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 as indicated in the Zoning Consistency chart in Section V and VII.B. above.
2. The proposed conversion is consistent with the General Plan of the City of Santa Barbara and with the density requirement of its Land Use Element as discussed in Section VII.B., above.
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 because no modifications are requested and it meets the requirements of the R-2 Zone. No alterations are proposed with this application.
4. The overall design (including project amenities) and physical condition of the conversion will result in a project that is aesthetically attractive, safe, and of quality construction.
5. The unit at 716 North Voluntario is owner occupied and the rental unit at 714 North Voluntario has not been rented at affordable rates; therefore, there is not an impact to the loss of affordable rental units from the housing stock.
6. 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.
7. The unit at 714 North Voluntario Street is tenant occupied and has been notified about the condominium conversion proposal and informed the tenant of their rights pursuant to SBMC §28.88.

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

II. Said approval is subject to the following conditions:

- A. **Notice of Approval of Condominium Conversion.** Owner shall provide evidence of delivery of written notice of the condominium conversion approval to the Community Development Department within 15 days of the approval of said conversion. The content of such notice shall include an explanation of any conditions of approval that affect the tenants.
- B. **Recorded Conditions 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. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on **September 23, 2009** is limited to the conversion of two existing single-family residences to two residential condominium units and the improvements shown on the Tentative Subdivision Map signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
  2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
  3. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
  4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan 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. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement. The following tree protection measures shall be included:
  5. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) in a functioning state (and in accordance with the Operations and Maintenance Procedure Plan approved in accordance with the Storm Water Management Plan BMP Guidance Manual). Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture,

infiltrate, and/or treat water, 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. 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.

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 units.
  - 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.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, 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 off site by the landscaping maintenance company. If no green waste containers are provided for common interest developments, include an item in the CC&Rs stating that the green waste will be hauled off site.
  - 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.
7. **Residential Permit Parking Program.** Residents shall not participate in the Residential Permit Parking Program.

- 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:
1. **Parcel Map.** The Owner shall submit to the Public Works Department for approval, a 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.
  1. **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 in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff will prepare said agreement for the Owner's signature.
  2. **Required Private Covenants.** The Owner shall submit a copy of the draft private covenants, reciprocal easement agreement, or similar private agreements required for the project concurrently with Parcel Map submittal.
  3. **Voluntario Street Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Voluntario Street. As determined by the Public Works Department, the improvements shall include the following: saw-cut and replace all cracked and/or uplifted sidewalk, crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limits of all trenching, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations for installation of curb drain outlets, preserve and/or reset existing survey monument (Nail and Tag) located in sidewalk at the northerly corner of property, and contractor stamps (if any), trim tree and shrubs from private property frontage encroaching into the public rights-of-way, supply and install one new street tree and tree grates if required by the City Arborist and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.
  4. **Encroachment Permits.** Apply for an encroachment from the City Public Works Department for the existing stone wall and stone steps encroaching into the public rights-of-way.
  5. **Inclusionary Housing Fee.** Evidence shall be submitted that the Owner has paid the required inclusionary housing fee to the Community Development Department.
- D. **Public Works Requirements Prior to Building/Condominium Conversion 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/Condominium Conversion Permit for the project..

1. **Submittal for Recordation of Parcel Map and Agreements.** Owner shall submit application for approval and recordation of the Parcel Map 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. **Community Development Requirements with Building/Condominium Conversion Permit or Public Works Permit Application.** The following shall be submitted with the application for any Building/Condominium Conversion Permit or Public Works Permit and finalized prior to issuance of any Building/Condominium Conversion or Public Works Permit:
1. **Notice of Vacation of Unit.** Each non-purchasing tenant that is not in default shall have not less than 180 days from the date of approval of the conversion to find substitute housing and relocate. This 180-day period may be extended in special cases, as specified in Subsection 28.88.100. E of the Municipal Code.
  2. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.
  3. **Inclusionary Housing Fee.** Evidence shall be submitted that the Owner has paid the required inclusionary housing fee to the Community Development Department.
- F. **Building/Condominium Conversion Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building/Condominium Conversion Permits:
1. **Physical Elements Report.** All elements in the Physical Elements Report that have five or fewer years of life remaining shall be repaired or replaced and shown on the plans.
  2. **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: ..

Property Owner		Date
Contractor	Date	License No.
Architect	Date	License No.
Engineer	Date	License No.

G. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.

1. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be salvaged and sent to the City Corporation Annex Yard.
2. **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: (look at longer or shorter hours and Saturday construction, depending on project location)

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Cesar Chavez Day	March 31 <sup>st</sup>
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.

3. **Construction Parking/Storage/Staging.** 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. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.
  - b. Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project.
  - c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.
4. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
5. **Tree Protection.** All trees not indicated for removal on the site plan shall be preserved, protected, and maintained, in accordance with the Tree Protection Plan, if required, and any related Conditions of Approval, as follows.
  - a. **Existing Tree Preservation.** The existing tree(s) shown on the approved Tentative Map to be saved shall be preserved and protected and fenced three feet outside the dripline during construction.
6. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
7. **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.
8. **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 the applicant shall retain an archaeologist from the most current City Qualified Archaeologists List. 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.

H. **Prior to Certificate of Occupancy for the Condominium Conversion Permit.** Prior to issuance of the Certificate of Occupancy for the Condominium Conversion Permit, the Owner of the Real Property shall complete the following:

1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. 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 building plans, including utility service undergrounding and installation of street trees.
3. **Physical Elements Report Completion.** All elements in the Physical Elements Report that have five or fewer years of life remaining shall be repaired or replaced.
4. **Existing Street Trees.** Submit a letter from a qualified arborist, verifying that the existing street tree(s) in the front yard setback and in the public rights-of-way have been properly pruned and trimmed.

5. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section E have been recorded.
  6. **Parcel Map Approved.** The Parcel Map shall be approved by City Council.
  7. **Exclusive Right to Purchase (Right of First Refusal).** Owner shall provide evidence of the extension to each tenant household of an exclusive right to purchase in accordance with the provisions of Section 66427.1(d) of the Government Code.
  8. **Tenant Displacement Assistance.** Evidence shall be provided that, in the place of the moving expenses specified in SBMC Subsection 28.88.100.g, Owner has provided each tenant household with displacement assistance in accordance with the provisions of Chapter 28.89.
- I. **After Certificate of Occupancy:** The following conditions shall be completed after issuance of the Certificate of Occupancy for the Condominium Conversion Permit has been completed.
1. **Parcel Map Recordation.** The Parcel Map shall not be recorded until the Certificate of Occupancy for the Condominium Conversion Permit has been issued, and has obtained Occupancy status. The following shall be provided prior to Map recordation.
    - a. **Notice of Department of Real Estate Report.** Owner shall submit evidence showing that written notification has been submitted to each tenant household that an application for a public report has been submitted to the California Department of Real Estate within 10 days of the submission of such application.
    - b. **Notice of Final/Parcel Map Approval.** Owner shall submit evidence that written notice of approval of the Final/Parcel Map has been provided to each tenant household within 10 days of such approval.
- J. **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

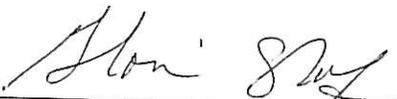
indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's 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 NEW CONDOMINIUMS AND CONDOMINIUM CONVERSIONS) TIME LIMITS:**

The Staff Hearing Officer's action approving the Tentative Map shall expire three (3) 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.

This motion was passed and adopted on the 23rd day of September, 2009 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.

  
\_\_\_\_\_  
Gloria Shafer, Staff Hearing Officer Secretary

2-29-2009  
Date

