



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 060-16

1424 SALINAS PLACE

TENTATIVE SUBDIVISION MAP AND CONDOMINIUM CONVERSION

SEPTEMBER 14, 2016

**APPLICATION OF MARTIN MUNOZ, 1424 SALINAS PLACE, APN 015-223-001, R-2 ZONE,
GENERAL PLAN DESIGNATION: RESIDENTIAL 12 UNITS PER ACRE (MST2015-00622)**

The 8,450 square foot parcel is developed with a one-family dwelling unit of 1,583 net square feet with a 546 net square foot attached garage at the front of the site, and a one-family dwelling unit of 1,896 net square feet with an attached 454 net square foot garage at the rear of the site. The proposed project involves a condominium conversion to convert the two existing detached two-story single-family residential dwellings to a two-unit condominium development. No physical changes to the existing dwelling units or other development on the site are proposed.

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 Chapters 27.07 and 27.13); and
2. A Condominium Conversion Permit to convert two (2) existing residential units to two (2) condominium units (SBMC Chapter 28.88).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301.

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

1. Staff Report with Attachments, September 7, 2016.
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. THE TENTATIVE SUBDIVISION MAP (SBMC §27.07.100)

As described in Section V of the written Staff Report, dated September 7, 2016, 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 conversion of the existing development because although it is nonconforming to slope density, the existing development is well integrated into the slope with two stories at lower portions of the site and one story at higher portions. The proposed use is consistent with the vision for the Eastside neighborhood of the General Plan and provides ownership opportunity for a moderately priced dwelling. The design of the existing development will not cause substantial environmental damage and associated improvements will not cause serious public health problems.

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 of the written Staff Report dated September 7, 2016.
2. The proposed conversion is consistent with the policies of the City's General Plan and is conforming to the density requirement of its Land Use Element as discussed in Section V of the written Staff Report dated September 7, 2016.
3. The existing development is legally nonconforming to the density provisions of the R-2 zone. The proposed conversion conforms 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 it meets the requirements of the R-2 Zone.
4. The overall design (including project amenities) and physical condition of the conversion will result in a project which is aesthetically attractive, safe, and of quality construction.
5. The proposed conversion has mitigated impacts to the City's low and moderate income housing supply by paying an in-lieu fee as required by the Inclusionary Housing Ordinance.
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 owner notified the tenants about the condominium conversion proposal and informed the tenant of their rights pursuant to SBMC Chapter 28.88. There is a letter in the file demonstrating the appropriate tenant notification.
8. The project is exempt from the provisions for maximum number of conversions per year in Section 28.88.130 because the project consists of fewer than five units.

I. Said approval is subject to the following Conditions of Approval:

In consideration of the project approval granted by the Staff Hearing Officer and for the benefit of the owner(s) and occupant(s) 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. Order of Development. In order to accomplish the proposed development, the following steps shall occur in the order identified:

1. Notify tenants of the Condominium Conversion approval.
2. Obtain all required design review approvals.

3. Pay Land Development Team Recovery Fee (30% of all planning fees, as calculated by staff) at time of building permit application.
4. Obtain a "Physical Standards" Building Permit (BLD) to perform all physical improvements necessary to bring the existing development up to condominium standards.
5. Pay Inclusionary Housing In-Lieu Fee.
6. The "Physical Standards" Building Permit listed above shall be signed off ("finaled") by the Building Division.
7. Apply for a "Condominium Conversion" Building Permit (BLD) pursuant to SBMC §28.88.029 and, concurrently, apply for a Public Works Permit (PBW) for Parcel Map review and approval.
8. Obtain City Council approval of a Parcel Map for the purpose of two condominiums, an Agreement Relating to Subdivision Map Conditions Imposed on Real Property, Agreement Assigning Water Extraction Rights and record said documents concurrently with the Private CC&Rs.
9. Provide evidence of recordation of the Map and Agreements to Building and Safety to receive "Occupancy" status on the Condominium Conversion Building Permit, which is required before the newly subdivided lots or condominiums can be legally sold.

Details on implementation of these steps are provided throughout the conditions of approval.

B. Recorded Conditions Agreement. 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 concurrent with the Parcel Map following completion of any physical improvements required to bring the structure up to Condominium Standards, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on September 14, 2016 is limited to a one lot subdivision for the conversion to condominiums of a one-family dwelling unit of 1,583 net square feet with a 546 net square foot attached garage at the front of the site, and a one-family dwelling unit of 1,896 net square feet with an attached 454 net square foot garage at the rear of the site, 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 continuation of any historic 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, including any tree protection measures. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.

5. **Non-Conforming Residential Density Restrictions.** As of the date of the conversion to condominiums, the two existing dwellings are non-conforming to the R-2 Slope Density requirement in Santa Barbara Municipal Code §28.18.075.F. Average slope between 10 and 20 percent in the R-2 zone requires 1.5 times the required minimum lot area for each dwelling. City archives contain a slope calculation dated March 15, 2007 from Dodson Land Surveying stating the average slope of the lot is 16 percent. With an average slope of 16 percent, the 8,450 square foot lot would allow one dwelling unit. Pursuant to Santa Barbara Municipal Code §28.87.030.E.1, properties with non-conforming residential density are not allowed to increase residential density, increase floor area (except garages or carports), or increase amount of habitable space. Pursuant to Santa Barbara Municipal Code §28.88.030.C, buildings which are legally non-conforming to the Zoning Ordinance may be converted to condominiums. Prospective owners of the condominiums are advised to contact the Community Development Department with any questions about currently applicable restrictions.
6. **Required Private Covenants, Conditions and Restrictions (CC&Rs).** The Owners shall record in the official records of Santa Barbara County either private covenants, conditions and restrictions, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for 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 between the owners of the two condominium units.
 - b. **Homeowners Association.** The homeowners association formation and common area maintenance CC&Rs shall be submitted with the parcel map for review by the Public Works Department and explicitly include all obligations for performance and labor and materials of the existing agreement with the City entitled Encroachment Permit recorded in the Office of the County Recorder, Official Record No. 2006-0067338, City of Santa Barbara, County of Santa Barbara, State of California.
 - c. **Garages Available for Parking.** A covenant that includes a requirement that all garages shall 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.
 - d. **Parking Space Assignment.** Parking spaces within the project shall be allocated.

- e. **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. Such Plan shall not be modified unless prior written approval is obtained from the appropriate design review board. If said landscaping is removed for any reason without approval by the appropriate design review board, the owner is responsible for its immediate replacement.
 - f. **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.
 - g. **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.
- C. Condominium Conversion Ordinance Compliance.** Owner shall comply with the tenant protection provisions of the Condominium Conversion Ordinance (SBMC Chapter 28.88), including adjustments to the tenant assistance specified in SBMC §28.88.100.G, as specified below:
- 1. **Notice of Approval of Condominium Conversion.** Owner shall provide written notice of the condominium conversion approval to each tenant within 15 days of the approval of said conversion. The content of such notice shall include an explanation of any Condominium Conversion Ordinance requirements and conditions of approval that affect the tenants, including, but not limited to, notice of time to vacate the unit (SBMC §28.88.100.C, and E.) moving expenses, and tenant's right to purchase (SBMC §28.88.100.B). Evidence of delivery of such notice shall be provided to the Community Development Department, Planning Division prior to submitting plans for design review approval, or prior to issuance of any Building or Public Works permits, whichever comes first.
 - 2. **Moving Expenses.** In place of the moving expenses specified in Subsection 28.88.100.G of the Santa Barbara Municipal Code, Owner shall provide each tenant household with displacement assistance in accordance with the provisions of Chapter 28.89 of the Santa Barbara Municipal Code. This information shall be provided in the Notice of Approval of Condominium Conversion identified above.
- D. Design Review.** The project, including public improvements, is subject to the review and approval of the ABR.

E. Requirements Prior to “Physical Standards” Building Permit Issuance. The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below, or shall incorporate said requirements/notes into the construction plans, as appropriate, prior to the issuance of any permit for the project.

1. Public Works Department:

- a. **Submittal for Recordation of Parcel Map and Agreements.** The Owner shall submit application for review and approval and recordation of the Parcel Map and related Agreements to the Public Works Department.
- b. **Pedestrian Access.** Pedestrians shall be allowed free access through the City public right-of-way from Salinas Place to Clifton Street. Two approved signs indicating to the public that they are welcome to use the driveway for pedestrian purposes shall be installed and kept in place for that purpose. Owner shall submit signage details to the Public Works Department for review and approval and shall obtain a Public Works Permit for installation by a qualified contractor.
- c. **Insurance Coverage for Right of Way.** A valid insurance policy shall be maintained as required in the existing Encroachment Permit in the public right-of-way. Proof of current effective insurance coverage shall be provided to the Public Works Director from the homeowners association.

2. Community Development Department:

- a. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the ABR and as outlined in Section D “Design Review,” and all elements/specifications shall be implemented on-site.
- b. **Driveway Improvements.** A curb or other permanent physical barrier shall be constructed along the entire south side of the driveway to prevent the parking of cars with the front yard, landscaped/hardscaped areas, and areas not designated for parking on the site plan. Said curb or permanent physical barrier shall be included on the plans, including the landscape plan, submitted for the Condominium Conversion permit.
- c. **Private Storage Space.** Private storage space as required by §28.88.040.E shall be provided outside of the living/habitable space for Unit B.
- d. **Trash and Recycling.** The location of the trash, recycling, and green waste containers required by Condition B.f above shall be indicated on the plans.

- e. **Conditions on Plans/Signatures.** The final 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 sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

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

- F. **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, including demolition and grading.

1. **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(s), and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed six square feet.
2. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Public Works Director with a Public Works permit.

- G. **Prior to Final sign off of the Physical Standards Building Permit and/or Public Improvements.** Prior to signing off or “finaling” the Physical Standards Building Permit and/or Public Works Permit for public improvements, the Owner of the Real Property shall complete the following:

1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC Chapter 22.60. 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 public improvement plans or building plans, shall be completed.

3. **Physical Elements Report Completion.** All elements identified in the Physical Elements Report as having five or fewer years of life remaining shall be repaired or replaced.

H. 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. **Building Permit Required for Conversion.** Provide evidence that a Physical Standards Building Permit has been issued and all work completed for the future conversion of the units to condominiums.
2. **Condominium Conversion Building Permit.** Provide evidence that a Condominium Conversion Building Permit has been applied for.
3. **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.
4. **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 prepares said agreement for the Owner's signature.
5. **Required Private Covenants.** The Owner shall submit a copy of the homeowner's association formation and CC&Rs documents for review by the City prior to or with the submittal of the Parcel Map. Any review comments from the City concerning obligation of the exiting Encroachment Permit shall be addressed to the satisfaction of the Public Works Director.
6. **Inclusionary Housing Fee.** Submit evidence that the Owner has paid the required inclusionary housing fee of \$43,400.00 (\$21,700 x 2 units) to the Community Development Department prior to recordation of the Parcel Map.
7. **Notice to Prospective Buyers of Non-Conforming Residential Density Restrictions.** Owner shall execute a covenant for recordation along with the Parcel Map advising prospective buyers that, as of the date of the condominium conversion, the Real Property was non-conforming as to residential density and that City ordinances in effect at the time of the condominium conversion restrict the manner and degree to which the condominium units may be altered or improved. The covenant shall advise prospective buyers to contact the Community Development Department to confirm any applicable restrictions. The covenant shall be reviewed as to form and content by the City Attorney and Community Development Director.

I. Prior to Certificate of Occupancy for the Condominium Conversion Building Permit. The following conditions shall be completed after the Physical Standards Building Permit and Public Works Permit have been signed off, and prior to granting Occupancy of the Condominium Conversion Building Permit.

1. **Parcel Map Recordation.** Provide evidence of recordation of the Map and Agreements to the Public Works and Community Development Departments.

2. **Evidence of Private CC&Rs Recordation.** Provide evidence to the Community Development Department, Planning Division that the private CC&Rs required in Section B "Recorded Conditions Agreement" have been recorded.
3. **Notice to Tenants of Parcel Map Approval.** Owner shall deliver written notice to each tenant household of the approval of the Parcel Map within 10 days of such approval. Proof of such notification shall be submitted to the Planning Division.

J. General Conditions.

1. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
2. **Approval Limitations.**
 - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
 - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Staff hearing officer.
 - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Staff hearing officer Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
3. **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 being notified of a lawsuit regarding 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

