



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 015-05

403 ALAMEDA PADRE SERRA

TENTATIVE SUBDIVISION MAP, MODIFICATIONS

FEBRUARY 24, 2005

**APPLICATION OF THOMAS CONDON, AGENT FOR TNS GROUP, LLC, PROPERTY OWNER, 403 ALAMDEA PADRE SERRA, APN: 031-391-015, R-2 TWO FAMILY RESIDENTIAL ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL - 12 UNITS PER ACRE (MST2004-00353)**

The proposed project involves demolition of the existing single-family residence and garage and construction of two new three-bedroom condominium units of approximately 1,900 square feet each with attached two-car garages on a 6,400 square foot lot. The discretionary applications required for this project are:

1. A Modification to allow the proposed building to encroach into the required front yard setback along Alameda Padre Serra (SBMC §28.18.060 A);
2. A Modification to allow less than the required 1,250 square foot open yard area (SBMC § 28.15.060); and
3. A Tentative Subdivision Map for a one-lot subdivision to create two residential condominiums (SBMC §27.07 and 27.13).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Sections 15301 (Existing Facilities), 15303 (Construction of Small Structures), and 15315 (Minor Land Divisions).

**WHEREAS**, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

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

1. Staff Report with Attachments, February 17, 2005.
2. Site Plans

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

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

The density of the proposed development complies with that allowed by the Zoning Ordinance and the General Plan, and is consistent with the surrounding neighborhood. In addition, the project complies with applicable General Plan policies regarding cultural resources, noise, and housing. Thus, Staff recommends that the Planning Commission approve the project subject to

the Conditions of Approval in Exhibit A and the following findings:

**A. SETBACK MODIFICATION (SBMC §28.18.060, A)**

In order for the Planning Commission to approve the requested modification to allow the first and second floor of the building to encroach into the required fifteen-foot (first floor) and twenty-foot (second floor) front yard setback along Alameda Padre Serra, it must be found that the modification is consistent with the purposes and intent of the Zoning Ordinance and that it is necessary to secure an appropriate improvement on a lot, prevent unreasonable hardship, or promote uniformity of improvement.

The property has two front yards, which limits the feasibility of a code compliant design, particularly on a relatively small, narrow lot such as this one. The building encroachment would not impact surrounding residences and does not have a negative visual impact on the neighborhood. Thus, the modification is consistent with the purposes and intent of the Zoning Ordinance, and is necessary to secure an appropriate improvement on the lot.

**B. OPEN YARD AREA MODIFICATION (SBMC §28.18.060, C)**

In order for the Planning Commission to approve the requested modification to allow less than the required open yard area, it must find that the modification is consistent with the purposes and intent of the Zoning Ordinance and that it is necessary to secure an appropriate improvement on a lot, prevent unreasonable hardship, or promote uniformity of improvement.

Although the project would not provide the required amount of open space, as defined by the ordinance, an adequate amount of open space would be provided on the lot, meeting the intent of the ordinance. Additionally, the Modification would allow for an appropriate improvement on the lot, which is constrained by two front yards.

**C. 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 density provisions of the Municipal Code and the General Plan, and the proposed use is consistent with the Land Use Element and zoning designation for the site, and the vision for this neighborhood in the General Plan. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems or conflict with easements, acquired by the public at large, for access through or use of property within the proposed development.

**D. NEW CONDOMINIUM DEVELOPMENT (SBMC §27.13.080)**

1. There is compliance with all provisions of the City's Condominium Ordinance.

The project complies with density requirements. Each unit includes adequate parking, private storage areas, laundry facilities, separate utility metering, adequate

unit size and outdoor living space.

2. The proposed development is consistent with the General Plan of the City of Santa Barbara.

The project is consistent with policies of the City's General Plan including the Housing Element, Conservation Element, Noise Element, and Land Use Element.

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 a public street, 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, density, and preliminary landscaping appropriate. The development will be an aesthetic improvement in the Westside Neighborhood.

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 following conditions shall be imposed on the use, possession and enjoyment of the Real Property and shall be recorded by the Owner with the Parcel Map on 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/or Public Works Director:
  1. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural water courses, conduits and any access road, as appropriate. The Owner is responsible for the adequacy of any project related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health or damage to the Real Property or any adjoining property.
  2. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats or trailers shall be stored on the Real Property.
  3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan as approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan.
  4. **Water Rights Assignment.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real

Property. This assignment of rights shall not include a right of surface entry on or from the Real Property.

5. **Allowed Development.** The development of the Real Property approved by the Planning Commission on February 24, 2005 is limited to 3,530 sq. ft. of living area, containing two dwelling units, 800 sq. ft. of garage area and the improvements shown on the Tentative Subdivision Map signed by the chairman of the Planning Commission 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. **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. **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.
- B. **Design Review.** The following is subject to the review and approval of the Architectural Board of Review (ABR):
1. **Building Height Reduction.** On the first floor, the floor-to-floor heights should be less than or equal to ten feet, on the second floor plate heights should be no more than eight feet.
  2. **Pedestrian Access.** There shall be a walkway to each unit that is separate from the driveway.

3. **Permeable Paving.** Permeable paving shall be used for the driveways and for the walkways.
  4. **Quality Detailing.** High quality materials and detailing shall be incorporated into the project.
- C. **Public Works Submittal.** The Owner shall submit the following or evidence of completion of the following to the Public Works Department prior to the issuance of a Building Permit or Public Works Permit or the recordation of the Parcel Map for the project:
1. **Parcel Map Submittal.** The Owner shall submit to the Public Works Department, 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.
  2. **Street Improvement Plans.** Improvement plans for construction of improvements on Alameda Padre Serra and Gutierrez Street. As determined by the Public Works Department, the improvements shall include installation of City standard sidewalk and parkway on Alameda Padre Serra, remove existing sidewalk on Gutierrez Street and replace sidewalk to City standard, driveway aprons on Gutierrez Street shall be City standard Type 2 and meet Title 24 requirements, drought-tolerant parkway and landscaping on Alameda Padre Serra and Gutierrez Street, provide and plant to City Parks Department Street Tree Standards one 15-gallon bauhinia blakeana (Prehid Tree) City street tree on Alameda Padre Serra and one 15-gallon pyrus kawakami (Evergreen Pear) City street tree on Gutierrez Street, crack seal to the centerline of Alameda Padre Serra and Gutierrez Street, underground utilities, preserve and/or reset contractor stamp at the corner of Alameda Padre Serra and Gutierrez Street to the satisfaction of the Public Works Department, preserve and/or reset any survey monuments to the satisfaction of the Public Works Department, and provide adequate positive drainage from the site. The building plans shall be prepared by a registered Civil Engineer or licensed architect and reviewed and signed by the City Engineer.
  3. **Construction Best Management Practices.** Construction activities shall address water quality through the use of best management practices (BMPs) as approved by the City.
  4. **Storm Water Quality Control Guidelines.** The Owner shall apply storm water quality control guidelines to the project per the Public Works Department Construction Project Best Management Practices.
- D. **Building Permit Plan Requirements.** The following requirements shall be incorporated into the construction plans submitted to the Building & Safety Division with applications for building permits. All of these construction requirements shall be carried out in the field and completed prior to the issuance of a Certificate of Occupancy:

1. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and an archaeologist from the most current City Qualified Archaeologists List shall be retained by the applicant. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

2. **Driveway.** The driveways shall narrow down to 12 feet in width at the back of the sidewalk, and may then flare out on the property to serve the garage.
3. **Utilities.** Provide individual water, electricity, gas meter, and building sewer for each residential unit. Utility meter locations shall not require occupants to pass through another unit to access the meter, pursuant to Santa Barbara Municipal Code Section 27.13.060.
4. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) to help reduce truck traffic on adjacent streets and roadways.
5. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara as shown below:

New Year's Day	January 1 <sup>st</sup> *
Martin Luther King's Birthday	3 <sup>rd</sup> Monday in January
Presidents' Day	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 <sup>th</sup> *
Labor Day	1 <sup>st</sup> Monday in September
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Following Thanksgiving Day	Friday after Thanksgiving Day
Christmas Day	December 25 <sup>th</sup> *

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

When, based on required construction type or other appropriate reasons, it is necessary to do work at night, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in SBMC § 9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

6. **Construction 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, telephone number, work hours and site rules to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.
7. **Conditions on Plans/Signatures.** All Planning Commission Conditions of Approval shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

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

E. **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 building plans.
3. **Cross Connection Inspection.** The owner shall request a cross connection inspection by the Public Works Water Reclamation / Cross Connection Specialist.
4. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.

F. **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 SUBDIVISIONS MAPS (INCLUDING NEW CONDOMINIUMS AND CONDOMINIUM CONVERSIONS) TIME LIMITS:**

The Planning Commission'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 section 27.07.110 or the provisions of the California Subdivision Map Act.

This motion was passed and adopted on the 24th day of February, 2005 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 7 NOES: 0 ABSTAIN: 0 ABSENT: 0

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Planning Commission at its meeting of the above date.

  
\_\_\_\_\_  
Liz N. Ruiz, Planning Commission Secretary

8-11-05  
\_\_\_\_\_  
Date

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.

