



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 039-05

737 E. ANAPAMU STREET

TENTATIVE SUBDIVISION MAP, MODIFICATIONS

MAY 19, 2005

APPLICATION OF CEARNAL ANDRULAITIS LLP, ARCHITECT FOR PROPERTY OWNER, ANAPAMU PROPERTIES LLC, 737 E. ANAPAMU STREET, APN 029-150-019, R-3: LIMITED MULTIPLE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, TWELVE UNITS/ACRE (MST2003-00636)

The project consists of a proposal for six residential condominium units and twelve parking spaces (nine covered, three uncovered) at the corner of Anapamu Street and Nopal Street. The project includes the demolition of the existing 4,112 square foot, single-story, 14-bedroom residential care facility.

The discretionary applications required for this project are:

1. Modification to allow the encroachment of Unit 1 into the front yard setback on Anapamu Street (SBMC§28.21.060);
2. Modification to allow the encroachment of the garage for Unit 5 into the rear yard setback (SBMC§28.21.060);
3. Modification to allow the encroachment of Unit 6, all garages, all uncovered parking spaces, and a trash enclosure into the front yard setback along Nopal Street (SBMC§28.21.060 & 28.90.001);
4. Modification to allow less than the required 15' distance between buildings (SBMC§28.21.070);
5. Modification to allow the private outdoor living areas for Units 1 and 2 to have less than the required minimum dimensions (SBMC§28.21.081);
6. Modification to allow a six-foot high wall and gate and a four-foot high fence atop an existing two-foot high wall within the front yard setback along Anapamu Street (SBMC§28.87.170); and
7. Tentative Subdivision Map (TSM) for a one-lot subdivision for six residential condominiums (SBMC Chapter 27.07).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15303 (new construction of small structures).

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

WHEREAS, 1 person 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, May 12, 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:

A. **Modifications (SBMC§28.21.060; 28.90.001; 28.21.070; 28.21.081; 28.87.170)**

The modifications to allow encroachments into the required setbacks, allow less than the required distance between buildings, allow less than the minimum dimensions for private outdoor living areas, and allow walls and fences greater than 36" within the front yard setback are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure an appropriate improvement on the lot.

B. **Tentative Subdivision Map Findings (SBMC §27.07.100)**

The proposed tentative subdivision map and the proposed development are consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara. The site is physically suitable for the proposed development and the density of development. The development is not likely to cause substantial environmental damage or serious public health problems nor conflict with easements, acquired by the public at large, for access through or use of property within the proposed development.

C. **Residential Condominium Development (SBMC §27.13.080)**

The proposed project is in compliance with all provisions of the City's Condominium Ordinance, is consistent with the General Plan of the City of Santa Barbara and 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.

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 documented in a written instrument titled, "Agreement Relating to Subdivision Map Conditions Imposed on Real Property", which shall be reviewed and approved as to form and content by the City Attorney, Community Development Director and/or Public Works Director, executed by the Owner and recorded in the Office of the County Recorder:

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. **Approved Development.** The development of the Real Property approved by the Planning Commission on May 19, 2005 is limited to six (6) condominiums and the improvements shown on the set of plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
5. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:
 - a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium parcels.
 - b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
 - c. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
 - d. **Trash Receptacles Stored.** Except on days that trash is being picked up, all trash receptacles shall be stored in the trash enclosure.
 - 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.
6. **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.

7. **Storm Water Pollution Control Systems Maintenance.** The Owner(s) shall maintain 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 City Land Development Engineer.

B. **Design Review.** The following are subject to the review and approval of the Architectural Board of Review (ABR) prior to the issuance of a building permit or public works permit (as applicable):

1. **Trash Enclosure Provision.** A trash enclosure *with equal and easily accessed* area for trash and recycling containers shall be provided on the Real Property and screened from view from surrounding properties and the street. Such structure shall be located at least five (5) feet from any building unless protected with fire sprinklers, with final location approved by ABR.
2. **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.
3. **Plate Height.** Plate height for the first floor shall not exceed 10 feet and the second floor plate height shall not exceed eight feet.
4. **Roof Decks.** The roofs for units 3 and 4 shall be extended so that there is no deck immediately adjacent to the exterior wall on the westerly side of the building.
5. **Permeable Paving.** Paving within the courtyard and private outdoor areas shall be of permeable material.
6. **Additional Design Elements.** The southeasterly corner of Unit 1 shall be curved to follow the line of the stairway.
7. **Bus Stop.** Enhance the bus stop area by providing detailing on the blank wall. Enhancements can include a bench, wall detailing or other improvements.
8. **Nopal Street Pedestrian Improvements.** Subject to approval by the Public Works Department, the following changes shall be made to enhance the pedestrian experience on Nopal Street.
 - a. Trees shall be moved into the Nopal Street right-of-way.
 - b. Enhanced paving shall extend up Nopal Street.
 - c. Provide a driveway apron across Nopal Street at its intersection with Anapamu Street.

C. **Final/Parcel Map Submittal.** The Owner shall submit to the Public Works Department, a Final Map prepared by a licensed land surveyor or registered Civil Engineer. The Final Map shall conform to the requirements of the City Survey Control Ordinance.

- D. **Prior to Map Recordation.** Prior to the recordation of Final Map or issuance of any Public Works permit or Building permit for the project on the Real Property:
1. **Water Rights Assignment.** "Agreement Assigning Water Extraction Rights". 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 *does not* include a right of surface entry on or from the Real Property
 2. **Public Improvement Securities.** The Owner shall provide an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the "Agreement for Land Development Improvements".
- E. **Public Works Submittal Prior to Permits.** The Owner shall submit the following or evidence of completion of the following to the Public Works Department prior to the recordation of the Final Map and prior to the issuance of a Building permit or Public Works permit.
1. **Public Improvements on Anapamu Street.** The Owner shall submit C-1 public improvement plans for construction of improvements along the subject property road frontage on Anapamu Street. As determined by the Public Works Department, the improvements shall include saw cut and replacement of any cracked or uplifted City standard sidewalk, curbs and/or gutters, crack seal to the centerline of the street along entire subject property frontage, underground utilities, connection to City water and sewer mains, *supply and install* drainage system (A470 curb drain outlet), *supply and install* one commercial street light to City standard as approved by Facilities Construction Superintendent and Architectural Board of Review, coordinate with City staff to retire light standard on existing utility pole, retrofit existing drop inlet with pollution prevention interceptor device approved by Public Works, provide storm drain stenciling on existing drop inlet, construct one 2-way access ramp at corner of Nopal and Anapamu Streets, construct one 1-way access ramp on opposite side of Anapamu Street aligned with new 2-way ramp, preserve and/or reset contractor stamp and survey monuments, provide directional/regulatory traffic control signs, supply and install one new Italian Stone Pine street tree minimum 36 inch box size, tree grate, and provide adequate positive drainage from site. The public improvement plans shall be prepared by a registered civil engineer and reviewed and signed by the City Engineer.
 2. **Public Improvements on Nopal Street.** The Owner shall submit C-1 public improvement plans for construction of improvements along the subject property road frontage on Nopal Street. As determined by the Public Works Department, the improvements shall include: reconstruction of Nopal Street as approved by the City Engineer to accommodate a positive flow away from the new development and direct historical street surface flow to City storm drainage system, underground service utilities, preserve and reset contractor stamp and survey monuments, and provide adequate positive drainage from site. Where

tree roots are the cause of the damage to public improvements, the roots are to be pruned under the direction of the City Arborist. Subject to approval by the Architectural Board of Review, improvements shall include enhanced paving to provide a pedestrian walkway up the street, providing street trees in the right of way, and a driveway apron across Nopal Street at its intersection with Anapamu Street. The public improvement plans shall be prepared by a registered civil engineer and reviewed and signed by the City Engineer.

3. **Storm Water Pollution Control Systems Maintenance.** The Owner(s) shall maintain on-site drainage system, storm drain water interceptors and other storm water pollution control devices in accordance with an Operations and Maintenance Procedure Plan approved by the City Engineer.
 4. **Construction Best Management Practices.** Construction Best Management Practices Required. Construction activities shall address water quality through the use of best management practices (BMP's) as approved by the City Building Official.
 5. **Agreement for Land Development Improvements.** An Executed Agreement for Land Development Improvements and improvement security for construction of improvements.
- F. **Building Permit Plan Requirements.** The following requirements shall be incorporated into the construction plans submitted to the Building and Safety Division with applications for building permits. All of these construction requirements shall be carried out in the field and completed prior to the issuance of a Certificate of Occupancy:
1. **Archaeological Monitoring Contract.** Contract with an archaeologist from the most current City Qualified Archaeologists List for monitoring during initial subsurface disturbances (grading/recompaction) in the areas identified in the Phase 1 Archaeological Resources Report prepared by Macfarlane Archaeological Consultants, dated February 20, 2004. Trash pits are generally found within the first twelve to eighteen inches of excavation. The contract shall be subject to the review and approval of the Environmental Analyst.

The archaeologist's monitoring contract shall include the following provisions: If *in-situ* historic cultural remains greater than 50 years in age are encountered during grading, all work in the immediate area of the find shall be halted, the remains recorded in the filed by the archaeologist, and procedures set forth in the Cultural Resources Section of the MEA be implemented to evaluate the importance of the resources. Should such remains prove significant, generally additional mitigation in the form of avoidance or data recovery and documentation may be required to ensure no significant impact shall result. In the case of trash pits, however, unless unusually large, excavation required for evaluation will provide mitigation in the form of data recovery and

documentation. A formal report of the result of the monitoring shall be subject to the review and approval of the Environmental Analyst.

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. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out and containers shall be provided on site for that purpose in order to minimize construction-generated waste conveyed to the landfill.
3. **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.
4. **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 st *
Martin Luther King's Birthday	3 rd Monday in January
Presidents' Day	3 rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 th *
Labor Day	1 st Monday in September
Thanksgiving Day	4 th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25 th *

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

Notwithstanding the prohibition above, when, based on required construction type or other appropriate reasons, it is necessary to do work outside the hours allowed, owner/contractor may request a waiver from the construction hour

limitations from the Chief of Building and Safety in accordance with the procedure outlined in SBMC§9.16.015, Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of the 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.

5. **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 Streets, Parking, and Transportation Operations Manager.
 - b. Storage of construction materials within the public right-of-way is prohibited.
6. **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.

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.
7. **Covered Truck Loads.** Trucks transporting fill material to and from the site shall be covered from the point of origin.
8. **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, work hours and site rules to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.
9. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
10. **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:

<hr/>		
Property Owner		Date
<hr/>		
Contractor	Date	License No.
<hr/>		
Architect	Date	License No.
<hr/>		
Engineer	Date	License No.

G. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy for the condominium conversion permit, the Owners of the Real Property shall submit the following or evidence of completion of the following to the Public Works Department:

1. **Noise Measurements.** A noise specialist retained at the Owner's expense shall make an on-site investigation and certify noise levels with a noise meter to assure that interior and exterior living area noise levels are within acceptable levels as specified in the Noise Element. In the event the noise is not mitigated to acceptable levels, additional mitigation measures shall be recommended by the noise specialist and implemented subject to the review and approval of the Building and Safety Division and the Architectural Board of Review (ABR).
2. **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 are to be pruned under the direction of the City Arborist.
3. **Complete Public Improvements.** Public improvements as shown on the C-1 public improvement plans.
4. **Check Valve / Anti-Backflow Device.** Provide an approved check valve or anti-backflow device placed on the private property side of consumer's service pursuant to Municipal Code Section 14.20.120 and Public Works Construction Standard Detail 5-009.0.

H. **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 MODIFICATION APPROVAL TIME LIMITS:

The Planning Commission's action approving the Modifications shall terminate if a building permit is not sought within twelve (12) months of granting of the approval and construction diligently pursued to completion and issuance of a certificate of occupancy. Pursuant to section 28.87.360 of the Municipal Code, the Community Development Director may grant an extension to the twelve (12) month period.

SBMC§28.87.360 states that modifications are valid for one year following Planning Commission's approval. Said section also allows the Community Development Director to approve time extensions for such approvals. Because this approval is tied to the Tentative Subdivision Map approval, the Director hereby approves an extension to coincide with the Tentative Subdivision Map.

NOTICE OF TENTATIVE SUBDIVISION MAP TIME LIMITS:

The Planning Commission's action approving the Tentative Map shall expire two (2) years from the date of approval, per SBMC Section 28.07.110.a & .b, unless the subdivider requests an extension of time, not to exceed two (2) years beyond the expiration of the original two (2) years expiration date or per the allowances provided in the Subdivision Map Act. 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 19th day of May, 2005 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

PLANNING COMMISSION RESOLUTION No. 039-05
737 E. ANAPAMU STREET
MAY 19, 2005
PAGE 11

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.



Deana Rae McMillion, Admin/Clerical Supervisor

9-22-05

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.