



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 048-05 508 AND 514 E. DE LA GUERRA STREET MODIFICATIONS, LOT LINE ADJUSTMENT JULY 7, 2005

**APPLICATION OF JAN HOCHHAUSER, HOCHHAUSER BLATTER ARCHITECTS,
AGENT FOR PROPERTY OWNERS, JOE W. BUTLER II AND PAMELA J. QUIRKE,
TRUSTEES, 508 E. DE LA GUERRA STREET, APN 031-101-018 AND 514 E. DE LA
GUERRA STREET, APN 031-101-019, R-3: LIMITED MULTIPLE-FAMILY RESIDENCE
ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, TWELVE UNITS/ACRE
(MST2004-00233)**

This item was continued from the June 2, 2005 Planning Commission hearing. The project consists of a lot line adjustment between 508 E. De la Guerra Street (APN 031-101-018) and 514 E. De la Guerra Street (APN 031-101-019) and a proposal for four new condominium units in two (2) two-story buildings on the 508 E. De la Guerra Street parcel. Building A would consist of one (1) three-bedroom unit with an attached one-bedroom rental unit. Building B would consist of one (1) one-bedroom unit, one (1) two-bedroom unit and one (1) three-bedroom unit. Three single-family residences would be demolished on the 508 E. De la Guerra Street parcel. Plans for development of 514 E. De la Guerra Street are included for informational purposes only and are not part of the application.

The discretionary applications required for this project are:

1. Modification to allow 508 E. De la Guerra Street to have less than the required lot area in the R-3 Zone (SBMC§28.21.080);
2. Modification to allow 514 E. De la Guerra Street to have less than the required lot area in the R-3 Zone (SBMC§28.21.080);
3. Modification to allow 514 E. De la Guerra Street to have less than the required sixty feet (60') of frontage on a public street in the R-3 Zone (SBMC§28.21.080);
4. Lot Line Adjustment to change the property line between 508 E. De la Guerra Street (APN 031-101-018) and 514 E. De la Guerra Street (APN 031-101-019)(Gov. Code §66412); and
5. Tentative Subdivision Map (TSM) for a one-lot subdivision for four residential condominium units, and one rental unit as part of one of the condominiums, on the 508 E. De la Guerra Street parcel (SBMC§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 15301 (demolition of individual small structures), Section 15305 (minor lot line adjustments) and 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, 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, May 26, 2005 & Memorandum June 30, 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 §28.21.080)**

The modifications to allow each lot to have less than the required lot area and the 514 E. De la Guerra Street parcel to have less than the required street frontage in the R-3 zone are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure an appropriate improvement on the lot.

B. **FINDINGS FOR LOT LINE ADJUSTMENTS**

The proposed lot line adjustment would allow Lot 1 to increase in lot area by 717 square feet and is appropriate for the proposed development.

C. **TENTATIVE SUBDIVISION MAP FINDINGS (SBMC §27.07.100)**

With the approval of the lot area modification for 508 E. De La Guerra Street, 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.

D. **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 for 508 E. De la Guerra Street:

- 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 July 7, 2005 is limited to a lot line adjustment between 508 East De la Guerra Street (APN 031-101-018) and 514 East De la Guerra Street (APN 031-101-019) resulting in 508 East De La Guerra Street as a 11,620 square foot lot and 514 East De La Guerra Street as a 5,279 square foot lot and the required lot area modifications for such lots and a one-lot subdivision of 508 East De la Guerra Street for four (4) residential condominiums with one of the condominiums consisting of a three-bedroom unit and an attached one bedroom unit, 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. **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.
- 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.
- C. **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.
 - 1. **Lot Line Adjustment.** Prior to approval of the Parcel Map, the Owner shall submit an executed and recorded Agreement Relating to Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof to the Public Works Department, including the legal description of the subject properties prior to and following the lot line adjustment. A licensed surveyor shall prepare the legal descriptions and said Agreement shall be recorded in the Office of the County Recorder.
 - 2. **Reciprocal Access Agreement.** Prior to approval of the Parcel Map, the Owner shall submit a reciprocal access easement agreement for the shared driveway which shall be reviewed as to form and content by the City Attorney, Community Development Director and/or Public Works Director and which shall be recorded in the Office of the County Recorder.
- D. **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 Parcel Map and prior to the issuance of a Building permit or Public Works permit.
 - 1. **Public Improvements on De la Guerra Street.** The Owner shall submit building plans for construction of improvements along the subject property road frontage on De la Guerra Street. As determined by the Public Works Department, the improvements shall include new and repair/replacement of City standard sidewalk/parkway, 16' City standard driveway, curbs, gutters, dual

access ramp, bus stop improvements, crack seal to the centerline of the street, underground service utilities, curb drain outlets, bioswale, preserve and/or reset survey monuments, drought-tolerant parkway landscaping, street trees, and provide adequate positive drainage from site. The building plans shall be prepared by a registered civil engineer or licensed architect and reviewed and signed by the City Engineer.

2. **Public Improvements on Olive Street.** The Owner shall submit building plans for construction of improvements along the subject property road frontage on Olive Street. As determined by the Public Works Department, the improvements shall include new and repair/replacement of City standard sidewalk/parkway, 10' City standard driveway, curbs, gutters, dual access ramp, crack seal to the centerline of the street, underground service utilities, curb drain outlets, bioswale, preserve and/or reset survey monuments, drought-tolerant parkway landscaping, street trees, and provide adequate positive drainage from site. The building plans shall be prepared by a registered civil engineer or licensed architect and reviewed and signed by the City Engineer.
 3. **Drainage Calculations or Hydrology Report.** Submit to the Land Development Engineer drainage calculations/hydrology report justifying that the existing on-site and proposed on-site drainage conveyance system adequately conveys a minimum of a 25-year storm event.
 4. **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.
 5. **Agreement for Land Development Improvements.** An Executed Agreement for Land Development Improvements and improvement security for construction of improvements.
 6. **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. **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. **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. **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:

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

F. **Prior to Certificate of Occupancy.** Prior to issuance of a Temporary Certificate of Occupancy, or 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 are to be pruned under the direction of the City Arborist.
2. **Complete Public Improvements.** Public improvements as shown on the building plans.
3. **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.

- G. **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 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.

- III. Said approval is subject to the following conditions for 508 and 514 E. De La Guerra Street:
- 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 in a written instrument which shall be reviewed as to form and content by the City Attorney, Community Development Director and/or Public Works Director, which shall be 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. **Approved Development.** The development of the Real Property located at 514 De la Guerra Street approved by the Planning Commission on July 7, 2005 is limited to a lot line adjustment between 508 East De la Guerra Street (APN 031-101-018) and 514 East De la Guerra Street (APN 031-101-019) resulting in 508 East De La Guerra Street as a 11,620 square foot lot and 514 East De La Guerra Street as a 5,279 square foot lot and the required lot area modifications for such lots as 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. A description of the approved development and conditions of approval for 508 De la Guerra Street shall be recorded in a separate document within the chain of title for that parcel.
- B. **Public Works Submittal.** The Owner shall submit the following or evidence of completion of the following to the Public Works Department prior to recordation of the Lot Line Adjustment:
1. **Lot Line Adjustment.** The Owner shall submit an executed Agreement Relating to Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof to the Public Works Department, including the legal description of the subject properties prior to and following the lot line adjustment. A licensed surveyor shall prepare the legal descriptions and said Agreement shall be recorded in the Office of the County Recorder.
 2. **Reciprocal Access Agreement.** The Owner shall submit a reciprocal access easement agreement for the shared driveway which shall be reviewed as to form and content by the City Attorney, Community Development Director and/or Public Works Director and which shall be recorded in the Office of the County Recorder.
 3. **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.
- C. **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.

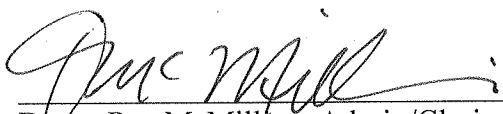
NOTICE OF MODIFICATION APPROVAL TIME LIMITS:

The Planning Commission's action approving the Modification is valid for one year per SBMC§28.87.360. Said section also allows the Community Development Director to approve time extensions for such approvals.

This motion was passed and adopted on the 7th day of July, 2005 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 ABSTAIN: 0 ABSENT: 1 (Jostes)

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 McMillon, Admin/Clerical Supervisor

11-3-05

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.