



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 004-15

1800 EL ENCANTO ROAD AND 1829 MIRA VISTA ROAD
TENTATIVE SUBDIVISION MAP, CONDOMINIUM CONVERSION PERMIT
FEBRUARY 19, 2015

APPLICATION OF MARK LLOYD, AGENT FOR SUZANNE FINAMORE, 1800 EL ENCANTO ROAD AND 1829 MIRA VISTA ROAD, APN 019-170-020 & 019-170-021, E-1 (ONE-FAMILY RESIDENTIAL) ZONE, GENERAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL – MAX 1 DU/ACRE (MST2014-00086),

The proposed project consists of the conversion of three existing detached residential units to condominiums. The lot is developed with one four-bedroom house and attached three-car garage, and two two-bedroom cottages with an additional detached three-car garage. No new development is proposed. The 36,833 square foot lot is located in the Hillside Design District and is bounded by Mira Vista Avenue on the north, which is where the vehicular access is located, San Carlos Road on the east and El Encanto Road on the south. The main house and garage are on the City's List of Potential Historic Resources: Spanish Colonial Revival residence designed by Edwards and Plunkett and constructed in 1930 and 1935.

The discretionary applications required for this project are:

1. A Tentative Subdivision Map to allow a one-lot subdivision to create three residential condominium units (SBMC Chapter 27.07); and
2. A Condominium Conversion Permit to convert three (3) existing detached residential units to 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 Planning Commission has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, 3 people appeared to speak in favor of the application, and 6 people appeared to speak in opposition thereto or with concerns, and the following exhibits were presented for the record:

1. Staff Report with Attachments, February 12, 2015.
2. Site Plans
3. Correspondence received in support of the project:
 - a. William Bogaard, Santa Barbara, CA
 - b. Allen Davis, Santa Barbara, CA
 - c. (illegible), Santa Barbara, CA
 - d. Sandy Stahl, Santa Barbara, CA
 - e. Rachel Tierney, Santa Barbara, CA

- f. Emma Narach, Santa Barbara, CA
 - g. Peggy & Edward Walls, Santa Barbara, CA
 - h. Raymond Fisher, Santa Barbara, CA
 - i. (illegible) Dore, Santa Barbara, CA
 - j. Molley Diener, Santa Barbara, CA
 - k. (illegible), Santa Barbara, CA
4. Correspondence received in opposition to the project or with concerns:
- a. Joanna Von Yurt, via email
 - b. Jeannine Daniel, via email
 - c. Marsha Croninger, via email
 - d. Charles Croninger, via email; submitted petition with 48 signatures
 - e. Eric & Fleurette Janigian, via email

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

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

A. **THE 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 units are legally non-conforming to the density allowances of the General Plan but the project is not proposing any physical alterations; therefore the project will not intensify the existing use on the lot or in the surrounding neighborhood. The site is physically suitable for the proposed condominium conversion and the three units are legally nonconforming to the density provisions of the General Plan as discussed in Section VII of the Staff Report. The conversion of the existing residences to condominiums involves no physical alterations. Therefore, the conversion will not cause substantial environmental damage and associated improvements and 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 Sections V, VI and VII above.
2. The proposed conversion is legally non-conforming with the density requirement of the General Plan Land Use Element as discussed in Sections V and VII above. The conversion of these existing residences to condominium units is consistent with the goals and policies of the City's Housing Element by providing a range of housing opportunities.
3. The proposed conversion will conform to the Santa Barbara Municipal Code in effect at the time the application was deemed complete, except as otherwise provided in the Condominium Conversion Ordinance, because no development is proposed and the

existing development either complies with the requirements of the E-1 Zone or is legally nonconforming thereto.

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. The structures were recently remodeled, and these changes were reviewed and approved by the Historic Landmarks Commission. The proposal to convert the units to condominiums was found suitable by the Commission as described in Section VII of the Staff Report.
5. The units have not been "affordable rental units"; therefore, affordability restrictions do not apply to the project. The applicant provided a rental history summary demonstrating that the units have not been affordable rental units within the last four years.
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. The units are currently being rented by short term tenants.
7. The owner notified the tenants about the condominium conversion proposal and informed the tenant of their rights pursuant to SBMC §28.88.100. There is a letter in the file demonstrating the appropriate tenant notification.
8. The project is exempt from the provisions of Section 28.88.130 because the project consists of fewer than four units, per SBMC §28.88.130.C.1.a.

ii. Said approval is subject to the following conditions:

- 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. Submit an application for and obtain a Public Works Permit (PBW) for all required public improvements and **complete** said improvements. Said PBW shall be issued concurrently with the "Physical Standards" Building Permit (for the water meter).
 7. The "Physical Standards" Building Permit and Public Works Permit listed above shall be signed off ("finaled") by the Building Division and/or Public Works Department, as appropriate.
 8. 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.

9. Obtain City Council approval of the Parcel Map and Agreement(s) and record said documents concurrently with the Private CC&Rs.
10. 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 Planning Commission on February 19, 2015 is limited to the conversion of the three existing detached dwelling units to condominiums and the improvements shown on the Tentative Subdivision Map signed by the chair of the Planning Commission 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. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state and in accordance with the Storm Water BMP Guidance Manual and Operations and Maintenance Procedure Plan approved by the Creeks Division. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.
 5. **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 among the various owners of the condominium units.

- b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
 - c. **Parking Space Assignment.** Parking spaces within the project shall be allocated to specific condominium units.
 - d. **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.
 - e. **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.
 - f. **Public Improvement Districts.** A covenant that includes a waiver to protest formation of public improvement districts.
 - 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 Historic Landmarks Commission (HLC). The HLC shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.
1. **Screened Backflow Device.** The backflow devices for fire sprinklers, pools, spas and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building, as approved by the HLC.
 2. **Location of Dry Utilities.** Dry utilities (e.g. above-ground cabinets) shall be placed on private property unless deemed infeasible for engineering reasons. If dry utilities must be placed in the public right-of-way, they shall be painted "Malaga Green," and if feasible, they shall be screened as approved by HLC.
 3. **Evidence of Compliance With Condominium Conversion Ordinance.** Evidence of compliance with the notification requirements identified in Condition of Approval C "Condominium Conversion Ordinance Compliance" shall be provided to the Planning Division.
- 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 an application for approval and recordation of the Parcel Map (18" x 26") and Agreements to the Public Works Department.
 - b. **Maintenance Agreement.** The existing sewer lateral currently serves all three (3) dwelling units. Common maintenance will need to be recorded as part of the CC&Rs.
 - c. **San Carlos Road/El Encanto Road Public Improvements.** The Owner shall submit Public Works plans for construction of public improvements along the property frontage on San Carlos Road and El Encanto Road. Plans shall be submitted separately from plans submitted for a Building Permit, and shall be prepared by a licensed civil engineer registered in the State of California. As determined by the Public Works Department, the public improvements shall include the following:
 - Replace the existing SCE cobra head streetlight at the corner of El Encanto Road/San Carlos Road with a new residential City-standard Dome Style street light, Type B-08, per City Standard Details.

- Supply and install two new street name signs on a pole at El Encanto Road/San Carlos Road for the street name "El Encanto Road" and "San Carlos Road," per City Standard Details.

A Public Works permit is required for any public improvements or work in the public right-of-way.

- d. **Minor Encroachment Permit.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way or easements shall be obtained by the Owner. A Public Works minor encroachment permit is required to retain the existing walls and stairs within the Public Right-of-Way on San Carlos Road and El Encanto Road.

2. Community Development Department:

- a. **Drainage and Water Quality.** The project is required to comply with Tier 2 of the Storm Water BMP Guidance Manual, pursuant to Santa Barbara Municipal Code Chapter 22.87 (treatment, rate and volume). Project plans for grading, drainage, stormwater facilities and treatment methods, and project development, shall be subject to review and approval by the City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no unpermitted construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants (including, but not limited to trash, hydrocarbons, fertilizers, bacteria, etc.), or groundwater pollutants would result from the project.
- b. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the appropriate design review board and as outlined in Section D "Design Review," and all elements/specifications shall be implemented on-site.
- c. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. 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. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be carefully salvaged and delivered to the City Corporation Annex Yard on Yanonali Street.
2. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: 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. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

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

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

A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

G. **Prior to Finaling 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 §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 draft private covenants, reciprocal easement agreement, or similar private agreements required for the project concurrently with the Parcel Map.
 6. **Inclusionary Housing Fee.** Submit evidence that the Owner has paid the required inclusionary housing fee of \$51,825.00 to the Community Development Department prior to recordation of the Parcel Map.
- 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.** Evidence shall be provided 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 final 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 Planning Commission.
 - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission 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 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 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 Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

III. NOTICE OF TENTATIVE SUBDIVISION MAP (INCLUDING NEW CONDOMINIUMS AND CONDOMINIUM CONVERSIONS) TIME LIMITS:

The Planning Commission 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 §27.07.110.

This motion was passed and adopted on the 19th day of February, 2015 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 1 (Schwartz) 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.



Julie Rodriguez, Planning Commission Secretary



Date

PLEASE BE ADVISED:

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

