



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 007-06

20 S. VOLUNTARIO STREET

TENTATIVE SUBDIVISION MAP, CONDOMINIUM CONVERSION PERMIT AND MODIFICATION

MARCH 15, 2006

**APPLICATION OF THOMAS HASHBARGER, ARCHITECT AND PROPERTY OWNER,
AND RICHARD MERRILL, PROPERTY OWNER, 20 S. VOLUNTARIO STREET, 017-172-
008, R-2 ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 12 UNITS/ACRE
(MST2005-00068)**

The proposed project involves one-lot subdivision for condominium purposes, to convert two existing single-family residences into two residential condominium units on a 9,350 square foot lot in the R-2 Zone. The units include one two-bedroom unit (Unit A) and one three-bedroom unit (Unit B). Four parking spaces will be provided within an attached two-car garage and attached one-car garage, and one uncovered space. An existing walkway and deck and proposed patio area would encroach into the required open yard. The discretionary applications required for this project are:

1. A Modification to allow an encroachment into the required open yard area (SBMC § 28.18.060);
2. A Tentative Subdivision Map for a one-lot subdivision to create two (2) residential condominium units (SBMC § 27.07); and
3. A Condominium Conversion Permit to convert two (2) existing residential units to two (2) condominium units (SBMC § 28.88).

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

WHEREAS, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

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

1. Staff Report with Attachments, March 15, 2006.
2. Site Plans

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer:

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

A. **Modification (SBMC §28.92.026)**

The modification to allow encroachments into the open yard area is consistent with the purposes and intent of the Zoning Ordinance and necessary to secure an appropriate improvement on the lot.

B. **The Tentative Map (SBMC §27.07.100)**

The site is physically suitable for the proposed development, the project is consistent with the Zoning Ordinance, and the proposed use is consistent with the vision and density specified 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.

C. **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.
2. The proposed conversion is consistent with the General Plan of the City of Santa Barbara and with the density requirement of its Land Use Element.
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.
4. The overall design (including project amenities) and physical condition of the conversion will result in a project, which is aesthetically attractive, safe, and of quality construction.
5. The units have not been "affordable rental units"; therefore, affordability restrictions do not apply to the project.
6. The project is exempt from the provisions of Section 28.88.130 because the project consists of fewer than four units.
7. 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.
8. The owner has made a reasonable effort to assist those tenants wishing to purchase their units for purposes of minimizing the direct effect on the rental housing market created by relocating such tenants.

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 Owner shall execute (an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property") (a written

instrument), 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, and shall include the following:

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. **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.
4. **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.
5. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on March 15, 2006 is limited to two residential condominiums and the improvements shown on the Tentative Subdivision Map

signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.

- 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. **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.
 2. **Trash Enclosure Provision.** A trash enclosure(s) with an area for recycling containers shall be provided on the Real property and screened from view from surrounding properties and the street.
- C. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project:
1. **Voluntario Street Improvement Plans.** The Owner shall submit building plans for construction of improvements along the subject property road frontage on Voluntario Street. As determined by the Public Works Department, the improvements shall include new, and/or remove and replace to City standards: Uplifted or cracked sidewalk shall be removed and replaced to City standard, apply crack seal to the centerline of the street along entire subject property frontage, underground service utilities, one new City standard curb drain outlet, remove existing driveway curb cut and replace with new 10-foot wide City standard driveway curb cut modified to meet Title 24 requirements, preserve and/or reset any contractor stamps and/or survey monuments, 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.
- D. **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. **Design Review Requirements Included on Plans:** Plan submitted for building permits shall show all design elements, as approved by Architectural Board of Review.
 2. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 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.

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.

3. **Conditions on Plans/Signatures.** The final Staff Hearing Officer Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Parcel Map submitted to Public Works Department for review). 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
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Contractor	Date	License No.
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Architect	Date	License No.
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Engineer	Date	License No.
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E. **Public Works Submittal Prior to Parcel Map Approval and Recordation.** Owner shall submit the following or evidence of completion of the following to the Public Works Department prior to approval of the Parcel Map:

1. **Certificate of Occupancy for Physical Standards for Condominium Conversions.** Owner shall complete all necessary work in order to comply with the Physical Standards for Condominium Conversions specified in SBMC § 28.88.040 of the Municipal Code and receive a final certification of occupancy for such work.
2. **Building Permit Required for Conversion.** Evidence that a conversion permit has been issued for the conversion of the two single-family residences to two condominiums.
3. **Water Rights Assignment.** Owners 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. Said assignment and any related agreements are subject to the review and approval of the City Attorney and the City Public Works Director. The City shall record this agreement in the Office of the County Recorder concurrent with the Parcel Map.
4. **Parcel Map Preparation.** Owners shall submit a Parcel Map to the Public Works Department acceptable for recordation. The Parcel Map shall be prepared by a licensed land surveyor or registered civil engineer in conformance with current Subdivision Map Act and in conformance with the requirements of the City Survey Control Ordinance.

F. **Prior to Certificate of Occupancy on Building Permit for Condominium Conversion.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete or provide evidence of completion of the following:

1. Recordation of Parcel Map.
2. Recordation of the Agreement Relating to Subdivision map Conditions Imposed on Real Property.

3. Recordation of the Private Covenants.
 4. **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.
 5. **Complete Public Improvements.** Public improvements as shown in the improvement/building plans.
- G. **Litigation Indemnification Agreement.** In the event the Staff Hearing Officer approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of 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 (INCLUDING NEW CONDOMINIUMS AND CONDOMINIUM CONVERSIONS) TIME LIMITS:

The Staff Hearing Officer'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.

This motion was passed and adopted on the 15th day of March, 2006 by the Staff Hearing Officer of the City of Santa Barbara.

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

STAFF HEARING OFFICER RESOLUTION No. 007-06
20 S. VOLUNTARIO STREET
MARCH 15, 2006
PAGE 8



3-15-06

Deana McMillion, Administrative/Clerical Supervisor, Date
Staff Hearing Officer Secretary

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