



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 051-07

820 LOWENA DRIVE AND 833 E. ANAPAMU STREET

TENTATIVE SUBDIVISION MAP AND CONDOMINIUM CONVERSION PERMIT

JUNE 20, 2007

APPLICATION OF SOPHIE CALVIN, ARCHITECT FOR ERIC L. PETERSON AND KATHERINE G. HEITZMAN-PETERSON, 820 LOWENA DRIVE & 833 E. ANAPAMU STREET, APN 029-201-002, R-3, LIMITED MULTIPLE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 12 UNITS/ACRE (MST2005-00493)

The project consists of the conversion of an existing duplex to two condominium units. The two-story, 1,389 square foot unit off of Lowena Drive contains three bedrooms and a two-car garage. The single-story, 976 square foot unit off of Anapamu Street contains two bedrooms and a two-car garage on a 5,970 square foot parcel.

The discretionary applications required for this project are:

1. Tentative Subdivision Map for a one-lot subdivision to create two (2) residential condominium units (SBMC§27.07 and 27.13).
2. 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 Act Guidelines Section 15301.

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 or in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, June 13, 2007
2. Site Plans
3. Correspondence received in support of the project:
 - a. Mr. Alex Dugas, 833 East Anapamu Street

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

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 site is physically suitable for the proposed condominium conversion, the project is consistent with the variable density provisions

of the Municipal Code and the General Plan, and the proposed use is consistent with the vision for this neighborhood of the General Plan. The design of the project will not cause substantial environmental damage, and associated improvements 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.
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 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.
7. The owner notified the tenants about the condominium conversion proposal and informed the tenant of their rights pursuant to SBMC §28.88.
8. The project is exempt from the provisions of Section 28.88.130 because the project consists of fewer than five units.

I. Said approval is subject to the following conditions:

A. Recorded Agreement. The following conditions shall be imposed on the use, possession and enjoyment of the Real Property and shall be memorialized in an "*Agreement Relating to Subdivision Map Conditions Imposed on Real Property*" reviewed and approved as to form and content by the City Attorney, Community Development Director and Public Works Director that shall be executed by the Owners concurrent with the Parcel Map, and recorded by the City prior to issuance of a Certificate of Occupancy for the condominium conversion permit. Said agreement(s) 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 watercourses, 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 which will preclude any hazard of 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 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. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.
4. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) in a functioning state and in accordance with the Operations and Maintenance Procedure Plan approved by the Building Official. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat, 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 applicant 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. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on June 20, 2007 is limited to the conversion of two (2) residential units to two (2) condominium units on one lot, including improvements as shown on the Tentative Subdivision Map and architectural plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
6. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:
 - a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways,

common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium units.

- b. **Garages Available for Parking.** A covenant that includes a requirement that all carports be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the carports 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 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.
- 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.

B. **Condominium Conversion Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the plans submitted to the Building and Safety Division for Condominium Conversion/Building permits.

1. **Off-Site Public Street Improvement Plans.** The Owner shall submit building plans for construction of improvements along the property frontage on East Anapamu Street. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: sidewalk, driveway apron modified to meet Title 24 requirements, curbs, gutters, asphalt concrete, crack seal to the centerline of the street along entire subject property frontage, underground service utilities, connection to City/private water and sewer mains, public drainage improvements with supporting drainage calculations and/or hydrology report for installation of (drainage pipe, curb drain outlets, slot/trench drain, drop inlet, detention, erosion protection (provide off-site storm water BMP plan), etc.), preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs, pollution prevention interceptor device, new street trees and tree grates per approval of the City Arborist and provide adequate positive drainage from site. Existing private sewer lateral(s) serving the property shall be repaired before new dwelling(s) is

occupied. Any existing sewer lateral(s) identified to be abandoned, shall be disconnected at the sewer mainline connection. A licensed plumber shall verify if the property requires a backwater valve. If existing lateral already has a backwater valve, then it shall be inspected. The building plans, drainage calculations and hydrology report shall be prepared by a registered civil engineer or licensed architect. Any work in the public right of way requires a public works permit.

2. **Hydrology Calculations.** All drainage conveyance systems shall be designed to convey the 25-year storm event. If additional drainage conveyance structures are needed based on the review of the results of the hydrology calculations, the improvements shall be constructed prior to Certificate of Occupancy, prior to obtaining the Condo Conversion Permit from Building and Safety, and prior to recordation of the Final Map, at the sole expense of the Owner.
3. **Storm Water Quality Control.** The Owner shall apply storm water quality control guidelines to the project per the Public Works Department Construction Project Best Management Practices.
4. **Utilities.** Provide individual water, electricity, and gas meters, and sewer lateral for each residential unit. Service lines for each unit shall be separate until a point five feet (5') outside the building.
5. **Public Improvement Agreement.** "Agreement for Land Development Improvements", and associated securities
6. **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., Final 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
_____ Contractor	_____	Date
_____	_____	License No.
_____ Architect	_____	Date
_____	_____	License No.
_____ Engineer	_____	Date
_____	_____	License No.

- C. **Community Development Requirements Prior to Building or Public Works Permit Application/Issuance.** The following shall be finalized prior to, and/or submitted with, the application for any Building or Public Works permit:
1. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.
- D. **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 Subsection 28.88.100.G as specified below):
1. **Notice of Approval of Conversion.** Owner shall deliver written notice to each tenant household within 15 days of the approval of the conversion. The content of such notice shall include an explanation of any conditions of approval that affect the tenants.
 2. **Notice of Parcel Map.** Owner shall deliver written notice to each tenant household of the approval of the Parcel Map within 10 days of such approval.
 3. **Notice of Department of Real Estate Report.** Owner shall deliver written notice to each tenant household that an application for a public report has been submitted with the California Department of Real Estate within 10 days of the submission of such application.
 4. **Exclusive Right to Purchase (Right of First Refusal).** Prior to issuance of a Certificate of Occupancy on the Conversion Permit, Owner shall provide evidence of the extension of an exclusive right to purchase in accordance with the provisions of Section 66427.1(d) of the Government Code.
 5. **Notice of Vacation of Unit.** Each non-purchasing tenant household that is not in default shall have not less than 180 days from the date of approval of the conversion in which to find substitute housing and to relocate. This 180-day period may be extended in special cases, as specified in Subsection 28.88.100.E of the Municipal Code.
 6. **Tenant Displacement Assistance.** In the 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. Evidence of compliance with this condition shall be submitted prior to the issuance of a Certificate of Compliance for the conversion permit.
- E. **Public Works Submittal Prior to Parcel Map Recordation.** 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 and prior to the issuance on any permits for the project:

1. **Building Permit Required for Conversion.** Provide evidence that a conversion permit has been issued and all work completed for the conversion of the eight units to condominiums.
2. **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 will prepare said agreement for the Owner's signature.
3. **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.
4. **Parcel Required Private Covenants.** The Owner shall submit a copy of the recorded private covenants, reciprocal easement agreement, or similar private agreements required for the project. If the private covenants required pursuant to Section A.7 above have not
5. **Drainage and Water Quality.** Project drainage shall be designed, installed, and maintained such that stormwater runoff from the first inch of rain from any storm event shall be retained and treated onsite in accordance with the City's NPDES Storm Water Management Permit. Runoff should be directed into a passive water treatment method such as a bioswale, landscape feature (planter beds and/or lawns), infiltration trench, etc. Project plans for grading, drainage, stormwater treatment methods, and project development, shall be subject to review and approval by City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants or groundwater pollutants would result from the project. The Owner shall maintain the drainage s
6. **Lowena Drive and East Anapamu Street Public Improvement Plans.** As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: sidewalk, curbs, gutters, crack seal to the centerline of the street along entire subject property frontage and a minimum of 20 feet beyond the limit of all trenching, underground service utilities, preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs, storm drain stenciling, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.
7. **Encroachment Permits.** 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 easement.

8. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
 9. **Removal or Relocation of Public Facilities.** Removal or relocation of any public utilities or structures must be performed by the Owner or by the person or persons having ownership or control thereof.
- F. **Prior to Certificate of Occupancy for the Conversion Permit.** Prior to issuance of the Certificate of Occupancy for the Conversion Permit, the Owner of the Real Property shall complete the following:
1. Recordation of Parcel Map.
 2. Recordation of the Agreement Relating to Subdivision Map Conditions Imposed on Real Property.
 3. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 4. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility service undergrounding and installation of street trees.
 5. **Recordation of Parcel Map and Agreements.** After City Council approval of the Map and Agreements, the Owner shall provide evidence of recordation to the Public Works Department.
- 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.

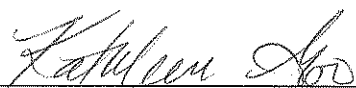
Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and

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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.

This motion was passed and adopted on the 20th day of June, 2007 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.



Kathleen Goo, Staff Hearing Officer Secretary



Date

PLEASE BE ADVISED:

1. 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.
2. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
3. Subsequent to the outcome of any appeal action your next administrative step should be to apply for Architectural Board of Review (ABR) approval and then a building permit.
4. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
5. **NOTICE OF TENTATIVE SUBDIVISION MAP (INCLUDING 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 §27.07.110.