



# City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 056-07

516 AND 518 W. LOS OLIVOS STREET

MODIFICATION, TENTATIVE SUBDIVISION MAP, AND CONDOMINIUM CONVERSION PERMIT

JULY 18, 2007

**APPLICATION OF BRUCE & JASMINE BURKE, OWNERS, 516 & 518 W. LOS OLIVOS STREET, APN 025-160-015, R-3, LIMITED MULTIPLE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 12 UNITS/ACRE (MST2007-00118)**

The project consists of the conversion of two existing detached one-story residential units into two attached condominiums units on an 8,348 square foot lot. The proposal includes remodeling the exteriors of the structures, an 81 square foot addition to the 1,164 square foot unit at the front of the parcel (Unit #1) and a 74 square foot addition to the 1,123 square foot unit at the rear of the parcel (Unit #2). Parking would be provided by one new attached 210 square foot one-car carport and one uncovered space for each unit.

The discretionary applications required for this project are:

1. A Modification to allow alterations to the existing legal non-conforming buildings in the required interior yard setback in the R-3 Zone (SBMC §28.21.060.2; SBMC §28.87.030):
  - a. To allow changes in location and increase in size of windows and doors on the eastern side of both units
  - b. To allow a change in the roof height along the eastern side of Unit #2 within the interior yard setback to meet the Base Flood Elevation requirements.
2. A Tentative Subdivision Map for a one-lot subdivision to create two (2) residential condominium units (SBMC §27.07 and §27.13);
3. A Condominium Conversion Permit to convert two (2) existing residential units to two (2) condominium units (SBMC §28.88); and

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act 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, July 11, 2007.
2. Site Plans
3. Correspondence received in support of the project:

- a. List names, address
4. Correspondence received in opposition to the project:
  - a. List names, address

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

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

Approved the project, making the findings outlined in Section VII of the Staff Report, and subject to the Conditions of Approval in Exhibit A.
- II. Said approval is subject to the following conditions:
  - A. **Recorded Agreement.** Prior to the recordation of the final map for the project on the Real Property, the Owner shall submit an executed "Agreement Relating to Subdivision Map Conditions Imposed on Real Property", prepared by the Engineering Division, an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement 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. **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 July 18, 2007 is limited to the conversion of two (2) residential units to two (2) attached one-story condominium units, two one-car carports and two uncovered parking spaces on one lot, including improvements as shown on the project plans and Tentative Subdivision Map 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) **Carports Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
  - (c) **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
  - (d) **Trash 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. **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 for the project:
1. **Building and Safety Sign-Off.** At the time the Parcel Map is submitted, Owner shall show evidence that the Building and Safety Division has signed off on the building plans in concurrence with Conditions A.5.
  2. **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.
  3. **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.
  4. **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 above have not yet been approved by the Department of Real Estate, a draft of such covenants shall be submitted.
  5. **Drainage Calculations.** The Owner shall submit drainage calculations prepared by a registered civil engineer or licensed architect demonstrating that the new development will not increase runoff amounts above existing conditions for a 25-year storm event. Any increase in runoff shall be retained on-site.
  6. **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 quality pollutants, or groundwater pollutants would result from the project. The Owner shall maintain the drainage system and storm water pollution control methods in a functioning state.
  7. **West Los Olivos Street Public Improvement Plans.** The Owner shall submit building plans for construction of improvements along the property frontage on West Los Olivos Street. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: approximately twenty (20) feet of sidewalk, driveway apron

modified to meet Title 24 requirements, asphalt concrete, 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, connection to City 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.), supply and install one (1) residential standard street light, style to be determined by the Public Works Department and the appropriate design review board, preserve and/or reset survey monuments and contractor stamps, provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

8. **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.
9. **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.

C. **Design Review.** The following items are subject to the review and approval of the Architectural Board of Review (ABR). ABR shall not grant preliminary approval of the project until the following conditions have been satisfied.

1. **Trash Enclosures 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.
2. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Exterior lighting shall be directed toward the ground.
3. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.

D. **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. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building permit.

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

1. **Design Review Requirements.** Plans shall show all design and landscape elements, as approved by the Architectural Board of Review.

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. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.

Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.

5. **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 the applicant 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.

6. **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.
7. **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.

- F. **Public Works Submittal Prior to Parcel Map Approval and 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 recordation 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 Section 28.88.040 of the Municipal Code and receive a final certificate of occupancy for such work.
  2. **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. **Final 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 yet been approved by the Department of Real Estate, a draft of such covenants shall be submitted.
  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 system and storm water pollution control methods in a functioning state.
  6. **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.
- G. **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 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.** Owner shall submit a recorded copy of the private covenants referenced in conditions A.6.
  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.

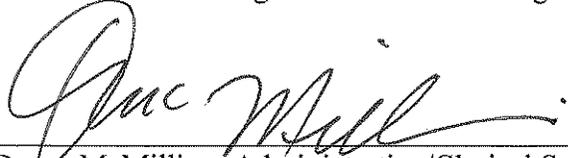
5. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section A have been recorded.
6. **Recordation of Final Map and Agreements.** After City Council approval of the Map and Agreements, the Owner shall provide evidence of recordation to the Public Works Department.

H. **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.

This motion was passed and adopted on the 18th day of July, 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.

  
\_\_\_\_\_  
Deana McMillion, Administrative/Clerical Supervisor for  
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 Historic Landmarks Commission (HLC) 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 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 §27.07.110 or the provisions of the California Subdivision Map Act.