



# City of Santa Barbara California

## STAFF HEARING OFFICER STAFF REPORT

**REPORT DATE:** June 11, 2008  
**AGENDA DATE:** June 18, 2008  
**PROJECT ADDRESS:** 420 W. Gutierrez Street (MST2004-00007)

**TO:** Staff Hearing Officer  
**FROM:** Planning Division, (805) 564-5470  
 Jan Hubbell, AICP, Senior Planner *JMH*  
 Kathleen Kennedy, Associate Planner *KK*

### I. PROJECT DESCRIPTION

The proposal is a request for a three-year extension of the expiration date of the Tentative Subdivision Map approved by the Staff Hearing Officer on June 21, 2006. The project approved by the Staff Hearing Officer involves the conversion of an existing two-story, three-unit apartment building into three condominium units. The existing building consists of one (1) two-bedroom unit, two (2) three-bedroom units and four attached covered parking spaces. Unit A is an existing 825 square foot, two-bedroom unit that would be converted to a 750 square foot, one-bedroom unit with an attached one-car garage. Unit B is an existing 1,293 square foot, three-bedroom unit that would be converted to a 1,374 square foot, two-bedroom unit with an attached two-car tandem garage. Unit C is an existing 1,158 square foot, three-bedroom unit that would be converted to a 1,187 square foot, three-bedroom unit with an attached two-car garage. An exception to the physical standard requirements for condominium conversions, to allow only one parking space for Unit A instead of two, was also approved.

The discretionary applications approved for the project by the Staff Hearing Officer were:

1. Tentative Subdivision Map for a one-lot subdivision to create three residential condominium units (SBMC§27.07); and
2. Condominium Conversion Permit to convert three residential units to three condominium units, including a waiver of the parking requirements (SBMC§28.88).

### II. SITE INFORMATION

Applicant: Laura Hanson Design	Property Owner: Stephen F. LeRoy
Parcel Number: 037-191-007	Lot Area: 7,545 square feet; (8,780 sq. ft. including landscaping easement)
General Plan: Residential, 12 Units/Acre	Zoning: R-4, Hotel-Motel-Multiple Residence
Existing Use: 3 unit apartment building	Proposed Use: 3 condominium units
	Topography: 9%

Adjacent Land Uses:

North: Multi-Family Residential  
South: Multi-Family Residential

East: Multi-Family Residential  
West: Single-Family Residential

### **III. DISCUSSION**

According to SBMC§27.07.110, *Expiration and Extension of Tentative Maps*, the approval or conditional approval of a tentative map shall expire twenty-four (24) months from the date the map was approved or conditionally approved. The subdivider may request an extension of the tentative map approval or condition of approval by written application to the Staff Hearing Officer filed with the Community Development Department before the expiration of the tentative map. The applicant has complied with this requirement. The Staff Hearing Officer may impose new conditions or revise existing conditions. Staff has no recommended changes to the conditions of approval.

An extension or extensions of tentative map approval or conditional approval shall not exceed an aggregate of three (3) years beyond the expiration of the original twenty-four (24) month period. The applicant has requested a three-year extension.

The project received final approval by the Architectural Board of Review on August 20, 2007 and an application for a building permit is currently in the plan check process.

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15305 for the extension of time limits on an approved project where circumstances have not changed.

### **IV. RECOMMENDATION/FINDINGS**

The applicant has worked diligently toward obtaining a building permit for the condominium conversion and has determined that it is not financially feasible to proceed with the recordation of the Parcel Map at this time. The project continues to conform to the City's Zoning and Building Ordinances and policies of the General Plan. Therefore, Staff recommends that the Staff Hearing Officer approve a three-year time extension, to June 21, 2011, for the Tentative Subdivision Map, subject to the original conditions of approval included in Exhibit C.

Exhibits:

- A. Site Plan
- B. Applicant's letter, dated May 30, 2008
- C. Staff Hearing Officer Resolution No. 033-06.





LAURA HANSON DESIGN

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May 30, 2008  
Kathleen Kennedy  
Planning Division  
City of Santa Barbara  
630 Garden Street P.O. Box 1990  
Santa Barbara, CA 93102

Dear Kathleen,

I am writing on behalf of my client, Steve LeRoy, the owner of 420 W. Gutierrez in Santa Barbara. As you know, we have been working for over four years on this project in an effort to convert an existing three unit apartment building into condominiums. The project began because Steve wanted his long-time tenants to be able to purchase their units. Initially we were hoping just to add one parking space to accommodate the parking requirement for condo conversion. However, after many hearings with both the ARB and the Planning Commission, it became clear they wanted much more than just an additional parking space. With your assistance, we persevered and finally were granted the approval for conversion with many architectural and structural improvements.

Now we are almost through Building and Safety plan check and encountered several more unexpected and very large fees, particularly the over \$12,000 fee for separating the water meters and an additional \$2,672 to Public Works for the Final Map. We also got through this whole process without knowing that asbestos testing and possible abatement will be required before getting the building permit. This, in addition to our plan check fees and moving costs we must pay each tenant, have made this project financially impossible. Because of the price increases necessitated by the additional expenditure required for the conversion, as well as changes in the mortgage market, the tenants are no longer in a position to buy their units.

Obviously, we are both very disappointed and frustrated that this project has hit a brick wall. We see no reason why after more than four years years of steady work we still do not have final approval for a very small project. However, we would hate to throw away all of our hard work. A lot can change in three years and maybe in the future we would want to go through the plan check process again to get permits and build the conversion. To keep that possibility alive we are requesting a three year extension of our condominium conversion approval as well as the Tentative Subdivision Map.

You have been most helpful throughout this project. My client and I will be at the hearing on June 18th to hopefully secure this extension. Thank you again for all of your guidance and support throughout this process.

Sincerely yours,

Laura Hanson



# City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 033-06

420 W. GUTIERREZ STREET

TENTATIVE SUBDIVISION MAP AND CONDOMINIUM CONVERSION PERMIT

JUNE 21, 2006

**APPLICATION OF LAURA HANSON DESIGN, AGENT FOR STEPHEN F. LEROY, PROPERTY OWNER, 420 W. GUTIERREZ STREET, APN 037-191-007, R-4: MULTIPLE RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 12 UNITS/ACRE (MST2004-00007)**

The project consists of a proposal to convert an existing two-story, three-unit apartment building into three condominium units. The existing building consists of one (1) two-bedroom unit, two (2) three-bedroom units and four attached covered parking spaces. Unit A is an existing 825 square foot, two-bedroom unit that would be converted to a 750 square foot, one-bedroom unit with an attached one-car garage. Unit B is an existing 1,293 square foot, three-bedroom unit that would be converted to a 1,374 square foot, two-bedroom unit with an attached two-car tandem garage. Unit C is an existing three-bedroom unit that would be increased from 1,158 to 1,187 square feet with an attached two-car garage. An exception to the physical standard requirements for condominium conversions, to allow only one parking space for Unit A instead of two, is requested.

The discretionary applications required for this project are:

1. Tentative Subdivision Map for a one-lot subdivision for the conversion of three residential units into condominium units (SBMC§27.07); and
2. Condominium Conversion Permit to convert three residential units to three condominium units, including a waiver of the parking requirements (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 (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 or in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, June 21, 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. **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 and the density of development, and the proposed use is consistent with the vision for this neighborhood of the General Plan. The design of the project is not likely to cause substantial environmental damage, and associated improvements will not cause serious public health problems or conflict with easements, acquired by the public at large, for access through or use of property within the proposed development.

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 legally non conforming with the density requirement of the Land Use Element of the General Plan.
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.

II. 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 as to form by the City Attorney and as to content by the Community Development Director and/or Public Works Director that shall be recorded by the Owners concurrent with the Parcel Map and prior to issuance of a Certificate of Occupancy for the condominium conversion permit:

1. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales,

natural water courses, conduits and any access road, as appropriate. The Owner is responsible for the adequacy of any project related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health or damage to the Real Property or any adjoining property.

2. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats or trailers shall be stored on the Real Property.
3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan as approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan.
4. **Allowed Development.** The development of the Real Property approved by the Planning Commission on June 21, 2006 is limited to three condominiums and the improvements shown on the set of plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
5. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:
  - (a) **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium parcels.
  - (b) **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
  - (c) **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
  - (d) **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition and which also provides that such covenants may be enforced by the owners' association in accordance with the requirements of the state Subdivision Sales Law.

- 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. **Landscape Plan.** A curb shall be installed between the driveways of Units B and C for the purpose of preventing the parking of vehicles in this landscaped area. In addition, all landscaping on the property shall be drought tolerant.
- C. **Required Prior to Building Permit Issuance.** The following shall be finalized and specified in written form and submitted with the application for a building permit:
1. **Gutierrez Street Public Improvements.** Owner shall submit building plans for construction of improvements along the subject property road frontage on Gutierrez Street. As determined by the Public Works Department, the improvements shall include replacement of City standard sidewalk, City standard driveway apron(s), underground utilities, preserve and/or reset contractor stamp and/or survey monuments, drought-tolerant parkway landscaping, and provide adequate positive drainage. Where tree roots are the cause of the damage, the roots are to be pruned under the direction of the City Arborist. The public improvement/building plans shall be prepared by a registered civil engineer or licensed architect and reviewed by the City Engineer.
  2. **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.
- 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. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and an archaeologist from the most current City Qualified Archaeologists List shall be retained by the applicant. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to,



redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

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

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

2. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out and containers shall be provided on site for that purpose in order to minimize construction-generated waste conveyed to the landfill.
3. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) to help reduce truck traffic on adjacent streets and roadways.
4. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara as shown below:

New Year's Day	January 1 <sup>st</sup> *
Martin Luther King's Birthday	3 <sup>rd</sup> Monday in January
Presidents' Day	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 <sup>th</sup> *
Labor Day	1 <sup>st</sup> Monday in September
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25 <sup>th</sup> *

\*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

Notwithstanding the prohibition above, when, based on required construction type or other appropriate reasons, it is necessary to do work outside the hours

allowed, owner/contractor may request a waiver from the construction hour limitations from the Chief of Building and Safety in accordance with the procedure outlined in SBMC§9.16.015, Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of the intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

5. **Construction Contact Sign.** Immediately after building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number, work hours and site rules to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.
6. **Conditions on Plans/Signatures.** All Planning Commission Conditions of Approval shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

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

- E. **Public Works Submittal Prior to Parcel Map Recordation.** Owners shall submit the following or evidence of completion of the following to the Public Works Department prior to the recordation of the Parcel Map.
  1. **Building Permit Required for Conversion.** Evidence that a conversion permit has been issued for the conversion of the three-unit apartment building to condominiums.
  2. **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. This assignment shall be documented by a written instrument approved as to form by the City Attorney and recorded in the Office of the County Recorder.

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.
- F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy for the condominium conversion permit, the Owners of the Real Property shall submit the following or evidence of completion of the following to the Public Works Department:
1. **Recordation of Parcel Map.**
  2. **Agreement Recordation.** 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, 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 the City Arborist.
  4. **Cross Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
  5. **Complete Public Improvements.** Public improvements constructed as shown on the building plans.
- G. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

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

acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses and costs of that independent defense.

**NOTICE OF TENTATIVE SUBDIVISION MAP (INCLUDING CONDOMINIUM CONVERSIONS) TIME LIMITS:**

The Planning Commission's action approving the Tentative Map shall expire two (2) years from the date of approval, per SBMC Section 28.07.110.a & .b, unless the subdivider requests an extension of time, not to exceed two (2) years beyond the expiration of the original two (2) years expiration date or per the allowances provided in the Subdivision Map Act. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code section 27.07.110 or the provisions of the California Subdivision Map Act.

This motion was passed and adopted on the 21 day of June, 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.

  
\_\_\_\_\_  
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.