



# City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 040-09

825 W VICTORIA STREET AND 1229 GILLESPIE WAY

TENTATIVE SUBDIVISION MAP, CONDOMINIUM CONVERSION PERMIT

MAY 20, 2009

**APPLICATION OF MARUJA CLENSAY OF SUZANNE ELLEDGE PLANNING & PERMITTING SERVICE, AGENT FOR PAIGE PATTERSON WILSON, COLLEEN KELLY AND ALFRED RAMIREZ, 825 WEST VICTORIA STREET & 1229 GILLESPIE WAY, APN 039-141-003, R-2 TWO-FAMILY RESIDENTIAL ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL 12 UNITS/ACRE (MST2008-00549)**

The project consists of a one-lot subdivision for the purposes of converting two existing single-family residences (825 W. Victoria and 1229 Gillespie Streets) to condominiums on an 8,000 square foot lot. Parking is provided in a one-car garage and two uncovered parking spaces. No changes are proposed to the existing site plan or structures.

The discretionary applications required for this project are:

1. A Tentative Subdivision Map for a one-lot subdivision to create two (2) residential condominium units (SBMC 27.07 and 27.13);
2. A Condominium Conversion Permit to convert two (2) existing residential units to two (2) condominium units (SBMC 28.88).

Staff has determined that the project is exempt from further environmental review pursuant to California Environmental Quality Act Guidelines Section 15315, Minor Land Division and 15301 (k), existing facilities.

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

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

1. Staff Report with Attachments, May 13, 2009.
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. **The Tentative Map (SBMC §27.07.100)**

The proposal is to convert two existing legal residential units into condominiums; therefore, 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 development, the project is consistent with the 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 as shown in Sections V and VII.C. of the Staff Report dated May 13, 2009. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems.

**B. Exceptions to the Physical Standards for Condominium Conversion for Private Storage Space and Parking Standards (28.88.040.E. & J.)**

The project includes an enclosed one-car garage for the proposed condominium unit at 1229 Gillespie Way which offsets the need for separate private storage space. Adequate storage space is provided in the large attic space within the garage. Additionally, the economic impact of providing an additional parking space for the proposed condominium at 825 W. Victoria Street is not justified by the benefit of doing so.

**C. Condominium Conversion (SBMC §28.88.120)**

1. **With the approval of the Exception to Parking Standards and Private Storage Space Physical Standards for Condominium Conversions**, all provisions of the Condominium Conversion Ordinance are met and the project will not be detrimental to the health, safety, and general welfare of the community as indicated in the Zoning Consistency chart in Section V and VII.B. of the Staff Report dated May 13, 2009.
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 as discussed in Section VII.C., of the Staff Report dated May 13, 2009.
3. The proposed conversion will conform to the Santa Barbara Municipal Code in effect at the time the application was deemed complete, except as otherwise provided in the Condominium Conversion Ordinance because no modifications are requested and it meets the requirements of the R-2 Zone. No alterations are proposed with this application.
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 "affordable" units have not been used as rental units; therefore, there is not an impact to the loss of affordable rental units from the housing stock. The applicants have provided a written statement that the units have been owner occupied continuously since the affordability covenant was placed on the property title.
6. The Applicant has not engaged in coercive retaliatory action regarding the tenants after the submittal of the first application for City review through the date of approval. The units are currently owner occupied.
7. The units are owner occupied therefore there are no tenants to notify about the condominium conversion proposal and informed the tenant of their rights

pursuant to SBMC §28.88. There is a letter in the file stating that the units are owner occupied.

8. The project is exempt from the provisions of Section 28.88.130 because the project consists of fewer than five units.

II. Said approval is subject to the following conditions:

A. **Recorded Conditions 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*, 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. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on May 20, 2009 is limited to two (2) condominium units 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.
2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
3. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
4. **Recorded Affordability Covenant.** Prior to the approval of the final parcel map by the City Council, the applicants shall sign two separate affordability agreements in a form suitable for recordation, one for each of the two parcels ("Affordability Covenants"). The Affordability Covenants shall each be in a form substantially similar to "Exhibit B" of the affordability covenant recorded in the County Recorder's Office on April 14, 2008 as document 2008-0021424. The initial maximum sale price of each of the two units as stated in each Affordability Covenant shall be One Hundred Ninety-Four Thousand Nine Hundred Dollars (\$194,900). The Affordability Covenants shall expire on February 11, 2012, after which either unit or both units may be sold to any buyers at any price. The City shall record each Affordability Covenant against the appropriate parcel after the final parcel map is recorded and the parcel numbers have been assigned by the County.
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 units.

- b. **Garages and Uncovered Areas Available for Parking.** A covenant that includes a requirement that all garages and designated uncovered parking areas be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garage/parking areas 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.
6. **Residential Permit Parking Program.** Residents shall not participate in the Residential Permit Parking Program.

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 and prior to the issuance of any permits for the project:

1. **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.
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. **Required Private Covenants.** The Owner shall submit a copy of the draft private covenants, reciprocal easement agreement, or similar private agreements required for the project.

4. **Gillespie Way and Victoria Street Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Gillespie Way and Victoria Street. As determined by the Public Works Department, the improvements shall be the following: driveway apron modified to meet Title 24 requirements on the Victoria Street frontage, crack seal to the centerline of the street along entire subject property frontage, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations for installation of drainage pipe and curb drain outlets, preserve and/or reset survey monuments and contractor stamps, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.
  5. **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).
  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.
- C. **Public Works Requirements Prior to Building/Condominium Conversion 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/Condominium Conversion Permit for the project.
1. **Submittal for Recordation of Parcel Map and Agreements.** Owner shall submit application for approval and recordation of the Parcel Map to the Public Works Department.
  2. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans for a new City Standard Driveway Approach, a Public Works Permit shall be issued concurrently with a Building Permit.
- D. **Community Development Requirements with Building/Condominium Conversion Permit or Public Works Permit Application.** The following shall be submitted with the application for any Building/Condominium Conversion Permit or Public Works Permit and finalized prior to issuance of any Building/Condominium Conversion 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.
- E. **Building/Condominium Conversion Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building/Condominium Conversion Permits:

1. **Physical Elements Report.** All elements in the Physical Elements Report that have five or fewer years of life remaining shall be repaired or replaced and shown on the plans.
2. **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. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.
1. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be salvaged and sent to the City Corporation Annex Yard.
  2. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows:
    - a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.
    - b. Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project.

- c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.
3. **Tree Protection.** All trees not indicated for removal on the site plan shall be preserved, protected, and maintained, in accordance with the Tree Protection Plan, if required, and any related Conditions of Approval, as follows.
  - a. **Existing Tree Preservation.** The existing tree(s) shown on the approved Tentative Subdivision Map to be saved shall be preserved and protected and fenced three feet outside the dripline during construction.
4. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
5. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.
6. **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.

- G. **Prior to Certificate of Occupancy for the Condominium Conversion Permit.** Prior to issuance of the Certificate of Occupancy for the Condominium Conversion Permit, the Owner of the Real Property shall complete the following:
1. **Private Covenants, Conditions & Restrictions (CC&R's).** Submit to staff a copy of the recorded Private CC&R's with the recorded instrument stamped on the first page.
  2. **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.
  3. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility service undergrounding and installation of street trees.
  4. **Physical Elements Report Completion.** All elements in the Physical Elements Report that have five or fewer years of life remaining shall be repaired or replaced.
  5. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist if a spa, pool or solar panels are installed at this time or at any point in the future.
  6. **Manholes.** Raise all sewer and water manholes on easement to final finished grade.
  7. **Existing Street Trees.** Submit a letter from a qualified arborist, verifying that the existing street tree(s) have been properly pruned and trimmed.
  8. **Ownership Affordability Provisions Approval.** For all dwelling units subject to affordability conditions obtain from the Community Development Director, or Director's designee in the City's Housing Programs Division, written approval of the following: (a) the Marketing Plan as required by the City's Affordable Housing Policies and Procedures; (b) the initial sales prices and terms of sale (including financing); (c) the eligibility of the initial residents; and (d) the recorded affordability control covenants signed by the initial purchasers which assure continued compliance with the affordability conditions.
  9. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section E have been recorded.
  10. **Parcel Map Approved.** Parcel Map shall be approved by City Council.



11. **Parcel Map Recordation.** The Parcel Map shall not be recorded until the Certificate of Occupancy for the Condominium Conversion Permit has been issued. The following shall be provided prior to Map recordation.
    - a. **Notice of Parcel Map Approval.** Owner shall submit evidence that written notice of approval of the Parcel Map has been provided to each tenant household within 10 days of such approval.
  12. **Removal of Storage.** Items stored in the required setbacks and open yard will be removed prior to issuance of Certificate of Occupancy.
- H. **After Certificate of Occupancy:** The following conditions shall be completed after issuance of the Certificate of Occupancy for the Condominium Conversion Permit has been completed.
1. **Notice of Department of Real Estate Report.** Owner shall submit evidence showing that written notification has been submitted that no tenant household has been affected at the time of an application for a public report has been submitted to the California Department of Real Estate within 10 days of the submission of such application.
- I. **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.

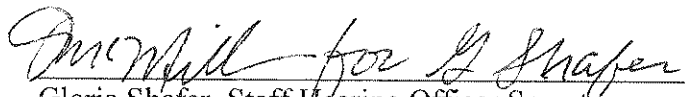
STAFF HEARING OFFICER RESOLUTION NO. 040-09  
825 W VICTORIA STREET AND 1229 GILLESPIE WAY  
MAY 20, 2009  
PAGE 10

**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 three (3) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110.

This motion was passed and adopted on the 20th day of May, 2009 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.

  
Gloria Shafer, Staff Hearing Officer Secretary

6-2-09  
Date