



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 104-09
101 W. CANON PERDIDO STREET
TENTATIVE SUBDIVISION MAP
DECEMBER 16, 2009

**APPLICATION OF MICHAEL MORGAN, AGENT FOR VERIZON CALIFORNIA INC.,
101 W. CANON PERDIDO STREET, APN 037-042-036, C-2, COMMERCIAL ZONE,
GENERAL PLAN DESIGNATION: GENERAL COMMERCE (MST2009-00397)**

The project consists of a proposal to divide a 1.73-acre lot into two lots and to convert an existing building, currently used as a Verizon office/ switching facility, into four commercial condominium units. Proposed Lot 1 would be 1.14 acres and would include the existing commercial building and 25 parking spaces. Proposed Lot 2 would be 0.59 acres and would include 77 parking spaces.

The discretionary application required for this project is a Tentative Subdivision Map to divide one lot into two lots and to create four (4) commercial condominium units on Proposed Lot 1 (SBMC§27.07).

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 opposition of the application, and the following exhibits were presented for the record:

1. Staff Report with Attachments, December 9, 2009.
2. Site Plans
3. Correspondence received in support of the project:
 - a. Paula Westbury, 650 Miramonte Drive, Santa Barbara, Ca

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

Approved the project making the following findings and determinations:

- I. 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 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.
- 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 December 16, 2009 is limited to a lot split, four (4) commercial 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. **Building Permit Requirement.** In conjunction with the issuance of the first building permit on either proposed Lot 1 or proposed Lot 2, following recordation of the Parcel Map, the existing building on proposed Lot 1 shall comply with the handicap accessible entrance requirements for the Chapala Street entryway, in compliance with the California Code of Regulations.
3. **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.
4. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
5. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Historic Landmarks Commission (HLC). Such plan shall not be modified unless prior written approval is obtained from the HLC. 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 HLC, the owner is responsible for its immediate replacement.
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. **Spaces Available for Parking for Proposed Lots 1 and 2.** A covenant that includes a requirement that all required parking spaces be kept open and available for the parking of vehicles in the manner for which the spaces 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. **Gates.** Any gates that have the potential to block access to any designated commercial space shall be locked in the open position during business hours.
- f. **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 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. **Chapala Street Public Improvements.** The Owner shall submit separate C-1 plans for construction of improvements along the property frontage on Chapala Street. Public Works C-1 plans shall be submitted separately from plans submitted for a Building Permit. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following *including improvements outlined in the Chapala Street Guidelines*: grind or saw cut and replace all cracked and/or uplifted sidewalk and damaged curb and gutter, slurry seal the entire width of the street

if any trenching occurs in recent overlay, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations for installation of curb drain outlets, supply and install directional/regulatory traffic control signs per the most recent CA MUTCD during construction, retire all existing street lamps from power poles and replace with Chapala Street style street lights, new street trees and tree grates for all empty tree wells per approval of the City Arborist, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

5. **Canon Perdido, De La Vina & De La Guerra Streets Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Canon Perdido, De la Vina & De la Guerra Streets. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: grind or saw cut and replace all cracked and/or uplifted sidewalk and damaged curb & gutter, driveway apron modified to meet Title 24 requirements as determined by Public Works Inspector, slurry seal the entire width of the street if any trenching occurs in recent overlay, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations and for installation of curb drain outlets, preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs per the most recent CA MUTCD during construction, retire all existing street lamps from power poles and replace with City standard Dome Style street lights, new street trees and tree grates for all empty tree wells per approval of the City Arborist, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.
6. **Land Development Agreement.** The Owner shall submit an executed *Agreement for Land Development Improvements*, 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.
7. **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.
8. **Off-Site Parking and Reciprocal Access Agreements Required.** The Owner shall provide 25 parking spaces on Proposed Lot 1 and 65 parking spaces on Proposed Lot 2 to meet the parking requirement for Proposed Lot 1. An off-site parking agreement shall be prepared consistent with the provisions outlined in SBMC§28.90.001.R. A reciprocal access agreement pertaining to a non-exclusive access easement over and across Lot 1 in favor of Lot 2, as shown on the approved Tentative Map, shall be required.

9. **Santa Barbara County Fire Department, Protective Services Division, Compliance.** Evidence of full compliance with the requirements of the Santa Barbara County Fire Department, Protective Services Division, regarding the onsite Site Mitigation Unit (SMU). The Deed Restriction shall be recorded prior to the recordation of the Final Map.
- C. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.
1. **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, a Public Works Permit shall be issued concurrently with a Building Permit.
 3. **Traffic Control Plan.** A traffic control plan shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines and per the most recent CA MUTCD. Traffic Control Plans are subject to approval by the Public Works Department/Transportation Manager. Construction and storage in the public right-of-way is prohibited during Fiesta in the affected areas (around McKenzie Park, Downtown and Waterfront) and during the Holiday Shopping Season (between Thanksgiving Day and New Years Day) in all commercial shopping areas, including but not limited to Upper State Street, the Mesa shopping area, Downtown and Coast Village Road.
- D. **Community Development Requirements with Building Permit or Public Works Permit Application.** The following shall be submitted with the application for any Building Permit or Public Works Permit and finalized prior to issuance of 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.
- 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, landscape and tree protection elements, as approved by the Historic Landmarks Commission.
 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. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met.
 2. **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.
 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.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.
 4. **Traffic Control Plan.** All elements of the approved Traffic Control Plan shall be carried out by the Contractor.
 5. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa

Barbara, as shown below: (look at longer or shorter hours and Saturday construction, depending on project location)

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Cesar Chavez Day	March 31st*
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

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

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

6. **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.

7. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
 8. **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(s), work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
 9. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
- G. **Prior to Certificate of Occupancy for the Condominium Conversion Permit.** Prior to issuance of the Certificate of Occupancy for the Building Permit, the Owner of the Real Property shall complete the following:
1. **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.
 2. **Complete Public Improvements.** Public improvements, as shown in the improvement and building plans, including utility service undergrounding and installation of street trees.
 3. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
 4. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section A have been recorded.
 5. **Parcel Map Approved.** The Parcel Map shall be approved by City Council.
- H. **Parcel Map Recordation.** The Parcel Map shall not be recorded until such time as the conditions in Sections A, B, and E above are satisfied.
- 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.

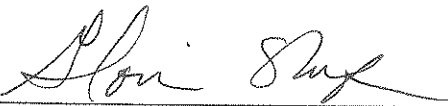
Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification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

NOTICE OF TENTATIVE SUBDIVISION MAP 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 16th day of December, 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

1-7-2010

Date

PLEASE BE ADVISED:

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission by filing a written notice with the Community Development Department by Thursday, January 7, 2010.
2. If the scope of work exceeds the extent described in the Modification request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. 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.
4. 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.
5. **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.
6. **NOTICE OF APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Performance Standard Permit or Modifications shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
 - a. A building permit for the construction authorized by the approval is issued within twenty four months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;
 - b. The approved use has been discontinued, abandoned or unused for a period of six months following the earlier of:
 - i. an Issuance of a Certificate of Occupancy for the use, or;
 - ii. one (1) year from granting the approval.