City of Santa Barbara
California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 027-10
321 E. CANON PERDIDO STREET
MODIFICATION
JUNE 2, 2010

APPLICATION OF JEFF SHELTON ARCHITECT FOR JON THOMAS TERRELL AND SALLY ANNE TERRELL, PROPERTY OWNERS, 321 E. CANON PERDIDO STREET, APN 029-301-019, C-2 COMMERCIAL ZONE, GENERAL PLAN DESIGNATION: COMMERCE: OFFICES AND RESIDENTIAL (MST2009-00220).

The proposed project involves the conversion of an existing four-bedroom two-story residence into two condominiums on a 7,900 square foot parcel adjacent to El Caserio. Unit A will be a 1,671 square foot two-bedroom condominium with a 392 square foot two-car garage and a 281 square foot one-car garage. Unit B will be a 1,289 square foot two-bedroom condominium with a 424 square foot two-car carport. The proposed exterior alterations include enclosing a 145 square foot open deck, constructing 665 square feet of roof deck and a new exterior stairway.

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); and

2. A Condominium Conversion Permit to convert one (1) existing residential unit to two (2) condominium units (SBMC 28.88).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 1530 Existing Facilities, for the division of existing multiple-family residences into common interest ownership.

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

WHEREAS, one person appeared in support of the application, and the following exhibits were presented for the record:

1. Staff Report with Attachments, May 26, 2010.
2. Site Plans
3. Correspondence received in opposition to the project:
   a. Paula Westbury, 650 Miramonte Dr., Santa Barbara, Ca.

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

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

A. **The Tentative Map (SBMC §27.07.100)**

The Tentative Subdivision Map is consistent with the variable density provisions of the Municipal Code and the General Plan of the city of Santa Barbara as described in Section VII.C. of the Staff Report. The existing structure and proposed improvements are physically suitable for the proposed development as described in Section VII.B, and the proposed use is consistent with the vision for this neighborhood of the General Plan as discussed in Section C of the Staff Report. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems.

B. **The New Condominium Development (SBMC §27.13.080)**

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 as indicated in the Zoning Ordinance Consistency chart in Section V of the Staff Report and in Section VII.B., above. The project complies with density requirements. Each unit includes laundry facilities, separate utility metering, adequate unit size and storage space, and the required private outdoor living space.

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., above.

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 C-2 and R-3/R-4 Zones.

4. There are two new decks which are proposed for construction which will provide the private open space for one of the units and will provide the common open yard for the project site. These decks will enhance the existing structures as described in Section VII.B., above. 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 existing residence on site has been owner occupied. Therefore, mitigation of impacts to the City's low and moderate income housing supply is not required and the applicant has not engaged in coercive retaliatory action regarding any tenants after the submittal of the first application for City review through the date of approval.

6. 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. **Design Review.** The project is subject to the review and approval of the Historic Landmarks Commission (HLC). The HLC shall not grant preliminary approval of the project until the following Staff Hearing Officer land use conditions have been satisfied.

1. **Useable Common Open Space.** Adequate usable common open space shall be provided in a location accessible by all units within the development.

2. **Common Open Area.** This project shall provide the required common open area of 225 sq. ft. (minimum dimensions of 15' x 15') by providing a 14' wide deck with an approximately 1.5' wide seat wall.

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.

B. **Recorded Conditions Agreement.** 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 TBD is limited to two (2) condominium units and the improvements shown on the Tentative Subdivision Map, including a 145 square foot second story addition and two new roof decks, 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. **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.

5. **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 in accordance with the Storm Water Management Plan BMP Guidance Manual). Should any of the project's surface or subsurface

drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, 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.

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 in Private CC&Rs for the residential condomiums:

   a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium units.

   b. **Garages Available for Parking.** A covenant that includes a requirement that all 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.

C. **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:

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. **E. Canon Perdido Street Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on E. Canon Perdido Street. As determined by the Public Works Department, the improvements shall the following: *saw-cut and replace all cracked and/or uplifted sidewalk, construct new driveway apron modified to meet Title 24 requirements, crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limit of all trenching (if any), underground service utilities as required by the Municipal Code, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations for installation of 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. **Inclusionary Housing Fee.** Evidence shall be submitted that the Owner has paid the required inclusionary housing fee to the Community Development Department.

D. **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. **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.

2. **Traffic Control Plan.** A traffic control plan shall be submitted, as specified in the 2006 CA MUTCD and the City of Santa Barbara Traffic Control Guidelines. 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.

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. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Historic Landmarks Commission outlined in Section B above.

2. Remove the workbench from the front of the single car garage in order to provide the minimum required parking clearance for Unit A.

3. Remove the wall in the two-car garage that acted as the stairway to the lower level in the existing configuration and construct minimum width stairs straight into the garage for Unit A.

4. Trash Enclosure. The existing accessory trash enclosure will be removed or relocated outside of the setback in accordance with SBMC §28.50.065 (C).

5. **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.

6. **Grading Plan Requirement for Archaeological Resources**. The following information shall be printed on the grading plans:

   If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and 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 Planning Division 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 Planning Division grants authorization.

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. **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. **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.

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. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.

4. **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. **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 building plans, including utility service undergrounding.

3. **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.

4. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided to Building and Safety indicating that the private CC&Rs required in Section E have been recorded. OR Provide a copy of the recorded Private CC&Rs to Building and Safety so the Condominium Conversion Permit can be signed off.

5. **Tenant Displacement Assistance.** Evidence shall be provided that, in the place of the moving expenses specified in SBMC Subsection 28.88.100.g, Owner has provided each tenant household with displacement assistance in accordance with the provisions of Chapter 28.89.

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. **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.

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.

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 2nd day of June, 2010 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

6-9-10
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 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.