



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

**RESOLUTION NO. 045-11
127 W. CANON PERDIDO STREET
TENTATIVE SUBDIVISION MAP
NOVEMBER 16, 2011**

APPLICATION OF JARRETT GORIN, AICP, AGENT FOR 127 WCP, LLC, 127 W. CANON PERDIDO STREET, APN 037-042-002, C-2 ZONE, GENERAL PLAN DESIGNATION: GENERAL COMMERCE AND RESIDENTIAL 12 UNITS PER ACRE (MST2011-00294)

The project consists of a one-lot subdivision to create three commercial condominium units in an existing 12,070 square foot commercial building on an 18,025 square foot lot. The only physical development proposed is the construction of three trash enclosures, one for each commercial condominium.

The discretionary application required for this project is a Tentative Subdivision Map for a one-lot subdivision to create three (3) commercial condominium units (SBMC 27.07).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15315.

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 either in favor or in opposition of the application thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, November 9, 2011.
2. Site Plans
3. Correspondence received in opposition to the project:
 - a. Paula Westbury, Santa Barbara, CA.

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

- I. Approved the subject application making the findings that the Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the city of Santa Barbara because it would create separate ownership of an existing commercial building in an area designated for commercial use. The site is physically suitable for the type and density of development because said development already exists, and the only change is the addition of trash enclosures for the existing commercial units, and the proposed use is consistent with the vision for this neighborhood of the General Plan because it retains an existing building that has been part of the neighborhood fabric for more than fifty years. The design of the project will not cause substantial environmental damage because it proposes only minor improvements on a fully paved lot in the urban core, and associated improvements will not cause serious public health problems because the site is not located in any designated hazard areas and is not identified as a hazardous waste site pursuant to Section 65962.5 of the Government Code.

II. Said approval is subject to the following Conditions of Approval:

A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

1. Obtain all required design review approvals.
2. Pay Land Development Team Recovery Fee.
3. Make application and obtain a Public Works Permit (PBW) for all required public improvements and **complete** said improvements.
4. Make application and obtain Building Permit (BLD) for the construction of all private improvements required to ensure the lot is ready for subdivision, and complete said improvements.
5. Make application and obtain City Council approval of the Parcel Map and Agreement(s) and record said documents.

Details on implementation of these steps are provided throughout the conditions of approval.

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 November 16, 2011 is limited to up to 12,070 square feet of commercial development that may be subdivided into as many as three 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. **Uninterrupted Water Flow.** The Owner shall provide for the continuation of any historic uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
3. **Required Private Covenants, Conditions and Restrictions (CC&Rs).** The Owners shall record in the official records of Santa Barbara County either private covenants, conditions and restrictions, a reciprocal easement agreement, or a similar agreement which, among other things, provides for 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. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.

- c. **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.
 - 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.
- C. **Public Works Submittal For 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 prepares 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 concurrently with the Parcel Map.
 - 4. **Private Driveway Maintenance Agreement.** The Owner shall submit a copy of the draft *Agreement for Maintenance* of the proposed private driveway. Said Agreement is subject to the review and approval of the Public Works Director and City Attorney.
 - 5. **W. Canon Perdido Street Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on W. Canon Perdido Street. As determined by the Public Works Department, the improvements shall include the following to City standards: *saw-cut and replace (E) damaged sidewalk from joint to joint to avoid patchwork-like concrete, and replace or grind those recently installed concrete panels that have been covered with graffiti as directed by the Public Works Inspector, protect (E) Monitoring wells near curb, and slurry seal a minimum of 20 feet beyond the limits of the recent trenching for this project.* Any work in the public right-of-way requires a Public Works Permit.

6. **De la Vina Street Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on De la Vina Street. As determined by the Public Works Department, the improvements shall include the following: *replace (E) driveway approach to current City standards*. Any work in the public right-of-way requires a Public Works Permit.
- D. **Design Review.** The project, including public improvements, is subject to the review and approval of the Architectural Board of Review (ABR). The ABR shall not grant project design approval until the following Staff Hearing Officer land use conditions have been satisfied.
1. **Screened Backflow Device.** Backflow devices are required for all commercial buildings, and shall be provided in a location screened from public view or included in the exterior wall of the building, as approved by the ABR.
 2. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.

Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.
- E. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Please note that these conditions are in addition to standard submittal requirements.
- a. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the appropriate design review board and as outlined in Section D "Design Review," and all elements/specifications shall be implemented on-site.
 - b. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are 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, including demolition and grading.

1. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be carefully salvaged and delivered to the City Corporation Annex Yard on Yanonali Street.
2. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Transportation Manager with a Public Works permit.
3. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: 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. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner 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.

A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

G. Prior to Map Recordation. Prior to recordation of the Map, the Owner of the Real Property shall complete the following:

1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction 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 shall be completed.
3. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided to the Community Development Department, Planning Division that the private CC&Rs required in Section B "Recorded Conditions Agreement" have been recorded.
4. **Evidence of Private Driveway Maintenance Agreement Recordation.** Evidence shall be provided to the Community Development Department, Planning Division that the private driveway *Agreement for Shared Maintenance* required in Section C.4 "Requirements Prior to Permit Issuance" has been recorded.

H. General Conditions.

1. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
2. **Approval Limitations.**
 - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
 - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission / Staff Hearing Officer.
 - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
3. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application or prior to recordation of the Map, whichever comes first.

4. **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 being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

This motion was passed and adopted on the 16th day of November, 2011 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 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. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
5. **NOTICE OF TENTATIVE SUBDIVISION MAP (INCLUDING NEW CONDOMINIUMS AND CONDOMINIUM CONVERSIONS) TIME LIMITS:**

The Staff Hearing Officer action approving the Tentative Map shall expire two (2) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110.