



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 004-14 33 W. VICTORIA STREET TENTATIVE SUBDIVISION MAP JANUARY 22, 2014

APPLICATION OF TRISH ALLEN, AGENT FOR CALM (CHILD ABUSE LISTENING MEDIATION), 33 W. VICTORIA STREET, APN 039-181-001, C-2 (COMMERCIAL) ZONE, GENERAL PLAN DESIGNATION: COMMERCIAL/HIGH RESIDENTIAL (MST2013-00071)

The proposed project consists of one-lot subdivision of an existing 14,990 square foot building to create two commercial condominiums. The existing building includes the Victoria Street Theater, which is operated by The Ensemble Theatre Company, and offices currently occupied by CALM (Child Abuse Listening Mediation). The general boundaries of the two condominiums would place the theater on one parcel and offices for CALM on the other lot. There are no physical improvements proposed because the building was extensively remodeled within the past two years. Additionally, public improvements that provided required accessible access to the building were completed under a separate permit.

The discretionary application required for this project is a Tentative Subdivision Map for a one-lot subdivision to create two (2) commercial condominium units (SBMC Chapter 27.07).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15315 (Minor Land Divisions).

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, January 15, 2014.
2. Site Plans

I. NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer approved the requested Tentative Subdivision Map making the findings and determinations 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, with no physical changes proposed. 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 no physical changes are proposed and the use of the building will not involve any hazardous material. 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. Pay Land Development Team Recovery Fee.
 2. Obtain a “Physical Standards” Building Permit (BLD) to perform all physical improvements necessary to bring the existing development up to condominium standards or submit a revision to the existing Victoria Street Theater building permit (BLD2012-00260).
 3. Obtain a Public Works Permit (PBW) for all required public improvements and complete construction.
 4. The “Physical Standards” Building Permit and Public Works Permit listed above shall be signed off (“finaled”) by the Building Division and/or Public Works Department, as appropriate.
 5. Apply for a “Condominium Conversion” Building Permit (BLD) pursuant to SBMC §28.88.029 and, concurrently, apply for a Public Works Permit (PBW) for Parcel Map review and approval.
 6. Obtain City Council approval of the Parcel Map and Agreement(s) and record said documents concurrently with the Private CC&Rs.
 7. Provide evidence of recordation of the Map and Agreements to Building and Safety to receive “Occupancy” status on the Condominium Conversion Building Permit, which is required before the newly subdivided lots or condominiums can be legally sold.

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 concurrent with the Parcel Map following completion of any physical improvements required to bring the structure up to Condominium Standards, and shall include the following:
1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on January 22, 2014 is limited to a subdivision of a 14,990 square foot parcel to create two commercial condominiums 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. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state. 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 Owner 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.
4. **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, shall provide for the following:
 - a. **Common Area Maintenance.** An express method (e.g. a memorandum of understanding (MOU) agreement or a recorded covenant agreement) 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. The Common Area Maintenance shall include an agreement between the theater and the condominium owners that details how each will maintain the shared fire rated floor (i.e. bathroom floor) and wall assemblies.
 - b. **Exterior Building Maintenance.** The entire building is designated a Structure of Merit (Former First Baptist Church Designated: October 11, 1979 {1910 and 1926}). A covenant shall be provided that describes how the future owners will work together to maintain the overall structural and historic integrity of the building. The covenant shall ensure that the multiple owners clearly understand their responsibilities with respect to compliance with Chapter 22.22 of the Municipal Code (Historic Structures) for any proposed exterior alterations to the building.
 - c. **Solid Waste Offsite Agreement (Trash and Recycling).** Because there is no trash and recycling site on this property, an agreement allowing the shared use of the trash enclosure at 21 W Victoria Street shall be provided. The grantor and grantee must sign an Offsite Trash Agreement that is a legally binding easement for use of a trash enclosure. The following information shall be stated in the Offsite Agreement:
 - (1) **Trash Holding Area.** 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. In order to provide adequate recycling, it must contain one trash dumpster and one recycling dumpster with no multiple trash and recycling carts. 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 Offsite Trash Agreement stating that the green waste will be hauled off site.

- d. **Public Improvement Districts.** A covenant that includes a waiver to protest formation of public improvement districts.
- 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. Requirements Prior to “Physical Standards” Building Permit or Revision (BLD2012-00260) Issuance. The Owner shall submit the following, or evidence of completion of the following for review and approval, or shall incorporate said requirements/notes into the construction plans, as appropriate, prior to the issuance of any Building permit for the project.

1. Community Development Department:

- a. **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
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Contractor	Date	License No.
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Architect	Date	License No.
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Engineer	Date	License No.
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D. Prior to Final Inspection of the Physical Standards Building Permit, or Revision (BLD2012-00260). Prior to signing off or “finaling” the Physical Standards Building Permit, 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 §22.60.290. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.

- E. 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. Public Works Department:
 - a. **Submittal for Recordation of Parcel Map and Agreements.** The Owner shall submit application for approval and recordation of the Parcel Map and Agreements to the Public Works Department.
 - b. **Chapala Street Public Improvements.** The Owner shall submit C-1 public improvement or Public Works plans for construction of improvements along the property frontage on Chapala Street. Plans shall be submitted separately from plans submitted for a Building Permit, and shall be prepared by a licensed civil engineer registered in the State of California. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: 30 linear feet of sidewalk, 30 linear feet of cracked and/or uplifted curb and gutter, modified diagonal access ramp, crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limits of all trenching (including new fire-line connection), connection to and/or relocation of private water and sewer utilities, preserve and/or reset survey monuments, protect and relocate existing contractor stamps to parkway, supply and install directional/regulatory traffic control signs per the CA MUTCD during construction, provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.
 - c. **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 or easements shall be obtained by the Owner.
 2. **Building Permit Required for Conversion.** Provide evidence that a Physical Standards Building Permit has been issued or a revision to the Victoria Street Theater permit was approved and all work completed for the future conversion of the units to condominiums.
 3. **Complete Public Improvements.** Public improvements, as shown in the C-1 public improvement plans, shall be completed.
 4. **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.
 5. **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.

6. **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/Final Map.
- F. Prior to Certificate of Occupancy for the Condominium Conversion Building Permit. The following conditions shall be completed after the Physical Standards Building Permit and Public Works Permit have been signed off, and prior to granting Occupancy of the Condominium Conversion Building Permit:
1. **Parcel Map Recordation.** Provide evidence of recordation of the Map and Agreements to the Public Works and Community Development Departments.
 2. **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.
- G. **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 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 upon submittal for the “Physical Standards” building permit 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.

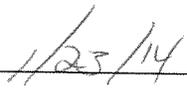
Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions 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 22nd day of January, 2014 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.