



# City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 007-14

115 AND 117 E. VALERIO STREET

TENTATIVE SUBDIVISION MAP AND CONDOMINIUM CONVERSION PERMIT

FEBRUARY 19, 2014

**APPLICATION OF SYNDI SOUTER, AGENT FOR ANNIE MAXWELL AND MATIE MCPETERS, 115 & 117 EAST VALERIO STREET, APN 027-111-012, R-2, TWO FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: MEDIUM DENSITY RESIDENTIAL, (MST2007-00639)**

The project consists of a proposal to convert three existing residential units to condominium units. The 12,500 square foot lot is currently developed with a 1,113 square foot one-story, two-bedroom unit, and a two-story duplex with two, two-bedroom units at 1,493 and 1,468 square feet each. The proposal also includes site and landscaping alterations. There is currently a two-car garage and a one-car garage on site and three new uncovered spaces are proposed for a total of six parking spaces.

The discretionary applications required for this project are:

1. A Tentative Subdivision Map for a one-lot subdivision to create three (3) residential condominium units (SBMC Chapters 27.07 and 27.13); and
2. A Condominium Conversion Permit to convert three (3) existing residential units to three (3) condominium units (SBMC Chapter 28.88).

The Environmental Analyst has determined that this project is Categorically Exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15315, which allows minor land divisions in urbanized areas.

**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 of the application, and one person appeared to speak with questions thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, February 13, 2014.
2. Site Plans

**I. NOW, THEREFORE BE IT RESOLVED** that the City Staff Hearing Officer made the following findings and determinations:

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

The Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara. The site is physically suitable for the proposed development, the project is consistent with the provisions of the Municipal Code and the General Plan and the proposed use is consistent with the vision for this neighborhood of the General Plan as discussed in Section VII of the written staff report. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems.

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

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 Consistency chart in Section V of the written staff report.
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 Sections V and VII of the written staff report.
3. The proposed conversion will conform to the Santa Barbara Municipal Code in effect at the time the application was deemed complete, except as otherwise provided in the Condominium Conversion Ordinance because no modifications are requested and it meets the requirements of the R-2 Zone.
4. The overall design (including project amenities) and physical condition of the conversion will result in a project which is aesthetically attractive, safe, and of quality construction. Several upgrades are proposed to enhance the existing structures as described in Section VII of the written staff report.
5. The units have not been "affordable rental units"; therefore, affordability restrictions do not apply to the project. The applicant provided a rental history summary demonstrating that the units have not been affordable rental units within the last four years.
6. The Applicant has not engaged in coercive retaliatory action regarding the tenants after the submittal of the first application for City review through the date of approval. The units are currently being rented by family members of the owner.
7. The owner notified the tenants about the condominium conversion proposal and informed the tenant of their rights pursuant to SBMC §28.88. There is a letter in the file demonstrating the appropriate tenant notification.
8. The project is exempt from the provisions of Section 28.88.130 because the project consists of fewer than five units.

**C. Condominium Conversion – Parking Exception (SBMC §28.88.040)**

An exception to the parking standards can be made because although the requirement is to provide two covered parking spaces for the single family residence, the applicant is providing one covered space and one uncovered space for each unit. The garage attached to Unit 1 was approved with a bathroom and laundry facilities encroaching into the minimum required dimensions of 20' x 20', thereby creating a one car garage. The applicant is providing three additional off-street parking spaces that will be located at the back of the lot and will not be visible from the street. The option of constructing a carport would reduce the available space in that area, allowing for only two additional spaces. The new uncovered parking area will be permeable which will be an improvement to the overall site aesthetics. Therefore, Staff believes that this project qualifies for an exception to the physical standards for parking requirements because the project includes design features and amenities which offset the project's failure to meet the standard, per SBMC Section 28.99.040.N.

**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. Notify tenants of the Condominium Conversion approval.
  2. Obtain all required design review approvals.
  3. Pay Land Development Team Recovery Fee.
  4. Obtain a "Physical Standards" Building Permit (BLD) to perform all physical improvements necessary to bring the existing development up to condominium standards.
  5. Pay Inclusionary Housing In-Lieu Fee. This may occur any time after project approval by the Staff Hearing Officer and prior to condition II.A.6 below.
  6. The "Physical Standards" Building Permit listed above shall be signed off ("finalized") by the Building Division as appropriate.
  7. Apply for a "Condominium Conversion" Building Permit (BLD) pursuant to SBMC §28.88.029.
  8. Obtain City Council approval of the Parcel Map and Agreement(s) and record said documents concurrently with the Private CC&Rs.
  9. 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 February 19, 2014, is limited to the conversion of three existing residential units to three condominiums units. The 12,500 square foot lot is currently developed with a 1,113 square foot one-story, two-bedroom unit, and a two-story duplex with two (2) two-bedroom units at 1,493 and 1,468 square feet each. The proposal includes site and landscaping alterations; the construction of three new uncovered spaces at the rear of the lot 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. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
4. **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.
5. **Required Private Covenants, Conditions and Restrictions (CC&Rs).** The Owner shall record, concurrently with the Parcel Map, 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 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. **Parking Space Assignment.** Parking spaces within the project shall be allocated with one covered space and one uncovered space being assigned to each unit.
  - d. **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. Such Plan shall not be modified unless prior written approval is obtained from the appropriate design review board. If said landscaping is removed for any reason without approval by the appropriate design review board, the owner is responsible for its immediate replacement.
  - e. **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.

- 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.

**C. Condominium Conversion Ordinance Compliance.** Owner shall comply with the tenant protection provisions of the Condominium Conversion Ordinance (SBMC Chapter 28.88), including adjustments to the tenant assistance specified in SBMC §28.88.100.G, as specified below:

1. **Notice of Approval of Condominium Conversion.** Owner shall provide written notice of the condominium conversion approval to each tenant within 15 days of the approval of said conversion. The content of such notice shall include an explanation of any Condominium Conversion Ordinance requirements and conditions of approval that affect the tenants, including, but not limited to, notice of time to vacate the unit (SBMC §28.88.100.C, E and G.) moving expenses, and tenant's right to purchase (SBMC §28.88.100.B). Evidence of delivery of such notice shall be provided to the Community Development Department, Planning Division prior to submitting plans for design review approval, or prior to issuance of any Building or Public Works permits, whichever comes first.

**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.** The backflow devices for fire sprinklers, pools, spas and/or irrigation systems 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. **Sandstone Wall.** The existing sandstone wall along the front of the property shall be preserved in place as part of the proposal.
3. **Location of Dry Utilities.** Dry utilities (e.g. above-ground cabinets) shall be placed on private property unless deemed infeasible for engineering reasons. If dry utilities must be placed in the public right-of-way, they shall be painted "Malaga Green," and if feasible, they shall be screened as approved by ABR.
4. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (at least 50 percent of the area) shall be provided on the Real Property and screened from view from surrounding properties and the street.

**E. Requirements Prior to "Physical Standards" Building Permit 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 or Public Works permit for the project.

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. **Drainage and Water Quality.** The project is required to comply with Tier 2 of the Storm Water Management Plan (treatment, rate and volume). The Owner shall submit worksheets from the Storm Water BMP Guidance Manual for Post Construction Practices prepared by a registered civil engineer or licensed architect demonstrating that the new development will comply with the City's Storm Water Management Plan. Project plans for grading, drainage, storm water facilities and treatment methods, and project development, shall be subject to review and approval by the City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants (including, but not limited to trash, hydrocarbons, fertilizers, bacteria, etc.), or groundwater pollutants would result from the project.
- c. **Street Trees.** The applicant shall obtain a Public Works Permit for the installation of two street trees at the frontage of the property. The location and construction shall be reviewed by the Public Works Land Development prior to issuance of permit. The trees shall be 15 gallon Afrocarpus (Podocarpus), gracilior, Fern Pine.

2. **Community Development Department:**

- 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. **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.

3. **Evidence of Compliance With Condominium Conversion Ordinance.** Evidence of compliance with the notification requirements identified in Condition of Approval C "Condominium Conversion Ordinance Compliance" shall be provided to the Planning Division.

- a. **Conditions on Plans/Signatures.** The final 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 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:

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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.

**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. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the point of entry to the site that lists the contractor's name and telephone number(s), construction 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.
2. **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.
3. **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.
4. **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 Finaling the Physical Standards Building Permit and/or Public Improvements.** Prior to signing off or “finaling” the Physical Standards Building Permit and/or Public Works Permit for public improvements, 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. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
2. **Physical Elements Report Completion.** All elements identified in the Physical Elements Report as having five or fewer years of life remaining shall be repaired or replaced.
3. **Exclusive Right to Purchase (Right of First Refusal).** Owner shall provide evidence of the extension to each tenant household of an exclusive right to purchase in accordance with provisions of Section 66427.1(d) of the Government Code.
4. **Cross Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.

**H. 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. **Building Permit Required for Conversion.** Provide evidence that a Physical Standards Building Permit has been issued and all work completed for the future conversion of the units to condominiums.

2. **Condominium Conversion Building Permit.** Provide evidence that a Condominium Conversion Building Permit application has been applied for.
3. **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.
4. **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.
5. **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.
6. **Removal or Relocation of Public Facilities.** Removal or relocation of any public utilities or structures must be performed by the Owner or by the person or persons having ownership or control thereof.
7. **Inclusionary Housing Fee.** Submit evidence that the Owner has paid the required inclusionary housing fee of \$43,200.00 (20% reduction for average Unit Size between 1,100 and 1,399 square feet) to the Community Development Department prior to recordation of the Parcel Map.

**I. 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. **Parcel Map Approved.** The Parcel Map shall be approved by City Council.
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. **Notice of Department of Real Estate Report.** Owner shall submit evidence showing that written notification has been submitted to each tenant house hold that an application for a public report has been submitted to the California Department of Real Estate within 10 days of the submission of such application.
5. **Notice of Parcel Map Approval.** Owner shall submit evidence that written notice of approval of the Parcel Map has been provided to each tenant house hold within 10 days of such approval.
6. **Notice To Tenants of Parcel Map Approval.** Owner shall deliver written notice to each tenant household of the approval of the final map within 10 days of such approval. Proof of such notification shall be submitted to the Planning Division.

**J. General Conditions.**

**1. 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.

**2. 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.

**3. 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 19<sup>th</sup> day of February, 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. Subsequent to the outcome of any appeal action your next administrative step should be to apply for **Architectural Board of Review (ABR)** 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 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.