



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 002-05

624 MULBERRY AVENUE

MODIFICATION AND TENTATIVE SUBDIVISION MAP

JANUARY 6, 2005

**APPLICATION OF VADIM HSU, ARCHITECT, AGENT FOR PAUL AND PATRICIA MULLIN, PROPERTY OWNERS, 624 MULBERRY AVENUE, APN 043-221-015, R-3; LIMITED MULTIPLE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 12 UNITS PER ACRE (MST2004-00107)**

The subject project involves a proposal for a new 851 square foot two-bedroom condominium unit, a new 473 square foot attached two-car garage and an attached one-car carport on a 5,000 square foot lot. The existing two-bedroom single-family residence of approximately 690 square feet would be converted to a condominium unit. An uncovered parking space adjacent to the existing single-family residence would remain. The existing 384 square foot garage would be removed.

The discretionary applications required for this project are:

1. Modification to allow the second story of Unit B to encroach into the required rear yard setback (SBMC§28.21.060); and
2. Tentative Subdivision Map for a one-lot subdivision to create two (2) residential condominium units (SBMC§27.07 and 27.13).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301 (demolition of structures), 15303 (new construction of small structures), 15305 (minor modifications), and 15315 (minor land divisions)

**WHEREAS**, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

**WHEREAS**, no one appeared to speak in favor of or in opposition to the application, and the following exhibits were presented for the record:

1. Staff Report with Attachments, December 30, 2004.
2. Site Plans

**NOW, THEREFORE BE IT RESOLVED** that the City Planning Commission:

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

A. **REAR YARD SETBACK MODIFICATIONS (SBMC §28.92.026; 28.21.060.3)**

The modification to allow improvements within the rear yard setback is consistent with

the purpose and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on a lot. The encroachment into the rear yard setback will result in a slight increase in square footage for the new unit at the rear of the property, thus providing an improved floor plan.

**B. TENTATIVE MAP (SBMC §27.07.100)**

The proposed map is consistent with applicable General and specific plans;

*The Tentative Subdivision Map for a one-lot subdivision to create two (2) residential condominium units is consistent with the General Plan designation of 12 units per acre and the requirements of the R-3 zone.*

The design or improvement of the proposed development is consistent with applicable General and specific plans;

*The design of the two (2) residential condominium units is consistent with the General Plan designation of 12 units per acre and the requirements of the R-3 zone.*

The site is physically suitable for the type of development;

*The site is suitable for two residential units along with the required parking and open space areas.*

The site is physically suitable for the proposed density of development;

*The site is suitable for two residential units along with the required parking and open space areas.*

The design of the development or the proposed improvements are not likely to cause substantial environmental damage or to substantially and avoidable injure fish or wildlife or their habitat;

*The project site does not contain sensitive habitats for fish or wildlife.*

The design of the development or the type of improvement is not likely to cause serious public health problems; or

*The two residential units are not likely to cause serious public health problems.*

The design of the development or the type of improvement will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed development.

*No public access easements are affected by the proposed project.*

The design of the development or the type of improvement will not result in the discharge of waste into the existing sewer system in violation of existing water quality control requirements.

*The residential use will not result in the discharge of waste into the existing sewer system in violation of existing water quality control requirements*

**C. RESIDENTIAL CONDOMINIUM DEVELOPMENT (SBMC §27.13.080)**

1. There is compliance with all provisions of the City's Condominium Ordinance;  
*The project complies with the physical standards for condominiums related to parking, private storage space, utility metering, laundry facilities, density, and outdoor living space requirements.*
2. The proposed development is consistent with the General Plan of the City of Santa Barbara; and  
*The two-unit residential condominium development is consistent with the General Plan designation of 12 units per acre.*
3. The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources.  
*The project is an infill residential project proposed in an area where residential development is a permitted use. The project is adequately served by a public street, will provide adequate parking to meet the demands of the project and will not result in traffic impacts. The design has been reviewed by the Architectural Board of Review, which found the architectural design appropriate to the site and the surrounding neighborhood.*

**II. Said approval is subject to the following conditions:**

- A. **Recorded Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the following conditions shall be imposed on the use, possession and enjoyment of the Real Property and shall be recorded by the Owner with the Parcel Map in an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property" which shall be reviewed as to form by the City Attorney and as to content by the Public Works Director and the Community Development Director:
  1. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural water courses, conduits and any access road, as appropriate. The Owner is responsible for the adequacy of any 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.
  2. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats or trailers shall be stored on the Real Property.
  3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan as approved by the Architectural Board of Review (ABR). Such plan shall

not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan.

4. **Water Rights Assignment.** Owner shall assign to the City of Santa Barbara the exclusive right to extract water from under the Real Property.
5. **Allowed Development.** The development of the Real Property approved by the Planning Commission on January 6, 2005 is limited to 2,203 square feet of building area and the improvements shown on the Tentative Subdivision Map and Development Plan signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
6. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:
  - a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium parcels.
  - 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. **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 and which also provides that such covenants may be enforced by the owners' association in accordance with the requirements of the state Subdivision Sales Law.
7. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Lighting shall be directed toward the ground.
8. **Tree Protection.** The existing trees shown on the site plan shall be preserved, protected and maintained. During construction, protection measures shall be provided, including but not limited to fencing of the areas surrounding the trees.

- B. **Design Review.** The following is subject to review and approval by the Architectural Board of Review:
- Restudy access from the rear unit to provide a separate dedicated pedestrian way to Mulberry Avenue.
- C. **Public Works Submittal.** The Owner shall submit the following or evidence of completion of the following to the Public Works Department prior to the recordation of the Parcel Map or issuance of a Building permit or Public Works permit.
1. **Parcel Map.** The Owner shall submit to the Public Works Department, 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. **Street Improvement Plans.** The Owner shall submit building plans for construction of improvements along the subject property road frontage on Mulberry Avenue and the unnamed public alley at the rear of the property. As determined by the Public Works Department, the improvements shall include City standard sidewalk and parkway, driveway apron modified to meet Title 24 requirements on Mulberry Avenue, asphalt concrete along the rear property line the width of the unnamed public alley, underground utilities, preserve and/or reset contractor stamp and/or survey monuments, and provide adequate positive drainage from site. Where tree roots are the cause of the damage, the roots are to be pruned under the direction of the City Arborist. The building plans shall be prepared by a registered civil engineer or licensed architect and reviewed by the City Engineer.
  3. **Best Management Practices.** New residential, commercial, industrial, and transportation development projects, including redevelopment projects, shall address water quality through the use of best management practices (BMPs) as determined by the City. BMPs shall be applied in the following order of priority: site design, source control, and treatment control. Furthermore, projects shall seek to reduce post-development runoff volumes from pre-development volumes through such measures as infiltration, evapo-transpiration, and storage/reuse.
- D. **Building Permit Plan Requirements.** The following requirements shall be incorporated into the construction plans submitted to the Building and Safety Division with applications for building permits. All of these construction requirements shall be carried out in the field and completed prior to the issuance of a Certificate of Occupancy:
1. **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 an archaeologist from the most current City Qualified Archaeologists List shall be retained by the applicant. 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.

2. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out and containers shall be provided on site for that purpose in order to minimize construction-generated waste conveyed to the landfill.
3. **Utilities.** Provide individual water, electricity, gas meter, and building sewer for each residential unit. Service lines for each unit shall be separate until a point five (5) feet outside the building. Utilities from one unit may not pass through another unit pursuant to Santa Barbara Municipal Code Section 27.13.060.
4. **Water-Conserving Fixtures.** All plumbing fixtures shall be water-conserving devices in new construction, pursuant to Santa Barbara Municipal Code Section 14.20.020, Water Saving Devices, subject to the approval of the Water Resources Management Staff.
5. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) to help reduce truck traffic on adjacent streets and roadways.
6. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 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:

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

\*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 at night, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in SBMC § 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.

7. **Construction Contact Sign.** Immediately after building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number, work hours and site rules to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.
8. **Conditions on Plans/Signatures.** All Planning Commission Conditions of Approval shall be provided on a full size drawing sheet as part of the drawing sets. 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.

- E. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, etc.) subject to the review and approval of the Public Works Department.
  2. **Complete Public Improvements.** Public improvements as shown on the building plans.

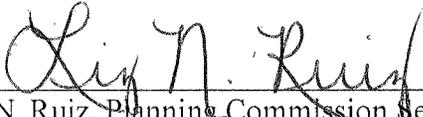
**NOTICE OF TENTATIVE SUBDIVISION MAP (INCLUDING NEW CONDOMINIUMS AND CONDOMINIUM CONVERSIONS) TIME LIMITS:**

The Planning Commission's action approving the Tentative Map shall expire two (2) years from the date of approval, per SBMC Section 28.07.110.a & .b, unless the subdivider requests an extension of time, not to exceed two (2) years beyond the expiration of the original two (2) years expiration date or per the allowances provided in the Subdivision Map Act.

This motion was passed and adopted on the 6th day of January, 2005 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 ABSTAIN: 0 ABSENT: 1

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Planning Commission at its meeting of the above date.

  
 \_\_\_\_\_  
 Liz N. Ruiz, Planning Commission Secretary

4/7/05  
 \_\_\_\_\_  
 Date

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.