



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 043-05

1827 DE LA VINA STREET

TENTATIVE SUBDIVISION MAP, CONDOMINIUM CONVERSION PERMIT,

PRIVATE OUTDOOR LIVING SPACE MODIFICATION

JUNE 9, 2005

**APPLICATION OF ISAAC ROMERO, AGENT FOR SUN PARTNERS, LLC (PROPERTY OWNER), 1827 DE LA VINA STREET, APN: 027-021-010, R-4 HOTEL-MOTEL-MULTIPLE RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL – 12 UNITS PER ACRE (MST2004-00827)**

The proposed project involves the conversion of a triplex currently under construction into three attached condominium units. Six garage parking stalls in garages would serve as the required parking. A Modification is requested to reduce the minimum dimension of the required outdoor living space for Unit A from 10 feet to 6 feet, 8 inches. The discretionary applications required for this project are:

1. Modification of the outdoor living space requirements for Unit A (SBMC §28.21.081);
2. Tentative Subdivision Map for a one-lot subdivision for three (3) residential condominium units (SBMC §27.07 and 27.13); and
3. Condominium Conversion Permit to convert three (3) residential units to three (3) 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 15315 (minor land divisions) and Section 15303 (conversion of small structures).

**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 the application, and no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, June 2, 2005
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. **Outdoor Living Space Modification (SBMC §28.21.081)**

In order for the Planning Commission to approve the requested modification to allow

less than the required open yard area, it must find that the modification is consistent with the purposes and intent of the Zoning Ordinance and that it is necessary to secure an appropriate improvement on a lot, prevent unreasonable hardship, or promote uniformity of improvement.

Although the project would not provide the required minimum dimension of ten feet for Unit A's outdoor living space, the amount of open space provided would satisfy the City's numerical requirement of 140 square feet. In addition, substantial private space would be provided on the lot, in the form of the front porch and front yard for Unit A, thereby providing areas which will serve as open yard area and meeting the intent of the ordinance. Additionally, the Modification would allow for an appropriate improvement on the lot, without requiring a fence or wall to obstruct the original Craftsman bungalow, which would be required to mitigate noise levels if the front yard were used as the required outdoor living space.

**B. Tentative 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 condominium conversion and the density provisions of the Municipal Code and the General Plan, and the proposed use is consistent with the Land Use Element and zoning designation for the site, and the vision for this neighborhood in the General Plan. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems or conflict with easements, acquired by the public at large, for access through or use of property within the proposed development.

**C. New Condominium Development (SBMC §27.13.080)**

1. There is compliance with all provisions of the City's Condominium Ordinance.

*The project complies with density, parking, storage, laundry facilities, separate utility metering, adequate unit size and outdoor living space requirements.*

2. The proposed development is consistent with the General Plan of the City of Santa Barbara.

*The project is consistent with applicable policies of the City's General Plan, including the Housing Element, Conservation Element, Noise Element and Land Use Element.*

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 a primarily residential area where residential 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 measurable traffic impacts. Adequate park facilities exist nearby, and*

*the project would not adversely impact other community resources, such as water, sewer, police, fire, schools and parks. Environmental review of the project determined that no significant environmental effects would result from the project. The design has been reviewed by the City's Architectural Board of Review, which found the architecture, density, and landscaping appropriate.*

**D. 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.
2. 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.
3. 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.
4. The units have not been "affordable rental units" therefore; affordability restrictions do not apply to the project.
5. The project is exempt from the provisions of Section 28.88.130 because the project consists of fewer than four units.
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.

**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 documented in a written instrument titled, "Agreement Relating to Subdivision Map Conditions Imposed on Real Property," which shall be reviewed and approved as to form and content by the City Attorney, Community Development Director and/or Public Works Director, executed by Owner and recorded in the Office of the County Recorder:

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 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.
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. **Approved Development.** The development of the Real Property approved by the Planning Commission on June 9, 2005 is limited to three residential condominiums and the improvements shown on the Tentative Subdivision Map signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
  5. **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.
  6. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Exterior lighting shall be directed toward the ground.
- B. **Design Review.** The following shall be subject to review and approval by the Architectural Board of Review:
- There shall be separate pedestrian path from each unit to the sidewalk.
- C. **Public Works Submittal Prior to Building or Public Works Permit Issuance.** The Owner shall submit the following or evidence of completion of the following to the

Public Works Department prior to the issuance of a Building or Public Works Permit for the project:

1. **Street Improvement Plans.** Improvement plans for construction of improvements on the subject property's De la Vina Street frontage. As determined by the Public Works Department, the improvements shall include City standard driveway and apron, drainage system, underground utilities, preserve and/or reset contractor stamp and/or survey monuments, and provide adequate positive drainage. The public improvement/building plans shall be prepared by a registered civil engineer or licensed architect and reviewed by the City Engineer.
  2. **Contractor Stamp Preservation.** Any existing contractor stamps in the sidewalks, driveway aprons and curbs shall be preserved and protected in place or reset during all construction, to the satisfaction of the Public Works Department.
  3. **Storm Water Quality Control.** The Owner shall apply storm water quality control guidelines to the project per the Public Works Department Construction Project Best Management Practices.
- 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. **Design Review Requirements Included on Plans:** Plan submitted for building permits shall show all design elements, as approved by Architectural Board of Review.
  2. **Pedestrian Path.** A differentiated pedestrian connection from the sidewalk to the front door of each unit shall be incorporated into the plans and reviewed by the Architectural Board of Review.
  3. **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.

4. **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.

5. **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. **Public Works Submittal Prior to Parcel Map Approval and Recordation.** Owner shall submit the following or evidence of completion of the following to the Public Works Department prior to approval of the Parcel Map:

1. **Building Permit Required for Conversion.** Evidence that a conversion permit has been issued for the conversion of the triplex to condominiums.
2. **Water Rights Assignment.** Owners shall assign to the City of Santa Barbara the exclusive right to extract water from under the Real Property. Said assignment and any related agreements are subject to the review and approval of the City Attorney. Said agreement shall be recorded in the Office of the County Recorder.
3. **Parcel Map Preparation.** Owners shall submit a Parcel Map to the Public Works Department acceptable for recordation. The Parcel Map shall be prepared by a licensed land surveyor or registered civil engineer in conformance with current Subdivision Map Act and in conformance with the requirements of the City Survey Control Ordinance.
4. **Public Improvement Agreement.** Owners shall enter into an Agreement for Land Development Improvements with the City and provide associated securities. Pursuant to the provisions of Section 27.09.070 of the Municipal Code, if any public improvement required as a condition of approval of the Tentative Subdivision Map has not been completed and accepted by the City prior to approval of the Parcel Map, Owner shall enter into an agreement with the City by which Owner shall promise to complete all required public improvements.

F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

1. Recordation of Parcel Map.
2. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, etc.) subject to the review and approval of the Public Works Department. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified Arborist.
3. **Complete Public Improvements.** Public improvements as shown in the improvement/building plans.
4. **Utilities Undergrounded.** Place utilities underground from the transmission source and within the Real Property.

- G. **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 (INCLUDING NEW CONDOMINIUMS AND CONDOMINIUM CONVERSIONS) TIME LIMITS:**

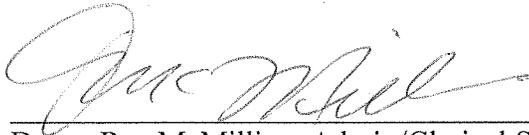
The Planning Commission's action approving the Tentative Map shall expire two (2) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code section 27.07.110 or the provisions of the California Subdivision Map Act.

This motion was passed and adopted on the 9th day of June, 2005 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 1 (Maguire) ABSTAIN: 0 ABSENT: 1 (White)

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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.



Deana Rae McMillion, Admin/Clerical Supervisor

10-20-05

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.