City of Santa Barbara
California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 038-08
15 S. HOPE AVENUE
TENTATIVE SUBDIVISION MAP, LOT AREA MODIFICATION &
FRONT YARD SETBACK MODIFICATION
OCTOBER 16, 2008

APPLICATION OF TRISH ALLEN AGENT FOR JOHNMAN HOLDING LLC, 15 S. HOPE AVENUE, 051-040-058 COMMERCIAL (C-2/SD-2) ZONE, GENERAL PLAN DESIGNATION: GENERAL COMMERCE (MST2006-00682)

The project consists of the demolition of an existing 8,368 square foot single story commercial building and construction of a new three story mixed use building with underground parking. The proposed 28,005 square foot building would be comprised of sixteen residential condominiums and one 1,150 square foot commercial condominium. The height of the building would be approximately 40 feet. Two of the units would be designated as moderate income affordable housing as required by the Inclusionary Housing Ordinance. While not required, an additional unit would be provided and designated as upper middle income.

The project includes a request for two Modifications. The first Modification is to reduce the required 20 foot front setback, in order to allow a portion of the first and second floor, a fountain, a planter and parking spaces. A lot area Modification is also being requested to allow two moderate income affordable units on the lot under the Bonus Density provision.

Access to the site would be provided by a driveway from Hope Avenue to a surface parking lot for the commercial use and also to an underground garage. A secondary driveway that connects to State Street would become an emergency access lane and a pedestrian path for the residents of the development. A total of 40 parking spaces would be provided, which includes five spaces in a surface parking lot. Additionally, six bicycle parking spaces will be provided. A four-foot wide public dedication along the front property line would be provided for additional sidewalk area.

The project includes a 35 foot setback from the top-of-bank of Arroyo Burro Creek, which would also be part of the required 15% common open space. The project includes restoration of Arroyo Burro Creek, which will be consistent with the restoration plan being developed on the adjacent lot on the east side of the bank. A 28" Eucalyptus tree would be removed and the 30" Oak tree adjacent to Arroyo Burro Creek would remain.

The discretionary applications required for this project are:

1. A Modification to allow the encroachment of the building and associated development into the front setback (SBMC §28.21.060);
2. A Modification of the lot area requirements to allow over-density units on a lot in the C-2/SD-3 Zone (SBMC § 28.21.080); and
3. A Tentative Subdivision Map for a one-lot subdivision to create sixteen (16) 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 Guidelines Section 15332, Infill Projects, for the development of a mixed use condominium.

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 one person appeared to speak in opposition thereto, or with concerns, and the following exhibits were presented for the record:

1. Staff Report with Attachments, dated September 25, 2008
2. Site Plans
3. Correspondence received in opposition to, or with concerns about, the project:
   a. Sheila Lodge, Citizens Planning Association
   b. Joseph Rution, Allied Neighborhoods Association
   c. Paula Westbury, Santa Barbara

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

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

A. **Modification (§28.45.009) – Setback**

A modification of yard, lot and floor area regulations where the modification is consistent with the purposes and intent of this Title, and is necessary to secure an appropriate improvement on a lot.

The Modification to the setback would allow a greater setback from the Arroyo Burro Creek and the applicant is providing additional right-of-way for sidewalk improvements. The building would be setback further than the adjacent building to the north and the existing building on the project site. Therefore, this Modification can be supported.

B. **Modification (§28.45.009) – Lot Area Modification**

A modification of yard, lot and floor area regulations where the modification is consistent with the purposes and intent of this Title, and is necessary to construct a housing development which is affordable to very low-, low-, moderate- or middle-income households.

The Modification of the lot area requirement to allow two (2) bonus density units is consistent with the purposes and intent of the Zoning Ordinance to construct housing units which are affordable to middle-income households and is necessary to secure an appropriate improvement on a lot and to meet the requirements of the Inclusionary Housing Ordinance.

C. **The 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 requirements. Each unit includes laundry facilities, separate utility metering, adequate unit size and storage space, and the required private outdoor living space.

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

   The project is consistent with policies of the City's General Plan including the Housing Element, Conservation Element, and Land Use Element. The project will provide infill residential development that is compatible with the surrounding neighborhood.

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 public streets, 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 City's design review board, which found the architecture and site design appropriate.

D. **The 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 development, the project is consistent with the variable density 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. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems.

II. Said approval is subject to the following conditions:

A. Design Review. The following items are subject to the review and approval of the Architectural Board of Review (ABR). The ABR shall not grant preliminary approval of the project until the following conditions have been satisfied.

1. **Tree Removal and Replacement.** All trees to be removed, except fruit trees and street trees approved for removal without replacement by the Parks Department, shall be replaced on-site on a one-for-one basis with minimum 24-inch box sized tree(s) of an appropriate species or like species, in order to maintain the site's visual appearance and reduce impacts resulting from the loss of trees.

2. **Tree Protection Measures.** The landscape plan (and grading plan) shall include the following tree protection measures:

a. **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s).

b. **Oak Tree Protection Measures.** The following provisions shall apply to existing oak trees on site:

(1) Landscaping provided under the oak tree(s) shall be compatible with preservation of the trees as determined by the Architectural Board of Review (ABR). Any temporary irrigation shall be installed in consultation with an arborist.

3. **Useable Common Open Space.** Adequate usable common open space shall be provided in a location accessible by all units within the development. ABR to study the common open space area at the rear of the property with an eye to balancing a useable area, where appropriate, and a resource protection area, where appropriate. The useable areas shall include, but not limited to, sitting areas, a trail area along the creek area and other active uses.

4. **Pedestrian Pathway.** A separate pedestrian pathway shall be provided in the emergency access lane from State Street to the rear of the property. Additionally a stair way with an ADA compliant lift shall provide access to the lots along the northern and eastern property line.

5. **Minimize Visual Effect of Paving.** Where feasible, textured or colored pavement shall be used in paved areas of the project to minimize the visual effect of the expanse of paving, create a pedestrian environment, and provide access for all users.

6. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.

7. **Common Landscape Area.** The applicant will incorporate a common landscaped area into the northern side of the property, where there is a fire lane, that meets Fire Department requirements and that the remaining area is landscaped and usable by residents and incorporates permeable paving which is reviewed by the ABR.

8. **Future Trail Way.** The applicant shall make provisions for a trail along Arroyo Burro Creek. In the event adjacent properties located on Arroyo Burro Creek are redeveloped and/or a trail is developed on these adjacent properties, the trail can connect to the trail on the project site. .

B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, 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 Planning Commission on October 16, 2008 is limited to approximately 28,000 square feet of floor area, comprised of 16 residential condominium units, two of which would be middle income units and one would be upper middle income and one commercial condominium unit of approximately 1,150 square feet of floor area 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.

2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through 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. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan 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. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.

5. **Oak Tree Protection.** The existing 30' oak tree shown on the (Tentative Subdivision Map shall be preserved, protected, and maintained in accordance with the recommendations contained in the habitat restoration report prepared by Watershed Environmental, dated September 3, 2007. A copy of this report shall be attached to the recorded conditions as an exhibit. During construction, protection measures shall be provided, including but not limited to fencing of the area surrounding the tree(s). The following provisions shall apply to any oak trees to remain on the property:

   a. No irrigation systems shall be installed within three feet of the drip line of any oak tree.

   b. The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.

6. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) in a functioning state (and in accordance with the Operations and Maintenance Procedure Plan approved by the Building Official). Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat, 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 applicant 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.

7. **Middle Income Ownership Unit Affordability Restrictions.** The dwelling units designated as units number 5 and 8 on the Tentative Subdivision Map shall be designated as Affordable Middle Income Units and sold only to and occupied only by households who qualify as Middle Income Households as defined in the City's adopted Affordable Housing Policies and Procedures. The maximum sale prices upon initial sale shall not exceed the following:

   Units No. 5, & 8 (2-bedroom units) = $249,900

   The Affordable Units shall be sold and occupied in conformance with the City's adopted Affordable Housing Policies and Procedures. The resale prices of the Affordable Units shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure continued affordability for at least ninety (90) years from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.

8. **Upper Middle Income Ownership Unit Affordability Restrictions.** The dwelling unit designated as unit number 12 on the Tentative Subdivision Map shall be designated as Affordable Upper Middle Income Units and sold only to and occupied only by households who qualify as Upper Middle Income Households as defined in the City's adopted Affordable Housing Policies and Procedures. The maximum sale prices upon initial sale shall not exceed the following:

   Unit No. 12 (2-bedroom units) = $350,100

   The Affordable Units shall be sold and occupied in conformance with the City's adopted Affordable Housing Policies and Procedures. The resale prices of the Affordable Units shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure continued affordability for at least ninety (90) years from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.

9. **Development Rights Restrictions.** The Owner shall not make any use of the area (other than passive use, e.g. walking through the area) designated by the ABR as a resource protection area, and included on the approved Final Tentative Subdivision Map, in order that those portions of the Real Property remain in their natural state. These restrictions include, but are not limited to, the right to develop the restricted portions with any grading, irrigation, buildings, structures,

ornamental landscaping, or utility service lines. The restricted areas shall be shown on the Final Map. The Owner shall continue to be responsible for (i) maintenance of the restricted area, and (ii) compliance with orders of the Fire Department. Any brush clearance shall be performed without the use of earth moving equipment.

10. **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 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. **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. **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&R's stating that the green waste will be hauled off site.

    e. **Gates.** Any gates that have the potential to block access to any designated commercial space shall be locked in the open position during business hours.

    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.

11. **Pesticide or Fertilizer Usage Near Creeks.** The use of pesticides or fertilizer shall be prohibited within the 35 foot setback area, which drains directly into Arroyo Burro Creek.

C. **Public Works Submittal Prior to Final 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 Final Map and prior to the issuance of any permits for the project:

1. **Final Map.** The Owner shall submit to the Public Works Department for approval, a Final Map prepared by a licensed land surveyor or registered Civil Engineer. The Final Map shall conform to the requirements of the City Survey Control Ordinance.

2. **Dedication(s).** Easements as shown on the approved Tentative Subdivision Map and described as follows, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:

   a. A four foot (4') wide surface easement for Public Sidewalk Purposes along the portion of the Real Property fronting Hope Avenue. Owner may reserve the right to develop the area beneath the surface for an underground parking garage or other sub-surface structures as long as such sub-surface structures do not interfere with the development and use of the surface easement for sidewalk purposes.

3. **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 will prepare said agreement for the Owner's signature.

4. **Required Private Covenants.** The Owner shall submit a copy of the recorded private covenants, reciprocal easement agreement, or similar private agreements required for the project. If the private covenants required pursuant to Section B.10 above have not yet been approved by the Department of Real Estate, a draft of such covenants shall be submitted.

5. **Drainage Calculations.** The Owner shall submit drainage calculations prepared by a registered civil engineer or licensed architect demonstrating that the new development will not increase runoff amounts above existing conditions for a 25-year storm event. Any increase in runoff shall be retained on-site.

6. **Drainage and Water Quality.** Project drainage shall be designed, installed, and maintained such that storm water runoff from the first inch of rain from any storm event shall be retained and treated onsite in accordance with the City's NPDES Storm Water Management Permit. Runoff should be directed into a passive water treatment method such as a bioswale, landscape feature (planter beds and/or lawns), infiltration trench, etc. Project plans for grading, drainage, storm water treatment methods, and project development, shall be subject to review and approval by 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 (such as parking lot and driveway runoff), or groundwater pollutants would result from the project. The Owner shall maintain the drainage system and storm water pollution control methods in a functioning state.

7. **Hope Avenue Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Hope Avenue. As determined by the Public Works Department, the improvements shall include the following: 6 -ft wide sidewalk, 5-ft wide parkway, driveway apron modified to meet Title 24 requirements, saw-cut and replace curb and, gutter where damaged, crack seal and slurry seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limit of all trenching, underground service utilities, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations for installation of drainage improvements, preserve and/or reset survey monuments and contractor stamps, new street trees and tree grates per approval of the City Arborist and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

8. **Land Development Agreement.** The Owner shall submit an executed *Agreement for Land Development Improvements,* prepared by the Engineering Division, an Engineer's Estimate, signed, and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement.

9. **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.

D. Public Works Requirements Prior to Building Permit Issuance. The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.

1. **Recordation of Final Map and Agreements.** After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department.

2. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building permit.

3. **Solid Waste Management Plan.** Owner shall submit a solid waste management plan that identifies feasible measures to address the construction and operation of the parking lot, bicycle station and office uses which may include, but are not limited to, the following:

a. Provision of space and/or bins for storage of recyclable materials within the project site. This information shall be shown on the building plans and installed as a part of the proposed project's improvements.

b. Development and implementation of a plan for collection of recyclable materials on a regular basis.

c. Development of source reduction measures, indicating the method and amount of expected reduction.

d. Implementation of a program to purchase recycled materials used in association with the proposed project (paper, newsprint, etc.). This could include requesting suppliers to show recycled material content.

e. Implementation of a monitoring program (quarterly, bi-annually) to attain and maintain a 35-50% minimum participation in recycling efforts.

f. Implementation of a composting landscape waste reduction program.

4. **Traffic Control Plan.** A traffic control plan shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines. Traffic Control Plans are subject to approval by the Public Works Director/Transportation Manager. Construction and storage in the public right-of-way is prohibited during Fiesta in the affected areas (around McKenzie Park, Downtown and Waterfront) and during the Holiday Shopping Season (between Thanksgiving Day and New Years Day) in all commercial shopping areas, including but not limited to Upper State Street, the Mesa shopping area, Downtown and Coast Village Road.

E. **Community Development Requirements Prior to Building or Public Works Permit Application/Issuance.** The following shall be finalized prior to, and/or submitted with, the application for any Building or Public Works permit:

1. **Neighborhood Notification Prior to Construction.** At least twenty (20) days prior to commencement of construction, the contractor shall provide written notice to all property owners, businesses, and residents within 300 feet of the project area. The notice shall contain a description of the project, the construction schedule, including days and hours of construction, the name and phone number of the Contractor(s), site rules and Conditions of Approval pertaining to construction activities and any additional information that will assist the Building Inspectors, Police Officers and the public in addressing problems that may arise during construction. The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person(s) who compiled the mailing list shall be submitted to the Planning Division.

2. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.

3. **Prepare a Structural Crack Survey and Video Reconnaissance.** At least twenty (20) days prior to the issuance of a demolition permit, Owner shall notify owners and occupants of structures within 100 feet of the project site property lines of the opportunity to participate in a structural crack survey and video reconnaissance of their property. Prior to the issuance of a demolition permit, Owner shall prepare a structural crack survey and video reconnaissance of the property of those owners or occupants who express a desire to participate in the survey. The purpose of the survey shall be to document the existing condition of neighboring structures within 100 feet of the project site property line and more than 30 years old. After each major phase of project development (demolition, grading, and construction), a follow-up structural crack survey and video reconnaissance of the property of those owners and occupants who have elected to participate in the survey. Prior to issuance of a certificate of occupancy, Owner shall meet with the owners and occupants who have elected to participate in the survey to determine whether any structural damage has occurred due to demolition, grading or construction at the project site. Owner shall be responsible for the cost of repairing any structural damage caused by project demolition, grading, or construction on properties that have elected to participate in the survey.

4. **Recorded Affordability Covenant.** Submit to the Planning Division a copy of an affordability control covenant that has been approved as to form and content by the City Attorney and Community Development Director, signed by the City and Owner, and recorded against the property in the Office of the County Recorder, which includes the following:

   a. **Initial Sale Price Restrictions.** The dwelling units designated as units number 5 and 8 on the Tentative Subdivision Map shall be designated as Affordable Middle Income Units and sold only to and occupied only by households who qualify as Middle Income Households as defined in the City's adopted Affordable Housing Policies and Procedures. The dwelling units designated as units number 12 on the Tentative Subdivision Map shall be designated as Affordable Upper-Middle Income Units and sold only to and occupied only by households who qualify as Upper-Middle Income Households as defined in the City's adopted Affordable Housing Policies and Procedures. The maximum sale prices upon initial sale shall not exceed the following:

      Units No. 5 & 8 (2-bedroom units) – $249,900

      Unit 12 (2-bedroom unit) = $350,100

   b. **Resale Restrictions.** The Affordable Units shall be sold and occupied in conformance with the City's adopted Affordable Housing Policies and Procedures. The resale prices of the Affordable Units shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure continued affordability for at least ninety (90) years

from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.

5. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment that states that, prior to disturbing any part of the project site for any reason and after the Building permit has been issued, the General Contractor shall schedule a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, the assigned Building Inspector, the Planning Division, the Property Owner, the Agent, the Architect, the Contractor and each subcontractor.

F. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.

1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Architectural Board of Review, outlined in Section A above.

2. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

   If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and 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 Planning Division 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 Planning Division grants authorization.

3. **Post-Construction Erosion Control and Water Quality Plan.** Provide an engineered drainage plan that addresses the existing drainage patterns and leads towards improvement of the quality and rate of water run-off conditions from the site by capturing, infiltrating, and/or treating drainage and preventing erosion. The Owner shall passive water quality methods, such as bioswales, catch basins, or storm drain on the Real Property, or other measures specified in the Erosion Control Plan, to intercept all sediment and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) from the parking lot areas and other improved, hard-surfaced areas prior to discharge into the public storm drain system, including any creeks. All proposed methods shall be reviewed and approved by the Public Works Department and the Building and Safety Division. Maintenance of these facilities shall be provided by the Owner, as outlined in Condition B.6, above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.

4. **Emergency Evacuation Plan.** Provide an emergency evacuation plan subject to approval by the Fire Department.

5. **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.

6. **Bicycle Parking.** In addition to the general requirements for bicycle parking spaces, six (6) bicycle parking spaces shall be provided.

7. **Guest Parking.** Four (4) guest parking space(s) shall be provided. The size and location shall be determined by the Public Works Director.

8. **Project Directory.** A project directory, (including map and parking directional signs) listing all units on-site shall be indicated on the project plans. This directory shall be lit sufficiently for readability for site visitors and placed in a location or locations acceptable to the Fire Department, shall meet current accessibility requirements, and is subject to Sign Committee Approval.

9. **Utilities.** Provide individual water, electricity, and gas meters, and sewer lateral for each residential unit. Service lines for each unit shall be separate until a point five feet (5') outside the building.

10. **Conditions on Plans/Signatures.** The final Planning Commission 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 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.

G. **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.

1. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Building Division, Planning Division, the Property Owner Agent, Architect, Contractor and each Subcontractor.

2. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met.

3. **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.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.

4. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Public Works Director.

5. **Haul Routes.** The haul route(s) for all construction-related trucks with a gross vehicle weight rating (GVWR) of three tons or more, entering or exiting the site, shall be approved by the Transportation Manager.

6. **Traffic Control Plan.** All elements of the approved Traffic Control Plan shall be carried out by the Contractor.

7. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 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 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

*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 outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §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.

8. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows:

   a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.

   b. Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones.

No more than three (3) individual parking permits *without extensions* may be issued for the life of the project.

c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.

9. **Water Sprinkling During Grading.** The following dust control measures shall be required, and shall be accomplished during site grading and transportation of fill materials using recycled water whenever the Public Works Director determines that it is reasonably available:

a. Regular water sprinkling; during clearing, grading, earth moving or excavation.

b. Sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied on-site to prevent dust from leaving the site.

c. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

d. Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement on-site damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph.

10. **Expeditious Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used, as directed by the Building Inspector.

11. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.

12. **Street Sweeping.** The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.

13. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.

14. **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) telephone number(s), 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 feet if in a single family zone.

15. **Tree Protection.** All trees not indicated for removal on the site plan shall be preserved, protected, and maintained, in accordance with the Tree Protection Plan, if required, and any related Conditions of Approval.

a. **Grading Plan Notes.** Notes on the grading plan that specify the following:

(1) No grading shall occur within three feet of the driplines of the existing tree(s).

(2) A qualified Arborist shall be present during any excavation adjacent to or beneath the dripline of the tree(s) which (is) (are) required to be protected.

(3) All excavation within the dripline of the tree(s) shall be done with hand tools.

(4) Any roots encountered shall be cleanly cut and sealed with a tree-seal compound.

(5) No heavy equipment, storage of materials or parking shall take place under the dripline of the tree(s).

(6) Any root pruning and trimming shall be done under the direction of a qualified Arborist.

(7) All trees within 25 feet of proposed construction activity shall be fenced three feet outside the dripline for protection.

b. **Oak Tree Protection Measures.** The following provisions shall apply to existing oak trees on site:

(1) During construction, fencing or protective barriers shall be placed around and three feet outside of the dripline of all oak trees located within 25 feet of development.

(2) No grading shall occur under any oak tree dripline, except as indicated on the drainage and grading plan for removal of the existing parking lot. Grading within the dripline during construction of this area shall be minimized and shall be done with light (one ton or less) rubber-tired equipment or by hand. If use of larger equipment is necessary within the dripline of any oak, it shall only be operated under the supervision and direction of a qualified Arborist.

(3) A qualified Arborist shall be present during any grading or excavation adjacent to or beneath the dripline of any oak tree. Any roots encountered shall be cleanly cut and sealed with a tree-seal compound.

Any thinning or root pruning and trimming shall be done under the direction of a qualified Arborist.

(4) No storage of heavy equipment or materials, or parking shall take place within five (5) feet of the dripline of any oak tree.

16. **Existing Tree Preservation.** The existing tree(s) shown on the approved Tentative Subdivision Map to be saved shall be preserved and protected and fenced three feet outside the dripline during construction.

17. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.

18. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.

19. **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 the applicant 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.

H. 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 *caused by construction* (curbs, gutters, sidewalks, roadways, etc.) 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 under-grounding and installation of street trees.

3. **Fire Hydrant Replacement.** Replace existing nonconforming type fire hydrant(s) with commercial-type hydrant(s) described in Standard Detail 6-003.1 Paragraph 2 of the Public Works Department Standard Details.

4. **Manholes.** Raise all sewer and water manholes on easement to final finished grade if applicable.

5. **Noise Measurements.** Submit a final report from a licensed acoustical engineer, verifying that interior and exterior living area noise levels are within acceptable levels as specified in the Noise Element. In the event the noise is not mitigated to acceptable levels, additional mitigation measures shall be recommended by the noise specialist and implemented subject to the review and approval of the Building and Safety Division and the Architectural Board of Review (ABR).

6. **Existing Street Trees.** Submit a letter from a qualified arborist, verifying that the existing street tree(s) have been properly pruned and trimmed.

7. **Ownership Affordability Provisions Approval.** For all dwelling units subject to affordability conditions ("Affordable Units") obtain from the Community Development Director, or Director's designee in the City's Housing Programs Division, written approval of the following: (a) the Marketing Plan as required by the City's Affordable Housing Policies and Procedures; (b) the initial sales prices and terms of sale (including financing); (c) the eligibility of the initial purchasers; and (d) for each Affordable Unit, the recorded affordability control covenant signed by the City, the Owner (seller) and the initial purchasers of such Affordable Unit which assures continued compliance with the affordability conditions for a period of at least 90 years.

8. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section B have been recorded.

I. **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 APPROVAL TIME LIMITS:

The Planning Commission's action approving the Conditional Use Permit, Modification, Performance Standard Permit, or Variance shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued within and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
3. The approval has not been discontinued, abandoned or unused for a period of six months following the earlier of (a) an Issuance of a Certificate of Occupancy for the use, or (b) two (2) years from granting the approval.

If multiple discretionary applications are approved for the same project, the expiration date of all discretionary approvals shall correspond with the longest expiration date specified by any of the discretionary applications, unless such extension would conflict with state or federal law. The expiration date of all approvals shall be measured from date of the final action of the City on the application, unless otherwise specified by state or federal law.

NOTICE OF TENTATIVE SUBDIVISION MAP 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 §27.07.110.

This motion was passed and adopted on the 16th day of October, 2008 by the Planning Commission of the city of Santa Barbara, by the following vote:

AYES: 7 NOES: 0 ABSTAIN: 0 ABSENT: 0

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.

Julie Rodriguez, Planning Commission Secretary

November 13, 2008
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.