

DRAFT

City of Santa Barbara

Planning Division

PLANNING COMMISSION MINUTES

December 11, 2008

CALL TO ORDER:

Chair George C. Myers called the meeting to order at 1:01 P.M.

ROLL CALL:

Present:

Chair George C. Myers

Charmaine Jacobs, John Jostes, Addison S. Thompson and Harwood A. White, Jr.

Commissioner Bruce Bartlett arrived at 1:04 P.M.

Absent:

Vice-Chair Stella Larson

STAFF PRESENT:

Danny Kato, Senior Planner

N. Scott Vincent, Assistant City Attorney

Steve Foley, Supervising Transportation Planner

Dan Gullett, Associate Planner

Chelsey Swanson, Associate Transportation Planner

Julie Rodriguez, Planning Commission Secretary

Chair Myers thanked the

I. PRELIMINARY MATTERS:

1. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

None.

2. Announcements and appeals.

1. Danny Kato, Senior Planner, reviewed the Planning Commission Tentative Calendar, including the potential cancellation of the January 15, 2008 Planning Commission meeting.

2. Mr. Kato reviewed the Staff Hearing Officer meeting calendar.
3. Comments from members of the public pertaining to items not on this agenda.
Chair Myers opened the public hearing at 1:08 P.M. and, with no one wishing to speak, closed the hearing.

II. CONCEPT REVIEW:

ACTUAL TIME: 1:08 P.M.

RECUSALS: To avoid any actual or perceived conflict of interest, Commissioner Jacobs recused herself from hearing this item due to her husband working for the same law firm representing the applicant.

APPLICATION OF STEVE FORT, AGENT FOR WEBSTER PROPERTIES L.P., 4151 FOOTHILL ROAD AND 675 CIENEGUITAS ROAD (OWNER: BRITSCGII, LLC), APNS 059-160-017, -021 AND -023, COUNTY ZONING: SC, COUNTY GENERAL PLAN DESIGNATION: NEIGHBORHOOD COMMERCIAL (MST2008-00496)

The proposed project includes annexation of a 4.13 acre site located within the City's Sphere of influence at the southwest corner of Foothill Road and Cieneguitas Road. The existing development on the site includes a 1,750 square foot abandoned gas station and garage. The proposed project includes construction of a new two and three story 71,009 square foot office building to be used as an educational institution. Both Fielding Graduate Institute and Antioch University are interested in leasing portions of the proposed building for use as approximately 30% office space and 70% classroom space. 199 parking spaces are proposed, including seven parking spaces on the 0.23 acre Foothill Pet Hospital lot (APN 059-160-021). The Foothill Pet Hospital lot would also be annexed as part of the project.

Annexation of the subject lots was initiated by City Council on March 18, 2003 with a pre-General Plan designation of General Commerce and pre-zoning designations of C-1 (Limited Commercial) and SD-2 (Upper State Street Area Overlay). At that time, the Council also granted the project a preliminary designation as an Economic Development project.

The purpose of the concept review is to allow the Planning Commission an opportunity to review the proposed project design at a conceptual level and provide the applicant and staff with feedback and direction regarding the proposed land use and design. **No formal action on the development proposal will be taken at the concept review**, nor will any determination be made regarding the environmental review of the project.

As proposed, the development proposal will require the following discretionary applications:

1. Annexation of the subject properties (APNs 059-160-023, 059-160-017 and 059-160-021) to the City of Santa Barbara and detachment of the properties from Goleta Water District, Goleta Sanitary District, and County Fire Protection District (SBMC Chapter 28.96);
2. General Plan Amendment to add the subject properties to the City's General Plan Map with a General Commerce designation and text amendments as appropriate;
3. Zoning Map Amendment to include the subject properties with C-1 (Limited Commercial) and S-D-2 (Upper State Street Area Overlay) designations;
4. Development Plan to allow 71,009 sf of new non-residential development utilizing floor area from the Vacant Property, Small Addition and, Economic Development categories (SBMC §28.87.300);
5. Conditional Use Permit for an Educational Institution in the C-1 Zone (SBMC §28.94.030.C);
6. Design Review by the Architectural Board of Review (SBMC §22.68.040);
7. Final Economic Development Designation by the City Council for 26,202 sf from the Economic Development Category for an educational institution; and
8. Annexation Map, to be coordinated with LAFCO.

Case Planner: Dan Gullett, Associate Planner
Email: DGullett@SantaBarbaraCA.gov

Dan Gullett, Associate Planner, gave the Staff presentation.

Staff clarified for the Planning Commission the reasoning for the pre-zoning designation of C-1.

Michael Towbes, Webster Properties, LLC, gave the applicant presentation, joined by, Ed Lenvik, Lenvik & Minor Architects.

In response to the Commission's questions, Mr. Towbes indicated that the market studies were received the week of the hearing, and the last communication with Exxon where Exxon expressed unwillingness to modify the property restrictions was in July 2008. He also discussed other retail uses that were considered for the C-1 Zone, and indicated that he does not believe this to be a great location for a retail center. He believes that the demand is for larger office spaces. Mr. Towbes stated that LAFCO would like the property annexed to the City so that Highway 154 would become the City boundary. He clarified that Mobil's deed restrictions include well water, and prohibitions on non-vocational schools, which do not apply to universities. Currently water is provided by the Goleta Water district. Mr. Towbes clarified that the Mobil station building was subsequently occupied by a small health food store, for a short time, and is currently vacant.

Mr. Lenvik responded to the Planning Commission's inquiry about the deed restrictions on basements and underground parking.

Chair Myers opened the public hearing at 1:49 P.M.

William La.Voie, Santa Barbara County Resident, stated site setbacks were important to making a project fit in with the neighborhood and a new traffic study is needed. He expressed concerns about parking and circulation on Foothill Road associated with La Colina Junior High School. He also stated concerns regarding traffic generation and parking demand of a classroom use on the site. Cited concerns with size, bulk, and scale, accidents in the area, and recommended no driveway exit on Foothill Road. Agreed with Architectural Board of Review's findings that Hispanic architecture is not appropriate on this site.

With no one else wishing to speak, the public hearing was closed at 1:55 P.M.

The Commissioners made the following comments:

1. One Commissioner opined that an office building of some type is the only viable option for the property considering the deed restrictions and understood why a neighborhood market would not be viable due to the lack of density in the area. Another Commissioner was disappointed that residential use could not have been considered. Supports more integration of the commercial with the residential use of the neighborhood.
2. Three Commissioners felt that the traffic impacts would be significant and one recommended against any driveway access in or out of Foothill Road. Recommended driveway access of Cieneguitas Road only. One Commissioner recommended a new traffic study.
3. Scenic views from Highway 154 should be taken into consideration in the project design.
4. Recommended consideration for the on-site retention of storm water runoff and drainage. Agreed with staff-recommended public improvements
5. One Commissioner would like to see more green space and was concerned with the third story space and bulk; preferred a two story configuration and less parking.
6. The consensus of the Commission was that neighborhood compatibility is important. The Commission suggested more, smaller buildings, perhaps clustered, more fenestration, lower height, and breaking up the massing.
7. One Commissioner was concerned with the amount of parking and the parking design; would like to see less parking rather than more. Would like to see more usable open space to help fit in with the neighborhood created particularly for the

property users. Identified the corner on Cieneguitas Road and Foothill Road as a good start in providing open space and suggested that it be made more functional. Another Commission suggested providing parking under the building to allow for usable park-like open space.

8. One Commissioner felt that this proposal reflected thinking from the last decade and identified the site as a gateway to Santa Barbara; was disappointed that the proposal does not feel like you are entering Santa Barbara. Did not see that this was the correct site for what was being proposed. Recommended performing a LEED site analysis and incorporating more sustainable design.
9. Two Commissioners felt that this project deviated from the direction that Plan Santa Barbara was moving toward. This project would not add new business to Santa Barbara, but only relocate two existing businesses from the downtown area to the suburbs. Acknowledged that there would not be control over what tenants would occupy the buildings. Recommended a more campus-like setting with consideration of usable open space. Agreed with the prior concept review minutes and recommended that the prior comments be addressed.
10. One Commissioner appreciated the use of solar panels.
11. One Commissioner was not convinced that a neighborhood market was not a viable option considering the recent growth in the area and the proposed use, and suggested reconsideration of a neighborhood market.

Chelsey Swanson, Associate Transportation Planner, responded to the Commission's questions regarding the 2002 traffic study and cumulative traffic impacts on the two County intersections and the intersection of Cieneguitas and Foothill Roads. Intersections identified in the 2002 study and additional intersections could be impacted by the project, but impacts would not be known until a new study is conducted.

Mr. Towbes acknowledged that the new traffic signal being put on the corner of Cieneguitas Road and Foothill Road will make a significant difference in improving circulation. Stated that a new Traffic Study will be conducted. Stated that underground parking could not be justified economically and expressed concern with seeking permission from Exxon to provide underground parking. Stated challenges with providing smaller buildings including additional requirements for elevators and bathrooms.

Mr. Towbes thanked the Commission for the dialogue and comments shared.

Mr. Kato asked the Commission to clarify what would be needed for more neighborhood compatibility. Two Commissioners stated that a lower massing and sublevel parking would help make the project more compatible.

Two Commissioners suggested taking the most intense part of the development and moving it close to Foothill and Highway 154 to distance it from existing residential development and open up the site. Also, suggested orienting the buildings to take full advantage of the southern exposure in the northwest corner of the site. Still would like to see smaller buildings and perhaps more buildings. Suggested working with elevation change to provide tuck-under parking and consider double stack parking or parking under the buildings.

Chair Myers called for a recess at 2:33 P.M. and reconvened at 2:42 P.M.

III. ADMINISTRATIVE AGENDA

ACTUAL TIME: 2:42 P.M.

1. Committee and Liaison Reports.
 1. None were given.
2. Review of the decisions of the Staff Hearing Officer in accordance with SBMC §28.92.026.

Commissioner White reported on the Staff Hearing Officer meeting held on December 4, 2008. Four items were heard with one being continued.
3. Action on the review and consideration of the following Planning Commission Resolutions and Minutes:
 - a. Draft Minutes of November 6, 2008
 - b. Draft Minutes of November 13, 2008
 - c. Resolution 039-08
Recommendations to City Council on General Plan Framework: Revised Draft Policy Preferences Report
 - d. Draft Minutes of November 20, 2008
 - e. Resolution 040-08
1242 Shoreline Drive

MOTION: Jostes/Thompson Approve the minutes and resolutions as edited.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: As noted. Absent: 2 (Jacobs, Larson)

Commissioner Myers abstained from the minutes of November 13, 2008

Commissioner Jostes abstained from the minutes of November 20, 2008

VII. ADJOURNMENT

Chair Myers adjourned the meeting at 2:52 P.M.

Submitted by,

Julie Rodriguez, Planning Commission Secretary

DRAFT

City of Santa Barbara Planning Division

PLANNING COMMISSION MINUTES

December 18, 2008

CALL TO ORDER:

Chair George C. Myers called the meeting to order at 1:02 P.M.

ROLL CALL:

Present:

Chair George C. Myers

Vice-Chair Stella Larson

Commissioners Bruce Bartlett, Charmaine Jacobs, John Jostes, Addison S. Thompson and Harwood A. White, Jr.

STAFF PRESENT:

Danny Kato, Senior Planner

N. Scott Vincent, Assistant City Attorney

Stacey Wilson, Associate Transportation Planner

Suzanne Johnston, Assistant Planner

Gabriela Feliciano, Commission Secretary

STAFF ABSENT:

Julie Rodriguez, Planning Commission Secretary

I. PRELIMINARY MATTERS:

- A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

None.

- B. Announcements and appeals.

Danny Kato, Senior Planner, announced that the Ethics certificate from four Commissioners was needed to be turned in by December 28.

- C. Comments from members of the public pertaining to items not on this agenda.

Chair Myers opened the public hearing at 1:04 P.M. and, with no one wishing to speak, it was closed.

II. NEW ITEM:

ACTUAL TIME: 1:04 P.M.

APPLICATION OF CEARNAL ANDRULATIS, LLP, ARCHITECT FOR 1704 STATE STREET, LLC, 1700 & 1704 STATE STREET, APNs 027-102-016 & -017, C-2/R-3 ZONES, GENERAL PLAN DESIGNATION: OFFICE & RESIDENTIAL (MST2007-00494)

The proposal consists of the demolition of a 992 square foot commercial building and the construction of a 5,395 square foot commercial addition to an existing 11,971 square foot, two-story commercial building located on the corner of State and Valerio Streets. The project site is comprised of two parcels, 027-102-016 (Parcel 1) and 027-102-017 (Parcel 2). The existing two-story building straddles the common property line between parcels. Pursuant to SBMC §27.30, the applicant has submitted an application for a Voluntary Lot Merger (under PBW2008-01218) to create one single parcel that will contain all structures and parking improvements necessary for the development. The northern lot has split zoning with the front portion being zoned C-2 Commercial and the rear portion R-3 Multi-Family Residential.

The discretionary applications required for this project are:

1. A Modification to reduce the amount of parking from 54 spaces required to 41 spaces is being requested (SBMC §28.90.100);
2. A Conditional Use Permit (SBMC§28.94.030.H) will be required for the portion of the existing parking lot that is located within the residentially zoned area of the project site to be used for the non-residential project; and
3. A Development Plan to allow the construction of 5,395 square feet one-story nonresidential addition that includes a demolition credit of 992 square feet and allocation of 4,403 square feet from the Small and Minor addition categories under Measure E (SBMC §28.87.300); The square footage would be allocated from the Small and Minor Additions categories under Measure E for each of the two lots involved in the project.

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15301.

Case Planner: Suzanne Johnston, Assistant Planner
Email: SJohnston@SantaBarbaraCA.gov

Suzanne Johnston, Assistant Planner, gave the Staff presentation. Ms. Johnston acknowledged receipt of two letters from the public expressing concerns.

Brian Cearnal, Architect, gave the applicant presentation and introduced Doctors Tom Allen, Michael Fisher and Darol Joseff.

Mr. Cearnal and Dr. Allen answered Planning Commission questions about:

1. If there is a change of use in the future or the property ownership changes, a condition of approval states that any change from an artificial kidney center would require the Community Development Director to decide whether the project would return to the Planning Commission with a parking proposal.
2. The explosive rate of growth in childhood obesity has ultimately resulted in an increase in the chronic kidney failure population, requiring an expansion in the use of this facility.
3. With regard to compatibility of the parking with the neighbors, the use will remain the same. A minority of the patients drive to the facility; and the majority arrives in multi-passenger vans or are dropped-off by their families.
4. The parking in the back is submerged in comparison to the residential behind it, which has a higher elevation, in addition to the retaining wall and a hedge.
5. The current staffing is about one employee to every four patients. It would increase with the new facility to four or five additional clinical care staff members.
6. The Valerio Street side would not be used for pedestrian access, but there would be more landscaping to enhance the pedestrian experience.
7. An employee lunch room is already in existence on the second floor in the main building.
8. The State Street side would not have windows, but would rather become a landscape backdrop.
9. Storm Water Management Plan (SWMP) measures could be considered to handle the runoff on the side of the building that is not part of the proposed addition and improvements.
10. The cobra head lighting is granite base.

Chair Myers opened the public hearing at 1:36 P.M.

Mick Kronman, former Kidney Center patient, spoke in support of the project.

With no one else wishing to speak, the public hearing was closed at 1:39 P.M.

The Commissioners made the following comments:

1. Agreed with the parking study's conclusion with respect to the parking demands versus the supply.
2. The scale of the expansion is compatible with the neighbors. The project's sensitivity to the site and community surrounding it is appreciated.
3. The improved landscaping is a positive offset to the slight reduction in landscaping. The Valerio Street experience will be much improved.
4. The cobra head armature should be replaced.
5. The elimination of the driveway cuts and the sidewalk improvements are appreciated. It is of great benefit to get rid of the vestiges of a drive-through facility.

6. To make the stretch of paving on the State Street streetscape welcoming to pedestrians and bus riders, it was suggested that: a) the door entry should always stay open during business hours; and b) the bus stop should be enhanced by incorporating into the landscaping and the "blank" wall facing State Street that is in keeping with the Urban Design Guidelines.
7. The request for a parking modification is reasonable. The Conditional Use Permit for parking is in keeping with other approved projects.
8. This facility represents one of the community's highest priority projects.
9. The wall along State Street should remain simple.
10. The project is to be under the Historic Landmarks Commission's purview, not the Architectural Board of Review.
11. The lighting for the parking lot should be decorative in nature and considerate of the neighbors.
12. The landscaping should be as robust as possible.

Stacey Wilson answered additional Planning Commission questions about:

Staff would prefer not to have certain parking spaces designated for employees only. There are a number of other options for getting to the site.

STRAW VOTE:

How many Commissioners would agree to designating parking spaces 11 through 19 to be numbered for employee parking? 1/6. (Jacobs in favor.)

MOTION: Jacobs/White

Assigned Resolution No. 041-08

Approved the project, making the findings as outlined in the Staff Report, and subject to the Conditions of Approval in Exhibit A; the design review purview shall be under the Historic Landmarks Commission rather than the Architectural Board of Review; with the following revisions to the Conditions of Approval: **1)** The bus stop shall be integrated into the landscaping and the design of the building on State Street; and shall be in keeping with the Urban Design Guidelines for bus stops (Conditions A.3. C.4. and C.8.); **2)** Supply and install commercial standard street light(s), style to be determined by the Public Works Department and the appropriate design review board, coordinate with City staff to retire light standard on existing signal standard (Condition C.4.); **3)** The entrance door on State Street shall be kept open during business hours; **4)** The lighting in the parking lot shall be decorative, and sensitive to the residential neighbors (Condition -A.4.); **5)** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible and any existing sandstone curb in the public right-of-way that is removed and not reused shall be salvaged (Conditions F.2. and F.3.).

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

Chair Myers announced the ten calendar day appeal period.

III. ADMINISTRATIVE AGENDA

A. Committee and Liaison Reports.

None were given.

B. Review of the decisions of the Staff Hearing Officer in accordance with SBMC §28.92.026.

Commissioner White reported on the Staff Hearing Officer meeting that was held on December 17, 2008.

C. Appreciations:

Commissioner White acknowledged the City TV crew for providing this venue for the community.

Commissioner Jostes expressed appreciation for Chair Myers' commitment and contribution as well as this year's service as chair.

VII. ADJOURNMENT

Chair Myers adjourned the meeting at 2:19 P.M.

Prepared by Gabriela Feliciano, Commission Secretary

Submitted by,

Julie Rodriguez, Planning Commission Secretary



City of Santa Barbara California

DRAFT

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 041-08

1700 & 1704 STATE STREET

MODIFICATION, CONDITIONAL USE PERMIT, AND DEVELOPMENT PLAN

DECEMBER 18, 2008

APPLICATION OF CEARNAL ANDRULATIS, LLP, ARCHITECT FOR 1704 STATE STREET, LLC, 1700 & 1704 STATE STREET, APNs 027-102-016 & -017, C-2/R-3 ZONES, GENERAL PLAN DESIGNATION: OFFICE & RESIDENTIAL (MST2007-00494)

The proposal consists of the demolition of a 992 square foot commercial building and the construction of a 5,395 square foot commercial addition to an existing 11,971 square foot, two-story commercial building located on the corner of State and Valerio Streets. The project site is comprised of two parcels, 027-102-016 (Parcel 1) and 027-102-017 (Parcel 2). The existing two-story building straddles the common property line between parcels. Pursuant to SBMC §27.30, the applicant has submitted an application for a Voluntary Lot Merger (under PBW2008-01218) to create one single parcel that will contain all structures and parking improvements necessary for the development. The northern lot has split zoning with the front portion being zoned C-2 Commercial and the rear portion R-3 Multi-Family Residential.

The discretionary applications required for this project are:

1. A Modification to reduce the amount of parking from 54 spaces required to 41 spaces is being requested (SBMC §28.90.100);
2. A Conditional Use Permit (SBMC§28.94.030.H) will be required for the portion of the existing parking lot that is located within the residentially zoned area of the project site to be used for the non-residential project; and
3. A Development Plan to allow the construction of 5,395 square feet one-story nonresidential addition that includes a demolition credit of 992 square feet and allocation of 4,403 square feet from the Small and Minor addition categories under Measure E (SBMC §28.87.300); The square footage would be allocated from the Small and Minor Additions categories under Measure E for each of the two lots involved in the project.

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15301.

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

WHEREAS, one person 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, December 11, 2008.
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. MODIFICATION (SBMC §28.92 AND 28.90)

The parking modification is consistent with the purposes and intent of the Zoning Ordinance and that it is necessary to secure an appropriate improvement on the lot, because the parking demand for the project is being met onsite as discussed in Section VI.C. above.

B. CONDITIONAL USE PERMIT FINDINGS (SBMC § 28.94.30)

In keeping therewith, the Planning Commission may permit, by issuance of a conditional use permit, any of the uses specifically enumerated in Section 28.94.030 upon a finding that:

1. The Artificial Kidney Center is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan because it provides an expansion of health care services for the community and is consistent with the use outlined in the land use element of the General Plan.
2. Such uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved. The proposed project with the approval of the parking modification is consistent with the patterns of development in the neighborhood and is an allowed under the zoning ordinance.

3. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided. The proposed project is single story and is consistent with the patterns of development in the neighborhood and provides large landscaped areas.
4. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time because the project provides on-site parking in excess of the parking demand as discussed in section VI.C. above for the proposed use.
5. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area. The development proposes additions that are single story in height and locate the structures to the front of the lot along the dominant street frontage.

C. FOR THE DEVELOPMENT PLAN (SBMC §28.87.300)

1. The proposed development complies with all provisions of this Title as shown in the Zoning Consistency Chart in Section V above.
2. The proposed development is consistent with the principles of sound community planning. The proposed use is allowed in the zone and is consistent with the surrounding uses.
3. The proposed development will not have a significant adverse impact upon the neighborhood's aesthetics/character in that the size, bulk or scale of the development will be compatible with the neighborhood. The Historic Landmarks Commission found that the project was compatible with the neighborhood in size, bulk, and scale (See section VI.B above)
4. The proposed development will not have a significant unmitigated adverse impact upon City and South Coast affordable housing stock because the proposed project is small in scale and will involve only a small number of employees, the project is not expected to create new demand for low to moderate income housing in the area; and
5. The proposed development will not have a significant unmitigated adverse impact on the City's water resources because the project would not represent a significant incremental increase to the present demand and no significant impact on the dependable water supply is expected to occur as stated in Section VI.D. above.

6. The proposed development will result in an increase of three traffic trips a day which will not have a significant unmitigated adverse impact on the City's traffic.
7. Resources will be available will be in place at the time of project occupancy and that no traffic improvements are required.

II. Said approval is subject to the following conditions:

- A. **Design Review.** The project is subject to the review and approval of the Historic Landmarks Commission (HLC). HLC shall not grant preliminary approval of the project until the following Planning Commission land use conditions have been satisfied.
 1. **Tree Removal and Replacement.** All trees 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) (15 gallon size) 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. **Landscape Screening.** Landscaping with low water use plants and/or a solid screen wall or fence shall be provided to buffer the parking area from State and Valerio Streets.
 3. **Bus Stop.** The bus stop shall be integrated into the landscaping and the design of the building on State Street; and shall comply with the Urban Design Guidelines for bus stops.
 4. **Parking Lot Lighting.** The lighting in the parking lot shall be decorative, and sensitive to the residential neighbors
- 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 a written instrument, 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 December 18, 2008 is limited to up to 17,011 net square feet of commercial development with 41 parking spaces and the improvements shown on the Development Plan signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara. The State Street entry door shall remain open and unlocked during business hours.
 2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.

3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Historic Landmarks Commission (HLC). Such plan shall not be modified unless prior written approval is obtained from the HLC. 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 HLC, the owner is responsible for its immediate replacement. The following tree protection shall be incorporated:
4. **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 prepared in accordance with the Storm Water Management Plan BMP Guidance Manual. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the 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.
5. **Use Limitations.** Due to potential traffic and parking impacts, uses other than the Artificial Kidney Center are not permitted without further environmental and/or Planning Commission review and approval. Prior to initiating a change of use, the Owner shall submit a letter to the Community Development Director detailing the proposal, and the Director shall determine the appropriate review procedure and notify the Applicant.
6. **Transportation Demand Management.** The following alternative mode incentives shall be incorporated into the project to reduce traffic impacts caused by the project. Owner shall be responsible for insuring that all tenants comply with the provisions of the approved Transportation Management Plan.
 - a. **TDM Administrator.** The Owner shall appoint a TDM Administrator responsible for the alternative mode incentives. The TDM Administrator shall contract with Traffic Solutions for training and assistance in administrating their program. (The TDM Administrator shall provide an annual report to the Community Development Director and the Transportation Manager illustrating the number of users, describing the

marketing techniques and program results, including successes and failures.)

- b. **Bus Routes and Schedules Posted.** Notice of MTD bus routes and schedules shall be placed and maintained up-to-date in a central (public) location accessible to employees.
 - c. **Ride-Sharing Program.** Employees shall be made aware of the Ride-Sharing Program or similar successor programs administered by Traffic solutions or successor agency. The Owner and/or all employers shall have all employees registered semi-annually in the Ride-Sharing Program and shall make every effort to encourage participation in the program.
 - d. **Employee Lunch Room.** An employee lunchroom shall be provided in the building, including the following amenities: (refrigerator, microwave oven, sink, food preparation area, tables and chairs).
 - e. **Bicycle Parking.** Four (4) covered bicycle parking spaces shall be provided.
 - f. **Guaranteed Ride Home.** In the event of an emergency or work requirement that interferes with the normal transportation arrangement of any employee using mass transportation, a carpool, or a vanpool to get to work, the Owner or employer shall provide cab fare, a company car, or other means to guarantee a free ride home.
- C. **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. **Dedication(s).** A Street Easement Deed is subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division: Dedication of a small triangular shape of property at the intersection of State and Valerio Streets to allow a minimum of four (4) feet clearance at the back of the ramp to meet Title 24 requirements.
 2. **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.
 3. **Drainage and Water Quality.** Project drainage shall be designed, installed, and maintained such that stormwater 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,

stormwater 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, 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.

4. **State Street Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on State Street. As determined by the Public Works Department, the improvements shall include the following: saw-cut and replace all crack and/or uplifted sidewalk, remove existing driveway and construct new driveway apron modified to meet Title 24 requirements, construct curb, gutter, sidewalk and parkway where existing d/w is removed, crack seal to the centerline of the street along entire subject property frontage and 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 pipe and curb drain outlets, provide red curb as directed by the Transportation Operations Manager, preserve and/or reset survey monuments and contractor stamps, remove the cobra head fixture and replace with a luminaire on top of the light standard (applicant shall fund the purchase of the luminaire at a cost not to exceed \$2,500.00, with the installation to be done by the city), supply and install directional/regulatory traffic control signs per the 2006 MUTCD w/CA supplements, supply and install backflow device on private property as near to the public water main as possible, storm drain stenciling, install a bus stop that is integrated into the project's landscaping and the design of the building on State Street, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.
5. **Valerio Street Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Valerio Street. As determined by the Public Works Department, the improvements shall include the following: saw-cut and replace all crack and/or uplifted sidewalk, add +/- 15 additional feet of sidewalk, remove existing driveway and construct new driveway apron modified to meet Title 24 requirements, construct curb, gutter, sidewalk and parkway where existing d/w is removed, remove existing concrete from parkway, crack seal to the centerline of the street along entire subject property frontage and 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 pipe and curb drain outlets, provide red curb as directed by the Transportation Operations Manager, preserve and/or reset survey monuments and contractor stamps, ~~supply and install directional/regulatory traffic control~~

~~signs per the 2006 MUTCD w/CA supplements~~, supply and install backflow device on private property as near to the public water main as possible, storm drain stenciling, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

6. **Agreement to Construct and Install Improvements.** The Owner shall submit an executed Agreement to Construct and Install 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.
7. **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.
8. **Relocation of MTD Fixtures.** Relocation of the MTD bus stop on State Street, as determined by the Public Works Director and MTD and in compliance with Condition A.3 above.
9. **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.
10. **Voluntary Lot Merger Required.** The Real Property known as APN 027-102-016 and APN 027-102-017 shall be merged into one (1) lot, following the procedure in Santa Barbara Municipal Code Chapter 27.30.
11. **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) to attain and maintain a 35-50% minimum participation in recycling efforts.
 - f. Implementation of a composting landscape waste reduction program.

12. **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.
- D. **Community Development Requirements with Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit and finalized prior to Building or Public Works Permit issuance:
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. **Park Commission Tree Removal Approval.** Submit to the Planning Division verification of approval from the Park Commission for the removal of street tree(s).
- E. **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 Historic Landmarks Commission, 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 employ 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 Community Development Department. Maintenance of these facilities shall be provided by the Owner, as outlined in Condition B.3, 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, 4 covered bicycle parking spaces shall be provided.
7. **Driveway Improvements.** The proposed driveway shall be constructed to the standards provided in the Subdivision Design and Improvement Standards and as approved by the Public Works Director.
8. **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., Archaeologist contract submitted to Community Development 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.

- F. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.
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, 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. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be salvaged and sent to the City Corporation Annex Yard.
4. **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.
5. **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 Transportation Manager.
6. **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.
7. **Traffic Control Plan.** All elements of the approved Traffic Control Plan shall be carried out by the Contractor.
8. **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 that is answered by a person, not a machine.

9. **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.

10. **Water Sprinkling During Grading.** The following dust control measures shall be required, and shall be accomplished using recycled water whenever the Public Works Director determines that it is reasonably available:
 - a. Site grading and transportation of fill materials.
 - b. Regular water sprinkling; during clearing, grading, earth moving or excavation.
 - c. 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.
 - d. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.
 - e. 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.

11. **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.
12. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.
13. **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.
14. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
15. **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(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 construction contact phone number shall include an option to contact a person instead of a machine in case of emergency. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
16. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
17. **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.
18. **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.

- G. **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, 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 improvement/building plans, including utility service undergrounding and installation of street trees.
 3. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
 4. **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.
 5. **Manholes.** Raise all sewer and water manholes on easement to final finished grade.
 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. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.

- H. **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 DEVELOPMENT PLAN TIME LIMITS:

The development plan approved, per Santa Barbara Municipal Code §28.87.350, shall expire four (4) years from the date of approval unless:

1. A building or grading permit for the work authorized by the development plan is issued prior to the expiration date of the approval.
2. A time extension is granted by the Staff Hearing Officer for one (1) year prior to the expiration date of the approval, only if it is found that there is due diligence to implement and complete the proposed project. No more than one (1) time extension may be granted.

This motion was passed and adopted on the 18th day of December, 2009, by the Planning Commission of the city of Santa Barbara, by the following vote:

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

PLANNING COMMISSION RESOLUTION No. 041-08
1700 & 1704 STATE STREET
DECEMBER 18, 2008
PAGE 17

DRAFT

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.

Gabriela Feliciano, Commission Secretary

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.

DRAFT