



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 022-09

505-509 LOS OLIVOS STREET, 2121 OAK PARK LANE

TENTATIVE SUBDIVISION MAP, CONDOMINIUM CONVERSION PERMIT, MODIFICATION

JUNE 4, 2009

APPLICATION OF LISA PLOWMAN, AGENT FOR PROPERTY OWNER WESTMONT COLLEGE, 505, 509 W. LOS OLIVOS ST., 2121 OAK PARK LN., APNs 025-210-012, -004, -014, R-3 ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 12 UNITS/ACRE (MST2007-00470)

The 13 unit condominium project includes a lot merger; demolition of a duplex and detached garage; demolition of a single-family residence and attached garage; construction three new buildings containing nine new three-bedroom units and one new two-bedroom unit; addition to an existing apartment building; and remodel and conversion of the apartment building into two three-bedroom condominiums and one two-bedroom condominium. Parking for the converted apartment building would be provided by one uncovered and five covered spaces in the existing carport and parking for the ten newly-constructed units would be provided in two-car garages attached to each unit. Three guest parking spaces would also be provided on site. The proposed development would total 24,635 sf on the 32,550 sf lot. Two of the three-bedroom units would be provided to Middle Income Households using a target income of 130% of AMI consistent with the Inclusionary Housing Ordinance.

The discretionary applications required for this project are:

1. Modification to allow a reduction of the required 15 ft front yard setback for the three-story building on W. Los Olivos St. (SBMC §28.92.026.A);
2. Modification to allow a reduction of the required 15 ft separation between buildings (SBMC §28.92.026.A);
3. Tentative Subdivision Map for a one-lot subdivision to create 13 residential condominium units (SBMC 27.07 and 27.13); and
4. Condominium Conversion Permit to convert four existing residential units to three condominium units (SBMC 28.88).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15332 (Infill Development Projects).

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

WHEREAS, 3 people appeared to speak in favor of the application, and 6 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, April 30, 2009
2. Site Plans
3. Correspondence received in opposition to the project, or with concerns:
 - a. Paula Westbury, Santa Barbara, CA
 - b. Celeste and Kenneth Barber, via email
 - c. Ralph Philbrick, via email
 - d. Bill Wofford, Santa Barbara, CA submitted a petition with 16 signatures

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

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

A. Distance Between Buildings Modification (SBMC §28.92.110)

The requested distance between buildings modification is consistent with purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot because a slightly larger enclosure is necessary to enclose the largest trash carts, as described in Section VII.B of the staff report April 30, 2009.

B. Condominium Conversion (SBMC §28.88.120)

1. *All provisions of SBMC Chapter 28.88 are met and the project will not be detrimental to the health, safety, and general welfare of the community.*

As described in Section V.B of the staff report, the project is consistent with the provisions of the Condominium Conversion Ordinance and the project will not be detrimental to the health, safety, and general welfare of the community.

2. *The proposed conversion is consistent with the General Plan of the City of Santa Barbara or legally nonconforming with the density requirement of its Land Use Element.*

As discussed in Section VII.D of the staff report, the conversion is consistent with the City's General Plan.

3. *The proposed conversion will conform to the Santa Barbara Municipal Code in effect at the time the application was deemed to be complete, except as otherwise provided in this Chapter.*

The proposed conversion will conform to all regulations in the Municipal Code including zoning requirements as shown in Section V of the staff report. No modifications are needed for the development associated with the conversion.

4. *The overall design (including project amenities) and physical condition of the conversion will result in a project which is aesthetically attractive, safe and of quality construction.*

Based on ABR's most recent review, staff's analysis and the project conditions, the overall project design and physical condition of the conversion will result in a project which is aesthetically attractive, safe, and of quality construction because the additions must comply with the building code and Condominium Conversion Ordinance.

5. If required by Subsection 28.88.110 A, the proposed conversion has mitigated impacts to the City's low and moderate income housing supply through an agreement to record affordability control covenants on the specified number of units.

As discussed in Section V.B of the staff report, the conversion is not required to provide affordable low or moderate housing units by Subsection 28.88.110.A.

6. *The applicant has not engaged in coercive retaliatory action regarding the tenants after the submittal of the first application for City review through the date of approval. In making this finding, consideration shall be given to:*
 1. *Rent increases at a rate greater than the rate of increase in the Consumer Price Index (all items, Los Angeles - Long Beach) unless provided for in leases or contracts in existence prior to the submittal of the first application for City review, or*
 2. *Any other action by applicant which is taken against tenants to coerce them to refrain from opposing the project. An agreement with tenants which provides for benefits to the tenants after the approval shall not be considered a coercive or retaliatory action.*

According to the applicant, Westmont College has not taken any coercive retaliatory action toward the residents of 505 West Los Olivos Street. The College informed the tenants of their long term plans to use the existing four units for faculty housing when they purchased the units in July 2006 and the tenants have been informed of their rights pursuant to the City's Condominium Conversion Ordinance.

7. *The owner has made a reasonable effort to assist those tenants wishing to purchase their units for purposes of minimizing the direct effect on the rental housing market created by relocating such tenants.*

The owner has made a reasonable effort to assist those tenants wishing to purchase their units by making the converted units only available to employees of Westmont College. Westmont will provide required relocation assistance for any tenants displaced by the conversion.

8. The requirements of SBMC Section 28.88.130 have been met.

Since four units are being proposed for conversion, the Section 28.88.130 requirements are not applicable pursuant to SBMC Subsection 28.88.130.C.1.a.

C. **The Tentative Map (SBMC §27.07.100)**

The Tentative Subdivision Map is consistent with the City of Santa Barbara's General Plan as discussed in Section VI.D of the staff report and consistent with the Zoning Ordinance, as shown in staff report Section V, including the Inclusionary Housing Ordinance. The site is physically suitable for the proposed development and the proposed use is consistent with the vision for the Oak Park neighborhood of the General Plan.

As discussed in Section VII.E of the staff report, the design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems

D. **The New Condominium Development (SBMC §27.13.080)**

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

As demonstrated in Section VI of the staff report, the project complies with all provisions of the City's Condominium Ordinance, including density requirements, laundry facilities, separate utility metering, adequate unit size, 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 found consistent with policies of the City's General Plan including the Land Use and Housing Elements, as discussed in Section VII.D in the staff report. 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 design has been reviewed by the Architectural Board of Review, which found the architecture and site design appropriate. 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.

II. Said approval is subject to the following conditions:

- A. **Notice of Approval of Condominium Conversion.** Owner shall provide evidence of delivery of written notice of the condominium conversion approval to the Community Development Department within 15 days of the approval of said conversion. The content of such notice shall include an explanation of any conditions of approval that affect the tenants.
- B. **Design Review.** The project is subject to the review and approval of the Architectural Board of Review (ABR). ABR shall not grant preliminary approval of the project until the following Planning Commission land use conditions have been satisfied.
 1. **Design.** Size, bulk, and scale shall be minimized, and modifications should be avoided, if at all possible
 2. **Tree Protection Measures.** The landscape plan and grading plan shall include the following tree protection measures, intended to minimize impacts on trees:
 - a. **Landscaping Under Trees.** Landscaping under the trees shall be compatible with the preservation of the trees.
 - b. **Arborist's Report.** Include a note on the plans that recommendations/conditions contained in the arborist's report prepared by Arbor Services, dated January 2009, shall be implemented.
 3. **Minimize Visual Effects of Paving.** 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.
 4. **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.
 5. **Permeable Paving.** Incorporate a permeable paving system for the driveways that will allow a portion of the paved area runoff to percolate into the ground, except as necessary to meet Fire Department weight requirements. Materials in driveways and parking areas must be approved by the Public Works Director/Transportation Manager.
- C. **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 May 7, 2009 is limited to a lot merger; demolition of a duplex and detached garage; demolition of a single-family residence and attached garage; construction three new buildings with 19,563 sf of floor area

containing nine new three-bedroom units and one new two-bedroom unit; a 479 sf addition and remodel to an existing 3,653 sf apartment building; and the conversion of the existing apartment building into two three-bedroom condominiums and one two-bedroom condominium; and the improvements shown on the Tentative Subdivision Map signed by the chairperson 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 onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
3. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
4. **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. The following tree protection measure shall be included:
 - a. **Oak Tree Protection.** The existing oak trees shown on the Landscape Plan shall be preserved, protected, and maintained in accordance with the recommendations contained in the arborist's report prepared by Arbor Services, dated January 2009. During construction, protection measures shall be provided, including but not limited to fencing of the area surrounding the trees.
5. **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 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.

6. **Ownership Unit Affordability Restrictions.** The dwelling units designated as Units 11 and 12 on the Tentative Subdivision Map shall be designated as Affordable Middle Income Units and sold only to households who, at the time of their purchase, 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. 11 and 12 (3-bedroom units) = \$350,800

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.

7. **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&Rs stating that the green waste will be hauled off site.

- e. **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.
8. **Transportation Demand Management.** The following alternative mode incentives shall be incorporated into the project to reduce traffic impacts caused by the project. Westmont shall designate one of the project occupants as the Transportation Demand Officer responsible for insuring that all residents comply with the provisions of the approved Transportation Management Plan.
 - a. **Ride-Sharing Program.** Residents shall be made aware of the Ride-Share/Van Pool Program administered by Westmont. Westmont shall make every effort to encourage participation in the program.
 - b. **Guaranteed Ride Home.** In the event of an emergency or work requirement that interferes with the normal transportation arrangement of any resident employed by Westmont using alternative modes of transportation such as, mass transit, carpool, or vanpool, to get to work, Westmont shall provide cab fare, a company car, or other means to guarantee a free ride home.
 - c. **Annual Reports.** Two annual reports shall be provided to the City after the first full year of occupancy documenting the effectiveness of the Transportation Demand Management Program.
9. **Residential Permit Parking Program.** Residents shall not participate in the Residential Permit Parking Program.
- D. **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. **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.
 3. **Required Private Covenants.** The Owner shall submit a copy of the draft private covenants, reciprocal easement agreement, or similar private agreements required for the project.
 4. **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.

5. **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 Plan (SWMP). 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.
6. **W. Los Olivos St. Public Improvement Plans.** The Owner shall submit building plans for construction of improvements along the property frontage on W. Los Olivos St. As determined by the Public Works Department, the improvements shall include the following: *sidewalk, driveway apron modified to meet Title 24 requirements, curbs, gutters, access ramp(s), crack 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, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations and/or hydrology report for installation of curb drain outlets, supply and install one Dome Style residential height standard street light & coordinate with City staff to retire light standard on existing utility pole, preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs per 2006 CA MUTCD during construction, storm drain stenciling, off-site biofilter/swale sized per drainage calculations, 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.
7. **Oak Park Ln. Public Improvement Plans.** The Owner shall submit building plans for construction of improvements along the property frontage on Oak Park Ln. As determined by the Public Works Department, the improvements shall include the following: *sidewalk, driveway apron modified to meet Title 24 requirements, saw-cut and replace damaged curb & gutter, access ramp, crack 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, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations and/or hydrology report for installation of drainage pipe*

and curb drain outlets, preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs per 2006 CA MUTCD during construction, storm drain stenciling, 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. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements including any required appurtenances within their rights of way.
 10. **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.
- E. **Public Works Requirements Prior to Building/Condominium Conversion 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/Condominium Conversion Permit for the project.
1. **Submittal for Recordation of Final Map Agreements.** After City Council approval, the owner shall submit application for approval and recordation of the Final Map 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.
- F. **Community Development Requirements with Building/Condominium Conversion Permit or Public Works Permit Application.** The following shall be submitted with the application for any Building/Condominium Conversion Permit or Public Works Permit and finalized prior to issuance of any Building/Condominium Conversion or Public Works Permit:
1. **Notice of Vacation of Unit.** Each non-purchasing tenant that is not in default shall have not less than 180 days from the date of approval of the conversion to find substitute housing and relocate. This 180-day period may be extended in special cases, as specified in Subsection 28.88.100. E of the Municipal Code.
 2. **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), an offer to meet with neighbors prior to commencement of construction, 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. The contractor shall meet with the neighbors, prior to the commencement of construction, if such a meeting is requested.

3. **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.
 4. **Arborist's Monitoring.** Submit to the Planning Division an executed contract with a qualified arborist for monitoring of all work within the dripline of all trees proposed to be retained during construction. The contract shall include a schedule for the arborist's presence during grading and construction activities, and is subject to the review and approval of the Planning Division and the City arborist, if appropriate.
 5. **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, and recorded in the Office of the County Recorder, which includes the following:
 - a. **Initial Sale Price Restrictions.** The dwelling units designated as Units 11 and 12 on the Tentative Subdivision Map shall be designated as Affordable Middle Income Units and sold only to households who, at the time of their purchase, 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. 11 and 12 (3-bedroom units) = \$350,800
 - 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.
- G. **Building/Condominium Conversion Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building/Condominium Conversion Permits:

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

1. **Physical Elements Report.** All elements in the Physical Elements Report that have five or fewer years of life remaining shall be repaired or replaced and shown on the plans.
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 F.5, above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.

4. **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.

- H. **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. **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.
2. **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.
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 Transportation Manager.
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: (look at longer or shorter hours and Saturday construction, depending on project location)

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Cesar Chavez Day	March 31 st *
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 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.
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) 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 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.
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, and any related Conditions of Approval, as follows.
 - a. **Grading Plan Notes.** Notes on the grading plan that specify the following:
 - (1) No grading shall occur within the driplines of the existing trees.
 - (2) A qualified Arborist shall be present during any excavation adjacent to or beneath the dripline of the trees which are required to be protected.
 - (3) All excavation within the dripline of the trees 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 trees.
 - (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 six 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 six feet outside of the dripline of all oak trees located within 25 feet of development.
 - (2) No grading shall occur under any non relocated oak tree dripline, except as indicated on the drainage, grading, and utility plan.

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 construction parking shall take place within six (6) feet of the dripline of any oak tree.
 - (5) Oak seedlings and saplings less than four inches (4") at four feet (4') above the ground that are removed during construction shall be transplanted where feasible. If transplantation is not feasible, replacement trees shall be planted at a minimum one to one (1:1) ratio. Replacement trees shall be a minimum of one (1) gallon size derived from South Coastal Santa Barbara County stock.
- c. **Tree Relocation.** The existing oak trees #17 and 18 shall be boxed relocated on the Real Property and shall be fenced and protected during construction.
 - d. **Existing Tree Preservation.** The existing trees shown on the approved Landscape Plan to be saved shall be preserved and protected and fenced six feet outside the dripline during construction.
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.

- I. **Prior to Certificate of Occupancy for Condominium Conversion Permit.** Prior to issuance of the Certificate of Occupancy for the Condominium Conversion Permit, 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. **Physical Elements Report Completion.** All elements in the Physical Elements Report that have five or fewer years of life remaining shall be repaired or replaced.
 4. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
 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.

6. **Existing Street Trees.** Submit a letter from a qualified arborist, verifying that the existing street trees have been properly pruned and trimmed.
 7. **Ownership Affordability Provisions Approval.** For all dwelling units subject to affordability conditions 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 residents; and (d) the recorded affordability control covenants signed by the initial purchasers which assure continued compliance with the affordability conditions.
 8. **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.
 9. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section E have been recorded.
 10. **Final Map Approved.** The Final Map shall be approved by City Council.
 11. **Exclusive Right to Purchase (Right of First Refusal).** If the units are offered to the general public, the Owner shall provide evidence of the extension to each tenant household of the condominium conversion building of an exclusive right to purchase in accordance with the provisions of Section 66427.1(d) of the Government Code.
- L. **After Certificate of Occupancy for Condominium Conversion Permit:** The following conditions shall be completed after issuance of the Certificate of Occupancy for the Condominium Conversion Permit has been completed.
1. **Final Map Recordation.** The Final Map shall not be recorded until the Certificate of Occupancy for the Condominium Conversion Permit has been issued. The following shall be provided prior to Map recordation.
 2. **Notice of Department of Real Estate Report.** Owner shall submit evidence showing that written notification has been submitted to each tenant household that an application for a public report has been submitted to the California Department of Real Estate within 10 days of the submission of such application.
 3. **Notice of Final Map Approval.** Owner shall submit evidence that written notice of approval of the Final Map has been provided to each tenant household within 10 days of such approval.

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

The Planning Commission's action approving the Tentative Map shall expire three (3) 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 4th day of June, 2009 by the Planning Commission of the city of Santa Barbara, by the following vote:

AYES: 3 NOES: 1 (Thompson) ABSTAIN: 0 ABSENT: 3 (Larson, Jacobs, White)

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



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.