



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 040-09

1712 ANACAPA STREET

PUBLIC STREET FRONTAGE WAIVERS (2), LOT FRONTAGE MODIFICATIONS (2)  
AND TENTATIVE SUBDIVISION MAP

OCTOBER 8, 2009

**APPLICATION OF JARRETT GORIN, VANGUARD PLANNING, AGENT FOR RICHARD UNTERMANN AND GAIL ELNICKY PROPERTY OWNERS, 1712 ANACAPA STREET, APN 027-111-014, R-2, TWO FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL 3 UNITS PER ACRE (MST2008-00435)**

The proposed project involves the subdivision of a 23,160 square foot parcel into three parcels. The lot is currently developed with a 2,140 square foot, two-story, single-family residence and a detached two-car garage. Proposed Parcel 1 will be 8,310 net square feet and includes remodeling the existing residence and the construction of a new two-car carport. Proposed Parcel 2 will be 7,000 net square feet and includes the demolition of the existing garage and proposed Parcel 3 would be 7,850 net square feet. No new residential development is proposed on Parcels 2 or 3 at this time. Pedestrian and vehicular access, for all three parcels, are to be provided by a new 16-foot wide easement along the northwest property line. A total of 869 cubic yards of grading is proposed for the existing parcel.

The discretionary applications required for this project are:

1. Two (2) Street Frontage Modifications to allow two of the newly created lots to have less than the required 60 feet of frontage on a public street (SBMC § 28.15.080);
2. A Public Street Frontage Waiver from the requirement that each lot created by a new subdivision shall front upon a public street or private driveway serving no more than two lots (SBMC § 22.60.300); and
3. A Tentative Subdivision Map for a subdivision of one (1) existing lot into three (3) new lots (SBMC § 27.07).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15315 [Minor Land Division].

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

1. Staff Report with Attachments, October 1, 2009
2. Site Plans

3. Correspondence received in opposition to the project:
  - a. Paula Westbury, Santa Barbara, CA

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

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

**A. Public Street Waiver (SBMC §22.60.300)**

1. The private driveway will provide adequate access to the proposed parcels. The proposed driveway has been found acceptable to the Fire Department and Public Works Department
2. The proposed driveway will provide adequate access for fire suppression vehicles, as required by applicable fire regulations. Said driveway will meet Fire Department requirements in terms of width, length, materials and weight capacity.
3. There is adequate provision for maintenance of the proposed driveway because the owners of the proposed lots would be required to maintain the private driveways pursuant to an agreement with the subdivider, to be recorded prior to or concurrent with the recordation of the Parcel Map.
4. The waiver is in the best interests of the City and will improve the quality and reduce impacts of the proposed development. The private driveway does not require expenditure of public money for maintenance.

**B. Street Frontage Modifications (SBMC §28.15.080)**

As discussed in Section VI.A of this staff report, these modifications are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure an appropriate improvement on a lot. The proposed lot configuration is consistent with the surrounding pattern of development. The subdivision will create two additional lots that take access from Anacapa Street through a shared private driveway. The development satisfies the minimum Fire Department access requirements and does not compromise public health or safety. The subdivision is consistent with other lots in the surrounding area.

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

The Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the city of Santa Barbara as discussed in Sections VI and VII.A of this staff report. The site is physically suitable for the proposed development because the proposed lots would meet the minimum lot size specified in the R-2 zone and the density requirements of the General Land Use Designation of 12 units per acre. The site is physically suitable for the proposed development due to its generally flat topography and mid-block location. The project is consistent with the density provisions of the Municipal Code and the General Plan as demonstrated in Sections VI and VII.A of this staff report, and the proposed use is consistent with the vision for this neighborhood because it provides single-family in-fill housing that is compatible in size

and scale with the surrounding development. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems as discussed in Section VII.A of this staff report.

II. Said approval is subject to the following conditions:

A. **Design Review.** The subdivision grading is subject to the review and approval of the Architectural Board of Review (ABR). ABR shall not grant preliminary approval of the subdivision grading until the following Planning Commission land use conditions have been satisfied.

1. **Future Construction.** Any new residence constructed on one of the lots created by the proposed subdivision shall be subject to the review and approval of the appropriate Design Review Board; the Single Family Design Board for single family residences and the ABR for duplexes.
2. **Design Features.** The existing sandstone block wall bordering the sidewalk and driveway wall be salvaged and reused when the driveway is moved so as to retain the ability to contribute to the visual character of the neighborhood. The existing balcony on the south elevation or a replication of it shall be incorporated in the design of the present building's alterations.
3. **Tree Removal and Replacement.** All native or specimen trees removed or damaged, except fruit trees and street trees approved for removal without replacement by the Parks Department, shall be replaced on-site. Replacement trees shall be a minimum of three to one (3:1) 24" boxed or five to one (5:1) 15 gallon trees, as determined by the Design Review Board, of an appropriate species, in order to maintain the site's visual appearance and reduce impacts resulting from the loss of trees.
4. **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 tree(s) shall be compatible with the preservation of the tree(s).
  - b. **Arborist's Report.** Include a note on the plans that recommendations/conditions contained in the arborist report prepared by Peter Winn, Westree, dated December 8, 2008, shall be implemented.
  - c. **Oak Tree Protection Measures.** The following provisions shall apply to existing oak trees on site:
    - (1) Landscaping provided under the oak tree(s) shall be compatible with preservation of the trees as determined by the Design Review Board. No irrigation system shall be installed under the dripline of any oak tree.
    - (2) Oak trees greater than four inches (4") in diameter at four feet (4') above grade removed as a result of the project shall be

replaced at a three to one (3:1) 24" boxed or five to one (5:1) 15 gallon rations, from South Coastal Santa Barbara County Stock as determined by the Design Review Board.

5. **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.
  6. **Permeable Paving.** Incorporate a permeable paving system for the project driveways, patios and walkway(s) 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.
- B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an *Agreement Relating to Subdivision Map Conditions Imposed on Real Property*, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Approved Development.** The development of the Real Property approved by the Planning Commission on **October 8, 2009**, is limited to 3 lots (Lot 1 will be 8,140 square feet with a maximum of 2 dwelling units, Lot 2 will be 7,000 square feet with a maximum of 1 dwelling unit and Lot 3 will be 7,850 square feet with a maximum of 2 dwelling units) for a total maximum of 5 dwelling units and the improvements shown on the Tentative Subdivision Map signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara. Any second units developed on Lots 1 & 3 will be restricted to 600 square feet.
  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 Limitation.** No recreational vehicles, boats, or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Design Review Board.
  4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Design Review Board. Such plan shall not be modified unless prior written approval is obtained from the Design Review Board. 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 Design Review Board, the owner is responsible for its immediate replacement. The following tree protection measures shall be incorporated:

5. **Oak Tree Protection.** The existing oak tree(s) shown on the Tentative Subdivision Map, Tree Protection Plan and Landscape Plan shall be preserved, protected, and maintained (in accordance with the recommendations contained in the arborist's report prepared by Peter Win, Westree, dated December 8, 2008. A copy of this report shall be attached to the recorded conditions as an exhibit. During construction, protection measures shall be provided, including but not limited to fencing of the area surrounding the tree(s).) The following provisions shall apply to any oak trees to remain on the property:
  - a. No irrigation systems shall be installed within three feet of the drip line of any oak tree.
  - b. The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.
6. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc. ) in a functioning state (and in accordance with the Operations and Maintenance Procedure Plan 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.
7. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants (CC&R's), 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 parcels.

- b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
  - c. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
  - d. **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.
- C. **Public Works Submittal Prior to Parcel 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 Parcel Map and prior to the issuance of any permits for the project:
- 1. **Parcel Map.** The Owner shall submit to the Public Works Department for approval, a Parcel Map prepared by a licensed land surveyor or registered Civil Engineer. The Parcel Map shall conform to the requirements of the City Survey Control Ordinance.
  - 2. **Tenant Displacement Assistance Ordinance Compliance.** Submit evidence of compliance with the Tenant Displacement Assistance Ordinance (SBMC Chapter 28.89).
  - 3. **Inclusionary Housing Fee.** Evidence shall be submitted that the Owner has paid the required inclusionary housing fee to the Community Development Department.
  - 4. **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.
  - 5. **Required Private Covenants.** The Owner shall submit a copy of the draft private covenants (CC&R's), reciprocal easement agreement, or similar private agreements required for the project.

6. **Drainage Calculations.** The Owner shall submit drainage calculations prepared by a registered civil engineer 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.
7. **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 Program. 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.
8. **Anacapa Street Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Anacapa Street. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: *saw-cut and reconstruct all cracked and/or uplifted sidewalk, construct one driveway apron modified to meet Title 24 requirements, close existing curb cut and replace with 10-12 lf of curb & gutter, access 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 for installation curb drain outlets, preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs per the MUTCD w/CA supplements during construction, trim tree in front yard setback out of the public rights-of-way under the direction of the City Arborist, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.*
9. **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.
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.

- D. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.
1. **Recordation of Parcel Map and Agreements.** After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department prior to issuance of building permits for individual parcels.
  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.
- 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 Design Review Board, outlined in Section A above.
  2. **Drainage and Water Quality.** The recommendations in the Preliminary Drainage Analysis, prepared by Flowers & Associates, Inc. dated May 11, 2009, shall be incorporated in the project plans.
  3. **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.

4. **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.6, above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.
5. **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.

- 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. **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.
2. **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.
3. **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 31st
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.

4. **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.
5. **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.
6. **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.
7. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.
8. **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.
9. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.

10. **Oak Tree Protection.** The existing oak tree(s) shown on the Tentative Subdivision Map, Tree Protection Plan and Landscape Plan shall be preserved, protected, and maintained (in accordance with the recommendations contained in the arborist's report prepared by Peter Win, Westree, dated December 8, 2008. A copy of this report shall be attached to the recorded conditions as an exhibit. During construction, protection measures shall be provided, including but not limited to fencing of the area surrounding the tree(s).) The following provisions shall apply to any oak trees to remain on the property:
  - a. No irrigation systems shall be installed within three feet of the drip line of any oak tree.
  - b. The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.
  - c. Fence off all trees from construction at the critical root zone or where practical with 6' chain link or orange construction fence with metal stakes.
  - d. No activities or storage of construction materials shall be allowed within the fenced areas unless approved by the project arborist.
  - e. Any root disturbance to any of the protected trees shall be done by hand and the project arborist alerted.
  - f. All roots encountered shall be cut cleanly with a sharp saw to allow for new root regeneration, backfilled immediately or kept moist to prevent drying out and dying.
  - g. Any tree affected by the construction process shall be deep-root fertilized to promote better health and vigor.
  - h. Compaction of the root zone shall be avoided by spreading 3-4" of mulch. If necessary plywood or equivalent shall be placed on top.
  - i. During hot, dry periods the foliage may need to be washed with high pressure water to remove construction dust.
  - j. Project arborist shall be notified prior to any activities within the critical root zone.
  - k. All trenching of utilities, irrigation and lighting shall not encroach within the critical root zone unless approved by the project Biologist or Arborist.
  - l. Native or Specimen trees removed or damaged shall be mitigated, utilizing the current City recommendations of 5:1 - 15 gallon or 3:1 24" boxed trees.

11. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
12. **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.
13. **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 building plans, including utility service undergrounding and installation of street trees.

- 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 TENTATIVE SUBDIVISION MAP 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 8th day of October, 2009 by the Planning Commission of the city of Santa Barbara, by the following vote:

AYES: 4 NOES: 3 (Jacobs, Lodge, White) ABSTAIN: 0 ABSENT: 0

PLANNING COMMISSION RESOLUTION No. 040-09  
1712 ANACAPA STREET  
OCTOBER 8, 2009  
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I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Planning Commission at its meeting of the above date.

  
\_\_\_\_\_  
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.

