



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 015-12

1130 N. MILPAS STREET

INITIATION OF GENERAL PLAN MAP AMENDMENT, MODIFICATIONS, CONDITIONAL USE PERMIT

NOVEMBER 1, 2012

**APPLICATION OF TRISH ALLEN, SUZANNE ELLEDGE PLANNING & PERMITTING SERVICES,
AGENT FOR SANTA BARBARA BOWL FOUNDATION, 1130 N. MILPAS STREET, APN 029-201-004, R-
3 (LIMITED MULTIPLE-FAMILY RESIDENCE) & E-1 (ONE-FAMILY RESIDENCE) ZONES,
GENERAL PLAN DESIGNATION: MEDIUM HIGH DENSITY RESIDENTIAL (15-27 DU/ACRE)
(MST2009-00551)**

The project consists of a new 2,210 square foot (net), one-story box office building with public restrooms, and a new pedestrian plaza and pathway with security check areas. A new shuttle bus stop and eight new bicycle parking spaces are also proposed. Sections of the sandstone walls would be removed and re-used. A new cul-de-sac, sidewalk, vehicular gate (with Fire Department Knox Box), and pedestrian gate are proposed at the termination of Lowena Drive. Grading consists of approximately 2,700 cubic yards of cut and 1,200 cubic yards of fill. The project also includes the vacation of a portion of Lowena Drive and a General Plan Map Amendment to change the land use designation from Medium High Density Residential (15-27 du/acre) to Institutional. No operational changes to the Santa Barbara Bowl are proposed.

Santa Barbara Bowl improvements proposed on the adjacent County-owned property are subject to courtesy review only and consist of restriping of the parking lot to increase parking for passenger vehicles, tour buses and semi-trailer trucks; new valet bicycle parking; new stone retaining wall and oak trees on east hillside; and the remodeling of existing 1,400 sq. ft. ticket office (Dreier Building) into a security office and conference room. Grading consists of 730 cubic yards of cut.

The discretionary applications required for this project are:

1. A Modification to allow a new 5'-3" high retaining wall that exceeds the maximum allowable height of 3'-6" within ten feet of the front lot line on Milpas Street (SBMC §28.92.110.A);
2. A Modification to allow new variable height retaining walls (max. 15') that exceed the maximum allowable height of 3'-6" within ten feet of the front lot line on Lowena Drive (SBMC §28.92.110.A);
3. A Modification to allow a new 3'-6" high guard rail on top of a new 8' maximum high retaining wall that exceeds the maximum allowable height of 8' within the six foot interior setback (SBMC §28.92.110.A);
4. A Conditional Use Permit to allow a quasi-public facility to operate in a residential zone (SBMC §28.94.030.W);
5. Initiation of General Plan Map Amendment (from Medium-High Density Residential to Institutional) (SBMC § 28.07.010); and
6. Vacation of a portion of Lowena Drive to be approved by City Council. (Under separate application to the Public Works Department)

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15303, New Construction.

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, October 25, 2012
2. Site Plans
3. Correspondence received in support of the project:
 - a. Eric Peterson, via email

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

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

A. MODIFICATION (SBMC §28.92.110.A.2)

As described in Section VI.A.1 above, the modification to allow a new 5'-3" high retaining wall that exceeds the maximum allowable height of 3'-6" within ten feet of the front lot line on Milpas Street is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot because it would be necessary to retain the grade at this location and the new wall would match the height of the wall that would remain. Also, the design of the plaza results in a lower wall along the driveway, which would provide better visibility for vehicles and pedestrians at this location.

As described in Section VI.A.1 above, the modification to allow new variable height retaining walls (max. 15') that exceed the maximum allowable height of 3'-6" within ten feet of the front lot line on Lowena Drive is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot because the walls have been minimized to the extent possible, are necessary to construct the needed sidewalk and turnaround due to the existing grade, would be screened from the west by existing and proposed landscaping in the area, and would have a sandstone veneer to match other walls at the Bowl.

As described in Section VI.A.1 above, the modification to allow a new 3'-6" high guard rail on top of a new 8' maximum high retaining wall that exceeds the maximum allowable height of 8' within the six foot interior setback is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot because the guard rail is required for safety reasons due to the grade change and is necessary in order to construct the current design.

B. CONDITIONAL USE PERMIT (SBMC §28.94.030)

1. Any such use 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. *The Santa Barbara Bowl is an existing quasi-public use in the neighborhood. The construction of a box office and pedestrian plaza on the subject parcel is consistent with the existing use of the facility. The Land Use Designation is proposed to be changed from Medium High Density Residential to Institutional and is consistent with the intent of the Land Use and Circulation Elements of the General Plan as discussed in Section VI.B above.*

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 Santa Barbara Bowl facility is an existing use in the neighborhood that has been operating for decades. The proposed project is a minor change to the overall facility, will not affect the neighborhood in an adverse way, and will increase the safety between vehicle and pedestrians during events as stated in Sections VI.A.2 and VI.B above.*
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. *As stated in section VI.A above, for non-residential uses in a residential zone the required setbacks are doubled. In this case, the new box office building, which is a low intensity use except during events, meets the double setback requirement from Milpas Street and the adjacent parcel to the north.*
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. *As stated in section VI.A above, no additional parking is required because the number of required spaces is determined by the number of seats, not square footage of structures. Improved access for both vehicles and pedestrians will be provided. The gate at the end of Lowena Drive will have a Knox Box to allow access by the Fire Department.*
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 Planning Commission shall have the authority to approve the design of open space. Design shall mean size, shape, location and usability for proposed private, public, or quasi-public purposes and development. Approval of such open spaces may be expressly conditioned upon an offer of conveyance by the owner to the City of Santa Barbara of the development rights, the right to prohibit the construction of additional buildings, or other property rights, necessary to achieve the purpose set forth in this title. *As stated in section IX above, the ABR determined that the architecture and landscape design are compatible with the character of the area and the existing Santa Barbara Bowl facilities. Staff does not recommend that development rights be offered to the City.*
6. Compliance with any additional specific requirements for a conditional use permit. *There are no additional specific requirements.*

II. Recommendation to City Council for the Vacation of a portion of Lowena Drive

III. Said approval is subject to the following conditions:

- A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:
 1. Submit separate (30%-60%) complete C-1 drawings to Public Works for all required public improvements, submit securities and executed Agreement to Construct.

2. Submit an application for and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform minor grading for on-site work only (if desired). Comply with condition G "Construction Implementation Requirements."
3. Pay Land Development Team Recovery Fee.
4. Obtain all required design review approvals.
5. Record any required documents (see Recorded Conditions Agreement section).
6. Permits.
 - a. Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.
 - b. Obtain a Public Works Permit (PBW) for all required public improvements and complete said improvements.

Details on implementation of these steps are provided throughout the conditions of approval.

- B. **Approval Contingent upon Vacation of Lowena Drive.** Approval of the subject project is contingent upon approval of the Vacation of a portion of Lowena Drive by the City Council.
- C. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, 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 November 1, 2012 is limited to a new 2,210 square foot (net), one-story box office building with public restrooms, new pedestrian plaza and pathway with security check areas, new shuttle bus stop and eight new bicycle parking spaces, and a new cul-de-sac, sidewalk, vehicular gate (with Fire Department Knox Box), and pedestrian gate at the termination of Lowena Drive. Grading consists of approximately 2,700 cubic yards of cut and 1,200 cubic yards of fill. The project also includes other improvements shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
 2. **Agreement to Maintain Private Water System.** The Owner shall have Owner's Land Use Attorney prepare an agreement indicating the City is relinquishing all responsibility for the private water system on the Santa Barbara Bowl Property, and indicate how the private water system will be maintained and regularly flushed to maintain State Drinking Water Standards.
 3. **Street Easement Deed.** A *Street Easement Deed* shall be recorded prior to issuance of any permits, for construction of a portion of the new cul-de-sac at the end of Lowena Drive, which may be partially constructed on private property.
 4. **Uninterrupted Water Flow.** The Owner shall allow for the continuation of any historic flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
 5. **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, including any tree protection measures. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.

6. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state. 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 Owner 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.
- D. **Design Review.** The project, including public improvements, is subject to the review and approval of the Architectural Board of Review (ABR). The ABR shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.
1. **Tree Protection Plan.** Include a note on the plans that the recommendations contained in the Tree Assessment and Protection Plan (June 4, 2012) and Addendum (September 17, 2012) prepared by Bill Spiewak shall be implemented.
 2. **Screened Backflow Device.** The backflow devices for fire sprinklers and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building, as approved by the ABR.
 3. **Location of Dry Utilities.** Dry utilities (e.g. above-ground cabinets) shall be placed on private property unless deemed infeasible for engineering reasons. If dry utilities must be placed in the public right-of-way, they shall be painted "Malaga Green," and if feasible, they shall be screened as approved by ABR.
 4. **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.
 5. **Commemorative Display.** The final design for the Begonia Nursery commemorative display shall be approved by the Historic Landmarks Commission.
 6. **Sandstone Wall Construction Drawings.** The City Urban Historian shall review and approve the construction drawings for the new sandstone walls to be reconstructed in the pedestrian plaza.

- E. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.
1. **Public Works Department.**
 - a. **Vacation of a Portion of Lowena Street.** The Vacation process shall be completed following submittal of securities for public improvements and concurrently with a minimum of 30%-60% complete C-1 drawings.
 - b. **Lowena Drive Easement Dedication.** The Owner shall dedicate an easement to the City of Santa Barbara for the construction of public improvements and other pertinent improvements which may end up on portions of the private property as part of the public rights-of-way. A *Street Easement Deed* will be prepared by City staff, and the applicant's licensed surveyor shall submit a legal description of the easement areas to be offered to the City, which will be attached to the agreement as Exhibit A.
 - c. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water Management Plan (treatment, rate and volume). The Owner shall submit drainage calculations and worksheets from the Storm Water BMP Guidance Manual for Post Construction Practices, prepared by a registered civil engineer demonstrating that the new development will comply with the City's Storm Water Management Plan. Project plans for grading, drainage, stormwater facilities and treatment methods, and project development, shall be subject to review and approval by the 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 (including, but not limited to trash, hydrocarbons, fertilizers, bacteria, etc.), or groundwater pollutants would result from the project.

The Owner shall provide an Operations and Maintenance Procedure Plan (describing replacement schedules for pollution absorbing pillows, etc.) for the operation and use of the storm drain surface pollutant interceptors. The Plan shall be reviewed and approved consistent with the Storm Water Management Plan BMP Guidance Manual.
 - d. **900 Block Lowena Drive Public Improvements.** The Owner shall submit separate C-1 public improvement plans for construction of a new cul-de-sac and miscellaneous frontage improvements along the property frontage on Lowena Drive. Plans shall identify the portions of private property to be dedicated to the City of Santa Barbara as shown and described in an *Easement For All Street Purposes*, including the proposed retaining walls if they encroach into the public rights-of-way. C-1 public improvement plans shall be submitted separately from plans submitted for a Building Permit, and shall be prepared by a licensed civil engineer registered in the State of California. As determined by the Public Works

Department, the improvements shall include new and/or remove and replace to City standards, the following:

Asphalt concrete cul-de-sac (minimum of 21-ft 3-inch Radius) on aggregate base per current Greenbook standards, vehicular gate (with Fire Department Knox Box), and pedestrian gate at the termination of Lowena Drive, City standard Drop Inlet, drainage dissipater to discharge to (E) historical sheet flow, connection of private on-site water system to City water per City standard details for water meters and Reduced Pressure Principal Assembly valve, private blow-off valve or private fire hydrant to keep private water system to meet State drinking water quality standards, supply and install (1) 20-foot tall residential City Standard Dome Style street light (70 watt), supply and install directional/regulatory traffic control signs per the 2012 CA MUTCD during construction, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

- e. **North Milpas Street Public Improvements.** The Owner shall submit separate public improvement plans for miscellaneous improvements along the property frontage on N. Milpas Street including but not limited to *saw-cut and replace +/- 125-linear feet of sidewalk, and one 32-foot wide commercial driveway apron, +/- 175 linear feet of curb and gutter, +/- 24-foot wide pedestrian access ramp/apron with five to six bollards, removable rail and terra cotta truncated domes, supply and install directional/regulatory traffic control signs per the 2012 CA MUTCD during construction, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.*
- f. **Minor Encroachment Permit.** The owner shall submit separate application for a minor encroachment permit for the five to six privately owned and maintained bollards and 24' wide access ramp/apron. Any other encroachment or other permits from the City or other jurisdictions (e. g., State, County Flood Control, County Real Property, etc.) for the construction of improvements (including any required appurtenances) within their rights of way or easements shall be obtained by the Owner.
- g. **Haul Routes Require Separate Permit.** Apply for a Public Works permit to establish the haul route(s) for all construction-related trucks with a gross vehicle weight rating of three tons or more entering or exiting the site. The Haul Routes shall be approved by the Transportation Manager.
- h. **Construction-Related Truck Trips.** Construction-related truck trips for trucks with a gross vehicle weight rating of three tons or more 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.) in order to help reduce truck traffic on adjacent streets and roadways.
- i. **Agreement to Construct and Install Improvements.** The Owner shall submit an executed *Agreement to Construct and Install Improvements (Not a Subdivision)* (prepared by the Engineering staff), an Engineer's Estimate signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the Agreement.

2. **Community Development Department.**

- a. **Recordation of Agreements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in condition C "Recorded Conditions Agreement" to the Community Development Department prior to issuance of any building permits.
- b. **Arborist's Monitoring.** Submit to the Planning Division an executed contract with a qualified arborist for monitoring of all work 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.
- c. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the appropriate design review board and as outlined in Section D "Design Review," and all elements/specifications shall be implemented on-site.
- d. **Large-format Digital Photo-documentation.** Large-format digital photo-documentation of the 1915 and 1946 sandstone walls shall be submitted and accepted by the City Urban Historian prior to dismantling.
- e. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are 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, including demolition and grading.

- 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 Building Inspectors, Police Officers and the public in addressing problems that may arise during construction.

2. **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), construction 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.
3. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be carefully salvaged and delivered to the City Corporation Annex Yard on Yanonali Street.
4. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Transportation Manager with a Public Works permit.
5. **Construction Parking.** During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Transportation Manager.
6. **Nesting Birds.** Birds and their eggs nesting on or near the project site are protected under the Migratory Bird Treaty Act and pursuing, hunting, taking, capturing, killing, or attempt to do any of the above is a violation of federal and state regulations. No trimming or removing brush or trees shall occur if nesting birds are found in the vegetation. All care should be taken not to disturb the nest(s). Removal or trimming may only occur after the young have fledged from the nest(s).
7. **Air Quality and Dust Control.** The following measures shall be shown on grading and building plans and shall be adhered to throughout grading, hauling, and construction activities:
 - a. During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used whenever possible. However, reclaimed water should not be used in or around crops for human consumption.
 - b. Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.
 - c. If importation, exportation and stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with

soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.

- d. Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
- e. After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
- f. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading of the structure.
- g. All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.
- h. Fleet owners of mobile construction equipment are subject to the California Air Resource Board (CARB) Regulation for In-use Off-road Diesel Vehicles (Title 13 California Code of Regulations, Chapter 9, § 2449), the purpose of which is to reduce diesel particulate matter (PM) and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles. For more information, please refer to the CARB website at www.arb.ca.gov/msprog/ordiesel/ordiesel.htm.
- i. All commercial diesel vehicles are subject to Title 13, § 2485 of the California Code of Regulations, limiting engine idling time. Idling of heavy-duty diesel construction equipment and trucks during loading and unloading shall be limited to five minutes; electric auxiliary power units should be used whenever possible.
- j. Diesel construction equipment meeting the California Air Resources Board (CARB) Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting CARB Tier 2 or higher emission standards should be used to the maximum extent feasible.
- k. Diesel powered equipment should be replaced by electric equipment whenever feasible.
- l. If feasible, diesel construction equipment shall be equipped with selective catalytic reduction systems, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California.
- m. Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
- n. All construction equipment shall be maintained in tune per the manufacturer's specifications.
- o. The engine size of construction equipment shall be the minimum practical size.

- p. The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time. Construction worker trips should be minimized by requiring carpooling and by providing for lunch onsite.

- 8. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City Master Environmental Assessment throughout grading and construction: 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. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner 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.

A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

- 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 public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60. 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 public improvement plans or building plans, shall be completed.

3. **Oak Tree Replacement:** Evidence of completion of all proposed oak tree plantings on the project site and on the County-owned properties (APN 029-110-023 & 029-202-001) shall be submitted to the Planning Division.
4. **Storm Water Pollution Control and Drainage System:** Evidence of completion of all proposed storm water/ drainage improvements on the County-owned property (APN 029-202-001) shall be submitted to the Planning Division and the Creeks Division.

H. **General Conditions.**

1. **Prior Conditions.** These conditions shall supersede the conditions identified in Planning Commission Resolution 048-06.
2. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
3. **Approval Limitations.**
 - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
 - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission.
 - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
4. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application.
5. **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 being notified of a lawsuit regarding 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.

IV. NOTICE OF CONDITIONAL USE PERMIT AND MODIFICATION APPROVAL TIME LIMITS:

The Planning Commission action approving the Conditional Use Permit and 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 and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

This motion was passed and adopted on the 1st day of November, 2012 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 0 ABSTAIN: 0 ABSENT: 2 (Bartlett, Schwartz)

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

PLEASE BE ADVISED:

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) CALENDAR DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.

