



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 002-13

101 STATE STREET AND 16 W. MASON STREET
MODIFICATIONS, TRANSFER OF EXISTING DEVELOPMENT RIGHTS,
DEVELOPMENT PLAN, COASTAL DEVELOPMENT PERMIT
FEBRUARY 7, 2013

**APPLICATION OF MARIA MARTINEZ, ARCHITECT WITH CEARNAL ANDRULAITIS, LLP
FOR ROMASANTA FAMILY LIVING TRUST, 101 STATE STREET AND 16 W. MASON STREET,
APN: 033-075-006 AND 033-075-011, HOTEL AND RELATED COMMERCE/ COASTAL OVERLAY
(HRC-2/SD-3) ZONES, GENERAL PLAN DESIGNATION: OCEAN RELATED COMMERCIAL/
MEDIUM HIGH RESIDENTIAL (MST2011-00171)**

The proposed project involves the demolition of the existing 714 s.f. commercial (laundry) building and 40-space surface parking lot, and construction of a 34-room hotel totaling 20,439 square feet (s.f.) with a 33-space parking garage (10,331 s.f.). A laundry area of approximately 1,088 s.f. is proposed within the new hotel building to replace the existing laundry building, which is used by the Harbor View Hotel. The new hotel would be three stories with a maximum height of 41 feet. The project site includes two parcels, which are proposed to be merged, and is bounded by State Street, West Mason Street and Kimberly Avenue.

The discretionary applications required for this project are:

1. A Modification to allow less than the required 20-foot front setback along State Street (SBMC §28.92.110.A.2);
2. A Modification to allow less than the required 20-foot front setback along W. Mason Street (SBMC §28.92.110.A.2);
3. A Modification to allow less than the required 20-foot front setback along Kimberly Avenue (SBMC §28.92.110.A.2);
4. A Modification to provide one less parking space than required (SBMC §28.92.110.A.1);
5. A Transfer of Existing Development Rights to transfer 10,224 square feet of nonresidential floor area from the Yanonali Courts project at 214 E. Yanonali Street (formerly APN 017-021-032) to the project site (SBMC §28.95.060);
6. A Development Plan to allow the construction of 19,725 square feet of nonresidential development (SBMC §28.87.300); and
7. A Coastal Development Permit (CDP2012-00005) to allow the proposed development in the Appealable and Non-Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.45.009).

The Planning Commission will consider approval of the Mitigated Negative Declaration prepared for the project pursuant to the California Environmental Quality Act Guidelines Section 15074.

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

WHEREAS, no one appeared to speak in favor of the application, and no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, January 31 2013
2. Site Plans

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

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

A. FINAL MITIGATED NEGATIVE DECLARATION ADOPTION

1. The Planning Commission has considered the proposed Final Mitigated Negative Declaration, dated January 31, 2013 for the 101 State Street and 16 W. Mason Street Project (MST2011-00171) and comments received during the public review process.
2. In the Planning Commission's independent judgment and analysis based on the whole record (including the initial study and comments received), there is no substantial evidence that the Project will have a significant effect on the environment.
3. The location and custodian of documents or other material which constitute the record of proceedings upon which this decision is based is the City of Santa Barbara Community Development Department, 630 Garden Street, Santa Barbara, CA 93101.
4. Mitigation measures identified in the Mitigated Negative Declaration that would avoid or reduce all potentially significant impacts to less than significant levels have been included in the project or made a condition of approval. Additional mitigation measures to minimize adverse but less than significant environmental effects have also been included as conditions of approval. A Mitigation Monitoring and Reporting Program, prepared in compliance with the requirements of Public Resources Code § 21081.6, is included in the Final Mitigated Negative Declaration for the Project and is hereby adopted.

B. FRONT SETBACK MODIFICATION – KIMBERLY AVE. (SBMC §28.92.110.A.2)

The proposed Modification along Kimberly Avenue to allow the hotel building to encroach up to 15 feet into the required 20 foot front setback from the existing Kimberly Avenue right-of-way, as shown on the plans dated January 24, 2013 and signed by the Chair of the Planning Commission is consistent with the purposes and intent of the Zoning Ordinance in order to provide appropriate building and structural relief along the street frontage, and is necessary to secure an appropriate improvement on a lot and prevent unreasonable hardship because of the site's constraints related to having three street frontages and associated setbacks as discussed in Section VII.A.1 of the Staff Report.

C. FRONT SETBACK MODIFICATION – W. MASON ST. (SBMC §28.92.110.A.2)

The proposed Modification along W. Mason Street to allow the hotel building to encroach up to 14 feet into the required 20 foot front setback as shown on the plans dated January 24, 2013 and signed by the Chair of the Planning Commission is consistent with the purposes and intent of the Zoning Ordinance in order to provide appropriate building and structural relief along the street frontage, and is necessary to secure an appropriate improvement on a lot and prevent

unreasonable hardship because of the site's constraints related to having three street frontages and associated setbacks as discussed in Section VII.A.1 of the Staff Report.

D. FRONT SETBACK MODIFICATION – STATE ST. (SBMC §28.92.110.A.2)

The proposed Modification along State Street to allow the hotel building to encroach up to 10 feet into the required 20 foot front setback as shown on the plans dated January 24, 2013 and signed by the Chair of the Planning Commission is consistent with the purposes and intent of the Zoning Ordinance in order to provide appropriate building and structural relief along the street frontage, and is necessary to secure an appropriate improvement on a lot and prevent unreasonable hardship because of the site's constraints related to having three street frontages and associated setbacks as discussed in Section VII.A.1 of the Staff Report.

E. PARKING MODIFICATION (SBMC §28.92.110.A.1)

The proposed parking Modification is consistent with the purposes and intent of the Zoning Ordinance to provide sufficient parking for the uses on the project site. As discussed in Section VII.A.2 of the Staff Report, the parking modification will not cause an increase in the demand for parking or loading space in the immediate area because the project's parking demand will be met on-site.

F. TRANSFER OF EXISTING DEVELOPMENT RIGHTS (SBMC §28.95.060)

1. The proposed development plans for both the sending and receiving sites are consistent with the goals and objectives of the General Plan of the city of Santa Barbara and the Municipal Code.

The multiple family development on the sending site (214 E. Yanonali St.) received approval by the Planning Commission on March 8, 2001 (MST2000-00637), and was determined to be consistent with the goals and objectives of the General Plan and the requirements of the Zoning Ordinance. This development has since been constructed and is an integral part of its surrounding neighborhood. Based on the findings made herein in support of development on the receiving site, with approval of the requested modifications, the proposed hotel building complies with all of the requirements of the Municipal Code and the General Plan.

2. The proposed development will not be detrimental to the site(s), neighborhood or surrounding areas.

The sending site project was approved by the Planning Commission and the Architectural Board of Review, which found the project to be appropriate, and development was granted occupancy in 2004. As described in Section IX of the staff report, the Historic Landmarks Commission has reviewed the proposed design for the new hotel on the receiving site and found it to be acceptable. Additionally, the Mitigated Negative Declaration prepared for the project analyzed the project's aesthetic and view impacts and found that the project would not have a significant environmental impact related to aesthetics.

3. The floor area of proposed nonresidential development on the receiving site does not exceed the sum of the amount of Existing Development Rights transferred when added

to the amount of Existing Development Rights on the receiving site, and does not exceed the maximum development allowed by the applicable zoning of the receiving site.

The proposed total new floor area for the project (20,439 sq. ft.) does not exceed the sum of the transferred square footage (10,224 sq. ft.) and the amount of the Existing Development Rights (existing floor area, Small, Minor and Vacant Land Additions) of nonresidential square footage (10,215 sq. ft.) allocated to the receiving site, and, with approval of the modifications as noted above, does not exceed the maximum development allowed by the site's zoning.

4. Each of the proposed nonresidential developments on the respective receiving site(s) will meet all standards for review as set forth in Section 28.87.300.E of the Municipal Code and all provisions of this Chapter, and will comply with any additional specific conditions for a transfer approval.

The sending site received approval by the Planning Commission on March 8, 2001, and met all standards for review. With the approval of the front setback modifications and parking modification, the receiving site complies with all standards for review in Section 28.87.300.E, as stated in the findings G.1 through G.7 below.

5. Development remaining, or to be built, on a sending site is appropriate in size, scale, use and configuration for the neighborhood and is beneficial to the community.

The sending site was previously developed with over 33,317 net commercial sf, which was demolished to create a multi-family residential project. That project was approved by the Planning Commission on March 8, 2001, and has since been constructed. That development was also approved by the Architectural Board of Review which found it to be appropriate in size, scale, use, and configuration for the neighborhood and beneficial to the community. As described in Section IX of this staff report, the new hotel on the receiving site has been reviewed by the Historic Landmarks Commission and was found to be acceptable in size, bulk, scale, and configuration with the surrounding neighborhood.

G. DEVELOPMENT PLAN (SBMC §28.87.300)

1. The proposed development complies with all provisions of the Zoning Ordinance.

With approval of the requested modifications (refer to findings in Section B-E above), the proposed project is in compliance with all provisions of the City's Zoning Ordinance (Title 28), as identified in Section VII.A of the Staff Report.

2. The proposed development is consistent with the principles of sound community planning.

The project is consistent with the principles of sound community planning by developing an infill site in the coastal zone with a visitor-serving use. The project site has been previously developed, and was most recently used as a laundry facility and overflow parking lot. The project is consistent with the General Plan and Local Coastal Plan, as described in Sections VII.B and VII.C of the Staff Report. As identified in the Mitigated Negative Declaration, the project will have no significant unmitigated environmental

impacts. The project is adequately served by public streets, public transportation and utilities.

3. The proposed development will not have a significant adverse impact upon the neighborhood's aesthetics/character in that the size, bulk or scale of the development will be compatible with the neighborhood.

As described in Section IX of the staff report, the design has been reviewed by the City's Historic Landmarks Commission, which found the architecture and site design appropriate, and found the project consistent with applicable Design Guidelines and compatible with the architectural character of the City and the surrounding neighborhood. Additionally, the Mitigated Negative Declaration prepared for the project analyzed the project's aesthetic and view impacts and found that the project would not have a significant environmental impact on aesthetics. Final review of the project, including architectural details, outdoor lighting, mechanical equipment and landscaping will be provided by the Historic Landmarks Commission.

4. The proposed development will not have a significant unmitigated adverse impact upon City and South Coast affordable housing stock.

The project will not result in a significant impact to City and South Coast affordable housing stock as it will establish a visitor-serving use on a property that is not zoned for residential development. No existing housing will be eliminated as a result of the project. The project will result in a very nominal increase in area employees; however, not enough to impact the City's existing housing supply.

5. The proposed development will not have a significant unmitigated adverse impact on the City's water resources.

Adequate City services are currently available to the project site. Water resource impacts are not anticipated with the construction of the proposed development because the increase in water demand will be minimal and can be accommodated by City water services. Refer to Section 9 (Public Services and Utilities) of the Initial Study in the Mitigated Negative Declaration.

6. The proposed development will not have a significant unmitigated adverse impact on the City's traffic.

The project will not generate substantial traffic and will not significantly impact any area intersections, as described in Section 11 (Transportation/Circulation) of the Initial Study in the Mitigated Negative Declaration.

7. Resources will be available and traffic improvements will be in place at the time of project occupancy.

As discussed in the Sections 9 and 11 of the Initial Study in the Mitigated Negative Declaration, adequate City services are currently available to the project site, and traffic improvements are not required.

H. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)

1. The project is consistent with the policies of the California Coastal Act.

As discussed in Section VII.C of this Staff Report, the project, as conditioned, is consistent with the policies of the California Coastal Act because it does not result in adverse effects related to coastal resources, including public access, recreation, visitor-serving uses, marine environment, land resources and development.

2. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code.

As discussed in Section VII.C of this Staff Report, the project, as conditioned, is consistent with all applicable policies of the City's Local Coastal Plan (including policies related to Hazards, Locating New Development, Visual Quality, and Circulation/Parking), all applicable implementing guidelines and, with the requested modifications, all applicable provisions of the of the Municipal Code.

II. Said approval is subject to the following conditions:

- A. **Order of Development.** In order to accomplish the subject development, the following steps shall occur in the order identified:

1. Pay Fish and Game fee immediately upon project approval. Delays in payment will result in delays in filing the required Notice of Determination.
2. Obtain all required design review approvals.
3. Pay Land Development Team Recovery Fee.
4. Submit an application for and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform rough grading. Comply with condition G "Construction Implementation Requirements."
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. Submit an application for and 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. **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 February 7, 2013 is limited to a three-story building of approximately 20,439 square feet to be used as a 34-room hotel with parking for 33 vehicles within a parking garage and the 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. **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.
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 Historic Landmarks Commission (HLC). Such plan shall not be modified unless prior written approval is obtained from the HLC. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan, including any tree protection measures. If said landscaping is removed for any reason without approval by the HLC, the owner is responsible for its immediate replacement. The maintenance of landscape by the owner shall include landscape and trees along the frontage and parkways of the development.
5. **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 and Coastal Development 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. **Pesticide or Fertilizer Usage Near Creeks.** The use of pesticides or fertilizer shall be prohibited on the site.
7. **Transportation Demand Management.** The following alternative mode incentives shall be incorporated into the project to reduce traffic impacts caused by the project. Owner shall be responsible for ensuring that all tenants comply with the provisions of the approved Transportation Demand Management (TDM) Plan.
 - a. **Bus Routes and Schedules Posted.** Notice of MTD bus routes and schedules shall be placed and maintained up-to-date in a central (public) location accessible to employees.
 - b. **Ride-Sharing Program.** Employees shall be made aware of the Ride-Sharing Program or similar successor programs administered by Traffic Solutions or successor agency.

8. **Visitor Information Program.** A Visitor Information Program shall be prepared and implemented, subject to review and approval by the Transportation Manager. The program shall include, but not be limited to:
 - a. Provide links to alternative transportation sites on the company website.
 - b. Provide mail information to visitors (prior to them coming) regarding alternative transportation available in Santa Barbara.
 - c. A means of providing train, bus and airline schedules and maps to prospective hotel guests.
 - d. A means of providing hotel guests with information on alternative transportation modes, schedules, and maps of access to the Central Business District, beach area and other local and regional points of interest.
 - e. Advertisement for and solicitation of meetings and other events which includes explanation of the City's clean air and energy reduction goals and an explanation of the benefits of using alternative transportation modes.
 - f. Bell service to and from the train station shall be offered, and information on this service shall be included as part of the Visitor Information Program.
 9. **Recyclable Material Use and Collection for Hotels.** Hotel operators shall encourage guests to recycle by using recyclable materials, and providing sufficient and appropriate receptacles, such as recycling containers, in each room. Recyclable material collection and pick-up areas shall be provided on-site for the hotel operations. A minimum of 50 percent of the area devoted to holding trash for the project shall be used for recycling purposes.
 10. **Areas Available for Parking.** All parking areas and access thereto shall be kept open and available in the manner in which it was designed and permitted.
- C. **Design Review.** The project, including public improvements, is subject to the review and approval of the Historic Landmarks Commission (HLC). The HLC shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.
1. **Landscape Species.** No invasive species shall be included in the landscape plan due to proximity to Mission Creek.
 2. **Tree Removal and Replacement.** All trees removed, except fruit trees and street trees approved for removal without replacement by the Parks Department, shall be replaced on-site on a one-for-one basis with minimum 15 gallon size tree(s) of an appropriate species or like species, in order to maintain the site's visual appearance and reduce impacts resulting from the loss of trees.
 3. **Commemorative Plaque.** The existing commemorative plaque (or other similar commemorative plaque or educational display) memorializing the location of Loughhead Aircraft Manufacturing of Santa Barbara shall be incorporated into the project. Final location and details to be approved by the Historic Landmarks Commission. (CR-1)
 4. **Nighttime Lighting.** Lighting installed on the hotel shall not be directed toward, or shed light on, the Creek habitat and shall be minimized in areas that could result in

undue nighttime lighting affecting Mission Creek. The Historic Landmarks Commission shall review the project's lighting plan for compliance with the City's Outdoor Lighting and Design Ordinance with particular attention paid to lighting that has the potential to affect Mission Creek. (BIO-1)

5. **Screened Backflow Device.** The backflow devices for fire sprinklers, pools, spas, solar panels 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 HLC.
6. **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 HLC.
7. **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.

8. **Kimberly Avenue Frontage Landscaping.** If construction of the hotel proceeds to a point where the owner wishes to obtain a certificate of occupancy and the right-of-way for the Kimberly Avenue relocation has not been acquired, Owner shall landscape the open space on the project site between the existing right of way and the hotel in a manner approved by the HLC.
9. **Public Art.** The Applicant shall work with the HLC to incorporate some form of public art and/or a fountain in the front setback in order to improve the pedestrian experience.

D. **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. **Approved Public Improvement Plans.** Public Improvement Plans as identified in condition D.1.d "State Street Public Improvements," condition D.1.e "West Mason Street Public Improvements," and condition D.1.f "Kimberly Avenue Public Improvements" shall be submitted to the Public Works Department for review and approval. Upon acceptance of completed public improvement plans, a Building permit may be issued if the Owner has bonded for public improvements and executed the *Agreement to Construct and Install Improvements (Not a Subdivision)*.
- b. **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 prepares said agreement for the Owner's signature. The water rights agreement shall be completed separately but concurrently with merger document and prior to issuance of the building permit.

- 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 prepared by a registered civil engineer or licensed architect 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. **State Street Public Improvements.** The Owner shall submit C-1 public improvement or Public Works plans for construction of improvements along the property frontage on State Street. 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:
- (1) Remove and reconstruct access ramp to meet current access ramp standards.
 - (2) Install curb drain through existing curb by core drilling of existing curb.
 - (3) Install a new water service, meter and meter box and pay additional buy in fees and connection fees for water and sewer per current fee resolution at time of will serve letter.
- e. **West Mason Street Public Improvements.** The Owner shall submit C-1 public improvement or Public Works plans for construction of improvements along the property frontage on West Mason Street. 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:
- (1) Remove and salvage sandstone curbs per City standards and replace with concrete curb. Conform new curb return for the new access ramp at

Kimberly Avenue and Mason Street to match the existing curb alignment on Mason Street.

- (2) Install fire protection service and fire service backflow device and pumper connection per City standards and pay fireline connection fee per current resolution at time of occupancy.
 - (3) Install curb drain through existing curb by core drilling of the existing curb.
 - (4) Install new sewer service lateral if needed for capacity and remove or abandon existing lateral as approved by the City Engineer.
 - (5) Install new street light on Mason Street near the corner of Kimberly Avenue. The location and type of decorative light shall be approved by the City Engineer.
 - (6) Remove the existing driveway and replace with parkway and sidewalk to match and conform to the existing sidewalk and parkway.
 - (7) Remove overhead electrical, cable and television service lines to the existing building. Install new underground services for electrical, cable, and telephone as needed to serve the new building. No new overhead lines shall be installed.
 - (8) Remove any temporary asphalt improvements resulting from the soil remediation permit per City Permit Bld2012-02281 and replace with permanent improvements per City Standards within right of way to conform with existing improvements.
- f. **Kimberly Avenue Public Improvements.** The Owner shall submit C-1 public improvement or Public Works plans for construction of improvements along the property frontage on Kimberly Avenue. 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:
- (1) Remove existing flatwork behind curb and install City standard sidewalk from the existing property line to the back of the existing curb.
 - (2) Install curb cut for a new commercial driveway to access the proposed onsite parking.
 - (3) If construction of the hotel precedes the construction of the realignment of Kimberly Avenue, relocate existing improvements in the right of way as necessary to clear the proposed driveway access, including:
 - a) The utility pole
 - b) Utility vaults
 - c) Cap or shut the existing water service at the main and, if the meter is to be used, relocate the water service lateral and install the water meter pursuant to City standards.
 - (4) Install curb drains as needed by core drilling existing curb.

- g. **Lot Merger Required.** Prior to the issuance of a building permit, the Real Property known as APN 033-075-006 and APN 033-075-011 shall be merged into one (1) lot, following the procedure in Santa Barbara Municipal Code Chapter 27.30.
 - h. **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.
 - i. **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.
 - j. **Bicycle Parking.** Five covered bicycle parking spaces shall be provided. Their size and location shall be approved by the Transportation Manager.
 - k. **Agreement to Construct and Install Improvements.** The Owner shall submit an executed *Agreement to Construct and Install Improvements*, prepared by the Engineering Division, an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the Agreement.
 - l. **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 or easements shall be obtained by the Owner. The owner shall submit an application for a Minor Encroachment Permit for the installation and maintenance of a private telecommunication facility in the right of way, if desired.
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 B "Recorded Conditions Agreement" to the Community Development Department prior to issuance of any building permits.
 - b. **Transfer of Existing Development Rights.** The documents transferring the development rights from the sending site to the receiving site shall be submitted to the Community Development Director for review and approval prior to execution. Once the documents affecting the transfer of rights has been executed and recorded, evidence of the recording shall be submitted to the Community Development Department.
 - c. **Project Environmental Coordinator Required.** Submit to the Planning Division a contract with a qualified independent consultant to act as the Project Environmental Coordinator (PEC). Both the PEC and the contract are subject to approval by the City's Environmental Analyst. The PEC shall be responsible for assuring full compliance with the provisions of the Mitigation Monitoring and Reporting Program (MMRP) and Conditions of Approval to the City. The contract shall include the following, at a minimum:

- (1) The frequency and/or schedule of the monitoring of the mitigation measures.
 - (2) A method for monitoring the mitigation measures.
 - (3) A list of reporting procedures, including the responsible party, and frequency.
 - (4) A list of other monitors to be hired, if applicable, and their qualifications.
 - (5) Submittal of weekly reports during demolition, excavation, grading and footing installation and monthly reports on all other construction activity regarding MMRP and condition compliance by the PEC to the Community Development Department/Case Planner.
 - (6) Submittal of a Final Mitigation Monitoring Report.
 - (7) The PEC shall have authority over all other monitors/specialists, the contractor, and all construction personnel for those actions that relate to the items listed in the MMRP and conditions of approval, including the authority to stop work, if necessary, to achieve compliance with mitigation measures.
- d. **Geotechnical Studies.** A Final Geotechnical Report shall be prepared and submitted to the City's Building Division as part of the City Building and Safety Division review and approval of the construction plans. Grading and foundation plans shall be reviewed by a Geotechnical Engineer and Engineering Geologist to ensure compliance with the recommendations in the Final Report. Compliance shall be demonstrated on plans submitted for grading and building permits and subject to City Building and Safety Division review and approval. (*GEO-1*)
- e. **Construction Techniques.** Construction of the building shall be done using cast-in-place piles (or similar construction technique that does not result in noise or vibration impacts to sensitive species in Mission Creek). Typical driven piles shall not be used. (*BIO-3*)
- f. **Soils Management Plan.** A soils management plan, including a confirmation soil sampling plan, shall be submitted to the Santa Barbara County Fire Department, Fire Prevention Division for review and approval prior to issuance of a building permit for development at the project site. The soils management plan shall describe the procedures to properly handle and dispose of hydrocarbon impacted soils that may be encountered during site grading activities. (*HAZ-1*)
- g. **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 draft copy of the notice to the Planning Division for review and approval.
- h. **Letter of Commitment for Neighborhood Notification Prior to Construction.** The Owner shall submit to the Planning Division a letter of commitment to provide the written notice specified in condition E.1 "Neighborhood Notification Prior to Construction" below. 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.

- i. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment to hold the Pre-Construction Conference identified in condition E.2 "Pre-Construction Conference" prior to disturbing any part of the project site for any reason.
- j. **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 C "Design Review," and all elements/specifications shall be implemented on-site.
- k. **Mitigation Monitoring and Reporting Requirement.** Note on the plans that the Owner shall implement the Mitigation Monitoring and Reporting Program (MMRP) for the project's mitigation measures, as outlined in the Mitigated Negative Declaration for the project.
- l. **Conditions on Plans/Signatures.** The final 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 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.

- E. **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 Project

Environmental Coordinator (PEC) and 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. *(N-1)*

2. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Community Development Department Building and Planning Divisions, the Property Owner, Architect, Project Engineer, Project Environmental Coordinator, Mitigation Monitors (if any), Contractor and each Subcontractor.
3. **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 and Project Environmental Coordinator's (PEC's) name, contractor's and PEC'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.
4. **Bird Nesting.** Removal of vegetation shall be avoided during the bird nesting season (February 15 to September 15) where feasible. If avoidance is not feasible, a qualified biologist shall conduct a nesting bird survey no more than seven (7) days prior to removal of any trees or vegetation scheduled to occur from February 15 through September 15. If nesting is found, the trees/vegetation shall not be removed until after the young have fledged and the biologist should establish a protective buffer around the nest as needed. *(BIO-2)*
5. **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.
6. **Construction Hours.** Construction (including preparation for construction work) shall only be permitted Monday through Friday between the hours of 7:00 a.m. and 7:00 p.m., excluding the following holidays:

New Year's Day	January 1st*
Martin Luther King, Jr. Day	3rd Monday in January
Presidents' Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the City 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 said 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. (N-2)

7. **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.
8. **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.
9. **Construction Equipment Sound Control.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices. (N-3)
10. **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.
11. **Asbestos & Lead-Containing Materials.** Pursuant to Air Pollution Control District (APCD) Rule 1001, the applicant is required to complete and submit an Asbestos Demolition / Renovation Notification form for each regulated structure to be demolished or renovated. The completed notification shall be provided to the Santa Barbara County APCD with a minimum of 10 working days advance notice prior to disturbing asbestos in a renovation or starting work on a demolition. Any abatement or removal of asbestos and lead-containing materials must be performed in accordance with applicable federal, State, and local regulations. Disposal of material containing asbestos and/or lead shall be in sent to appropriate landfills that are certified to accept this material.
12. **APCD Permits/Compliance.**
- a. The Applicant shall contact the APCD's Engineering and Compliance Division to determine if Authority to Construct and/or Permit to Operate Permits will be required for the remediation of the site.
 - b. APCD Permits must be obtained for all equipment that requires an APCD permit. APCD Authority to Construct permits are required for diesel engines rated at 50 bhp and greater (e.g. firewater pumps and emergency standby generators) and boilers/large water heaters whose combined heat input rating exceeds 2.0 million BTUs per hour.
 - c. Small boilers and water heating units (rated between 75,000 and 2.0 million Btu/hr) must comply with the emission limits and certification requirements of APCD Rule 360. Combinations of units totaling 2.0 million Btu/hr or greater are required to obtain a District permit prior to installation.
13. **Mitigation Monitoring Compliance Reports.** The PEC shall submit weekly reports during demolition, excavation, grading and footing installation and monthly reports on all other construction activity regarding MMRP compliance to the Community Development Department Planning Division.
14. **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.

F. **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. **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.
4. **Mitigation Monitoring Report.** Submit a final construction report for mitigation monitoring.

G. **General Conditions.**

1. **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.

2. **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.

3. **California Department of Fish and Game Fees Required.** Pursuant to Section 21089(b) of the California Public Resources Code and Section 711.4 et. seq. of the California Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified Department of Fish and Game fees are paid and filed with the California Department of Fish and Game within five days of the project approval. The fees required are \$2,995.25 for projects with Environmental Impact Reports and \$2,156.25 for projects with Negative Declarations. Without the appropriate fee, the Notice of Determination cannot be filed and the project approval is not operative, vested, or final. The fee shall be delivered to the Planning Division immediately upon project approval in the form of a check payable to the California Department of Fish and Game. Please note that a filing fee of \$50.00 is also required to be submitted with the Fish and game fee in the form of a separate check payable to the County of Santa Barbara.

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. **Site Maintenance.** The existing site/structure shall be maintained and secured. Any landscaping shall be watered and maintained.

6. **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.

III. NOTICE OF MODIFICATION APPROVAL TIME LIMITS: The Planning Commission action approving the Modification 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.

IV. NOTICE OF DEVELOPMENT PLAN TIME LIMITS:

The Planning Commission action approving the Development Plan shall expire four (4) years from the date of approval per Santa Barbara Municipal Code §28.87.350, unless:

1. A building or grading permit for the work authorized by the development plan is issued prior to the expiration date of the approval.
2. The Community Development Director grants an extension of the development plan approval upon finding that the applicant has demonstrated due diligence in implementing and completing the proposed project. The Community Development Director may grant one (1) one-year extension of the development plan approval.

V. NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:

The Planning Commission action approving the Coastal Development Permit shall expire two (2) years from the date of final action upon the application, per Santa Barbara Municipal Code §28.44.230, unless:

1. Otherwise explicitly modified by conditions of approval for the coastal development permit.
2. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.
3. The Community Development Director grants an extension of the coastal development permit approval. The Community Development Director may grant up to three (3) one-year extensions of the coastal development permit approval. Each extension may be granted upon the Director finding that: (i) the development continues to conform to the Local Coastal Program, (ii) the applicant has demonstrated due diligence in completing the development, and (iii) there are no changed circumstances that affect the consistency of the development with the General Plan or any other applicable ordinances, resolutions, or other laws.

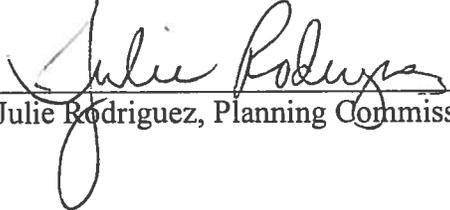
VI. NOTICE OF TIME LIMITS FOR PROJECTS WITH MULTIPLE APPROVALS (S.B.M.C. § 28.87.370):

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 land use 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 longest discretionary land use approval related to the application, unless otherwise specified by state or federal law.

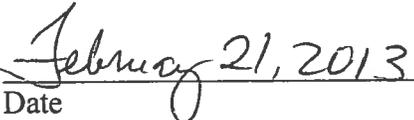
This motion was passed and adopted on the 7th day of February, 2013 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 ABSTAIN: 0 ABSENT: 1 (Bartlett)

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.