



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 004-13

### 2215 AND 2305 EDGEWATER WAY

### LOT LINE ADJUSTMENT, COASTAL DEVELOPMENT PERMIT, MODIFICATIONS

FEBRUARY 21, 2013

**APPLICATION OF RAYMOND APPLETON, AGENT FOR JOHN SHARRAT, 2215 AND 2305 EDGEWATER WAY, APN'S 041-350-013, AND 041-350-014, E-3 AND SD-3 ZONES, GENERAL PLAN DESIGNATION: SUBURBAN LOW DENSITY RESIDENTIAL (MST2008-00119)**

The proposed project involves a lot line adjustment between 2215 Edgewater Way (Lot 2) and 2305 Edgewater Way (Lot 1), with construction proposed on the resulting lots. The two proposed lots are identified as Adjusted Parcel 1 and Adjusted Parcel 2. The property line dividing the two existing lots runs east-west, resulting in a bluff top lot and a non-bluff top lot. The proposed lot line adjustment would change the orientation of the dividing lot line to a north-south configuration, resulting in two bluff top lots.

Existing Lot 1 (2305 Edgewater Way – non-bluff top) is 11,264 square feet with a 9% slope. Adjusted Parcel 1 would be 22,016 square feet with a 43.5% slope. Existing Lot 2 (2215 Edgewater Way – bluff top) is a 43,127 square lot with a 48% slope. Adjusted Parcel 2 would be 31,375 square feet with a 48.8% slope.

All of the existing development is on Existing Lot 1, which contains a single-family residence, a detached two-story guest studio (not a legal unit), and a detached, unpermitted two-car carport.

Adjusted Parcel 1 includes the construction of a 435 square foot two-car garage and a new 205 square foot entrance trellis for the existing 2,219 square foot two-story single-family residence. A modification is requested for a corner of the garage to encroach 2'-11" into the 20' front setback at the north property line.

Adjusted Parcel 2 includes the conversion of the existing 627 square foot guest studio to a single family residence with a 240 square foot deck, the demolition of the existing 283 square foot "as-built" carport, and construction of a 450 square foot detached two-car garage and a 419 square foot basement. A corner of the garage will require a modification to allow an encroachment of 2'-7" into the 20' front setback at the north property line. A modification is also requested on this lot to allow a new 5' high hedge and walk through gate to exceed 3.5' within 10' of a portion of the east front property line for approximately 58 lineal feet at Mohawk Road.

The discretionary applications required for this project are:

1. A Lot Line Adjustment (LLA) to adjust the property line between 2305 Edgewater Way and 2215 Edgewater Way (SBMC §27.40 & Gov. Code 66412);
2. Two Modifications to allow the new garage structures on both adjusted parcels to encroach into the front setback on Edgewater Way (SBMC §28.15.060 and 28.92.110);
3. A Modification to allow a 5' high hedge and gate to exceed 3'-6" in height within 10' of a front property line (SBMC §28.7.170 and 28.92.110);
4. A Coastal Development Permit (CDP2008-00023) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15305.

**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, February 7, 2013
2. Site Plans
3. Correspondence received in support of the project:
  - a. Sally Hoover Witnov, via email
  - b. John and Laura Bridley, via email
  - c. Pansy and Dennis Rankin, Santa Barbara, CA
  - d. San and Jill Ryan, Santa Barbara, CA
  - e. Bruce and Wanda Venturelli, Santa Barbara, CA
  - f. Jim Thorngren, via email
  - g. Raymond Appleton, Agent, submitted a petition with 31 signatures
4. Correspondence received in opposition to the project:
  - a. Paula Westbury, Santa Barbara, CA

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

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

A. Front Yard Modifications for Edgewater Way

The requested modifications are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure appropriate improvements on the reconfigured lots as discussed in Section V.A. of the Staff Report. The lots are currently developed so that the existing structures would prevent any type of conforming garage without encroaching into the front setback. The modifications are requested to allow the northwest corners of each garage to encroach a small amount (2'-11" on Adjusted Lot 1 and 2'-7" on Adjusted Lot) into the front setbacks on Edgewater Way. The proposed location of the garages requires the least amount of encroachment possible in order to provide each lot with two covered parking spaces. The garages will provide required parking on the newly configured lots and will eliminate the existing unpermitted carport which is entirely in the front setback of Lot 2.

B. Overheight hedge modification On Mohawk Road

The requested modification to allow a hedge and entry gate to exceed 3.5 feet in height within 10 feet of the front property line is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement. As discussed in Section V.A. of the Staff Report, the property frontage acts as a secondary private yard for the existing structure, and the increased hedge height will aid in screening the windows from oncoming traffic, providing privacy for the yard area and will allow the owner to secure the bluff top from trespassers, without obstructing public views.

C. Lot Line Adjustment (SBMC §27.40)

As described in Section V.A. of the Staff Report, the proposed Lot Line Adjustment is appropriate for the area and is consistent with the City's General Plan and Building and Zoning Ordinances. The newly adjusted lots would be 22,016 square feet and 31,375 square feet, which are consistent with the minimum lot size of 7,500 square feet. Each lot will exceed the minimum requirement in the E-3 zone to provide 60 feet of frontage. The reconfiguration of the lots allows both lots to be developed with single family residences, consistent with the surrounding neighborhood while precluding development within the 75 year bluff setback. The lot line adjustment will also allow the guest house to be converted to a single family residence that conforms to the requirements of the E-3 single family zone. The conversion of the existing guest house will not increase the density because there are no new lots being created.

D. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)

The proposed project is consistent with the policies of the California Coastal Act, the City's Local Coastal Plan, all implementing guidelines, and applicable provisions of the Code because the new construction is compatible with the existing neighborhood, would promote natural bluff top vegetation and appearance, would not impact views from public view corridors, would not impact any existing public access points to the beach, and would improve safety and drainage hazards on the site and is not located on an archaeologically sensitive site, as described in Section V.B. of the Staff Report.

II. 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. Obtain all required design review approvals.
2. Pay Land Development Team Recovery Fee.
3. Submit an application for and obtain City Council approval of the Lot Line Adjustment and Agreement(s) and record said documents.
4. Submit an application for and obtain a Building Permit (BLD) to demolish any structures / improvements that would conflict with the Final Map. A BLD may also be obtained to demolish non-conflicting structures/improvements and/or perform rough grading. Comply with condition E "Construction Implementation Requirements."
5. Submit an application for and obtain an Encroachment for any improvements within the Public Right of Way.
6. Submit an application for and obtain Building Permit(s) for, and complete, the construction of all private 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 21, 2013, is limited to lot line adjustment between 2215 Edgewater Way (Lot 2) and 2305 Edgewater Way (Lot 1) resulting. The two lots

are identified as Adjusted Parcel 1 and Adjusted Parcel 2. Adjusted Parcel 1 would be 22,016 square feet with a 43.5% slope and Adjusted Parcel 2 would be 31,375 square feet with a 48.8% slope. 2305 Edgewater Way includes the construction of a 435 square foot two-car garage and a new 205 square foot entrance trellis for the existing 2,219 square foot two-story single-family residence. 2215 Edgewater Way includes the conversion of the existing 627 square foot guest studio to a single family residence with a 240 square foot deck, the demolition of the existing 283 square foot "as-built" carport and construction of a 450 square foot detached two-car garage, a 419 square foot basement and a new 5' high hedge and walk through gate to exceed 3.5' within 10' of a portion of the east front property line for approximately 58 lineal feet at Modoc Road and the improvements shown on the site plan and Lot Line Adjustment signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.

2. **Development Restrictions.** No development shall be allowed south of the top of bluff setback line (also shown as the "Ocean Bluff Setback" line on the site plan) in the recorded conditions. Development shall include but not be limited to structures, pathways, vegetation and irrigation.
3. **Public Right of Way.** No obstructions or landscaping shall be installed within the Public Right of Way without the issuance of an Encroachment Permit by the Public Works Department.
4. **Uninterrupted Water Flow.** The Owner(s) of each adjusted parcel shall allow for the continuation of any historic flow of water onto the Real Property including water from adjacent sources such as, but not limited to, public or private property drainage swales, natural watercourses, conduits, runoff from public or private roads, etc, as may be deemed appropriate. No additional storm water flows in quantity or direction shall impact existing property to the west of Lot 1.
5. **Recreational Vehicle Storage Limitation.** No recreational vehicles, boats, or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
6. **Landscape Plan Compliance.** The Owner(s) shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. 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 SFDB, the owner is responsible for its immediate replacement.
7. **Hedge Height.** The proposed hedge and entry gate on 2215 Edgewater Way, along Mohawk Road, shall be maintained at a height of no more than 5' as shown on the approved plans.
8. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner(s) 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.

9. **Coastal Bluff Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from waves during storms and erosion, retreat, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.
  10. **Geotechnical Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from landslides, erosion, retreat, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.
  11. **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 Single Family Design Board (SFDB). SFDB shall not grant project design approval until the following Planning Commission and use conditions have been satisfied.
1. **Landscaping on Bluff Top Properties.** The Single Family Design Board (SFDB) shall review any new landscaping, irrigation and/or improvements to said landscaping north of the top of bluff setback (a.k.a. the Ocean Bluff Setback line on the site plan). All existing succulent plants that add weight to the bluff and/or contribute to erosion shall be removed in a manner that does not disturb the root system and replaced with appropriate plant material in a manner that does not increase the rate of erosion. No changes are to be made to the previously approved landscape plan south of the top of bluff setback line.
  2. **Public Right of Way** All landscape improvements proposed in the Public Right of Way shall be reviewed by the Single Family Design Board.

3. **Hedge.** The proposed hedge and entry gate on 2215 Edgewater Way, along Mohawk Road, shall be maintained at a height of no more than 5' as shown on the approved plans and should be a species that is appropriate for bluff top plantings.
4. **Drainage.** Drainage improvements shall be shown on the Landscape Plan and Site Plan and shall be installed per the drainage analysis prepared by Flowers & Associates dated August 20, 2010. These improvements shall include:

2305 Edgewater Way: A new permeable driveway and a 225 square foot surface detention/infiltration basin (6 inches deep with 4:1 side slopes) with a capacity of 58 cubic feet of storage shall be installed adjacent to the garage in the front yard. Rain water from the garage and the existing residence will be collected by roof gutters and discharged to the ground surface by downspouts and to the basin by vegetated surface swales. The basin shall be constructed with a 1 foot depth layer of gravel beneath the basin to increase the storage capacity by approximately 22 cubic feet. Stormwater will be infiltrated/percolated into the highly permeable soil on site.

2215 Edgewater Way: A new permeable driveway and a 140 square foot surface detention/infiltration basin (6 inches deep with 4:1 side slopes) with a capacity of 50 cubic feet of storage shall be installed adjacent to the garage in the front yard. Rain water from the new garage will be collected by roof gutters and discharged to the ground surface by downspouts and to the basin by vegetated surface swales. The basin shall be constructed with a 1 foot depth layer of gravel beneath the basin to increase the storage capacity by 22 cubic feet. Stormwater will be infiltrated/percolated into the highly permeable soil on site.

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 SFDB.
  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 SFDB.
- 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.e. located along Edgewater Way and Mohawk Road shall be submitted to the Public Works Department for review and approval. Upon acceptance of conceptual public improvement plans, a Building permit may be issued if the Owner has bonded for public improvements and executed the *Agreement for Land Development Improvements*.

- b. **Lot Line Adjustment.** The Owner shall submit a *Lot Line Adjustment* application for review and approval to the Public Works Department. A surveyor licensed in the state of California shall prepare the legal description and required exhibits to attach to the subject document which shall be recorded in the Office of the County Recorder.
- c. **Bluff Top Setback.** The lines delineating the geologic top of bluff, the top of bluff, and the top of bluff setback (a.k.a. the Ocean Bluff Setback on the site plan) shall be clearly shown on the Lot Line Adjustment map to be recorded in the office of the County Recorder.
- d. **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.
- e. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water Management Plan (treatment, rate and volume). The project shall comply with the Drainage Analysis prepared by Flowers & Associates dated August 18, 2010 and August 20, 2010. 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.
- f. **Edgewater Way and Mohawk Road Public Improvements.** The Owner shall submit C-1 public improvement or Public Works plans for construction of improvements along the property frontage on 2215 and 2305 Edgewater Way. 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) The applicant shall pay monies in the amount of \$17,181.00 (or the value for 830 square feet of sidewalk installation in the year of construction) in lieu of installing a City standard sidewalk.
  - (2) Install two driveway aprons modified to meet Title 24 requirements with a maximum width of 16 feet, installation of Type 3 Curb Ramp, with the locations subject to the approval of the City Engineer.
  - (3) Install two foot concrete curb and gutter along entire frontage per the City Standard, with the location subject to the approval of the City Engineer. The curb and gutter installation shall include saw cutting and removal of a minimum of two feet of existing asphalt street beyond the new lip of gutter and replacement of asphalt street in kind but in no case less than 4"

asphalt concrete. Slurry seal shall be applied to the street to the existing centerline to visually match the existing roadway surface.

- (4) Lot 1 shall install sewer and water service laterals connecting to City water and sewer mains.
- (5) City Water Department shall perform the installation of water service, meter and box for Lot 1.
- (6) Applicant shall pay most current Water and Sewer Buy-In Fees and Water Service Connection Fee for Lot 1.
- (7) Lot 2 water meter and box shall be upgraded to meet the current City standard (as needed).
- (8) Applicant shall install a a street light on the existing power pole at the project frontage of Edgewater Wayper city standard..
- (9) The Applicant is not required to underground the existing distribution lines along the project frontage. The existing overhead service lines to 2215 and 2305 Edgewater Way shall be placed underground and no new overhead service lines shall be installed.
- (10) Any work in the public right-of-way requires a Public Works Permit.

- g. **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 (as needed) if Lot Line Adjustment and occupancy is desired by Applicant prior to completion of the public improvements.
- h. **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.

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. **In Lieu Fee for Sidewalk.** Provide proof that the in-lieu fee has been paid.**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.
- c. **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

above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner	Date	
Contractor	Date	License No.
Architect	Date	License No.
Engineer	Date	License No.

- 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. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met.
  2. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Transportation Manager.
  3. **Haul Routes.** The haul route(s) for all construction-related trucks with a gross vehicle weight rating (GVWR) of three tons or more, entering or exiting the site, shall be approved by the Transportation Manager.
  4. **Traffic Control Plan.** All elements of the approved Traffic Control Plan shall be carried out by the Contractor.
  5. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows:
    - a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.

- b. Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project.
  - c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.
6. **Expeditious Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used, as directed by the Building Inspector.
7. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.
8. **Street Sweeping.** The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.
9. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
10. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number(s), work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The construction contact phone number shall include an option to contact a person instead of a machine in case of emergency. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
11. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
12. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.
13. **Unanticipated Archaeological Resources Contractor Notification.** 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.

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. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid prior to issuance of any building permit or recordation of the Map, whichever comes first.
  4. **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 Conditional Use Permit, Modification, Performance Standard Permit, or Variance 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.

3.

**IV. 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.

**V. 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 21st day of February, 2013 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 1 (Jordan) ABSTAIN: 0 ABSENT: 1 (Lodge)

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.**

