



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 018-14

240 W. ALAMAR AVENUE

TENTATIVE SUBDIVISION MAP AND FRONT SETBACK MODIFICATION,

JULY 17, 2014

**APPLICATION OF BILL McREYNOLDS FOR CITY VENTURES URBAN LAND LLC,
240 W. ALAMAR AVENUE, APN 051-283-001, R-3 (LIMITED MULTIPLE FAMILY RESIDENCE) &
SD-2 (SPECIAL DISTRICT) ZONES, GENERAL PLAN DESIGNATION: MED/HIGH DENSITY
RESIDENTIAL (15-27 UNITS/ACRE) (MST2013-00022)**

The project consists of the demolition of a single-family residence and detached garage, and construction of a two- and three-story 7,410 square foot condominium building containing four price-restricted, three-bedroom units affordable to moderate income households. Two parking spaces would be provided per unit; two-car garages for three units and a one-car garage and one uncovered parking space for the back unit. The property area is 14,808 square feet and includes a reach of Mission Creek.

The discretionary applications required for this project are:

1. A Front Setback Modification to allow the building to encroach into the 20-foot front setback (SBMC §28.45.008 & §28.92.110); and
2. A Tentative Subdivision Map for a one-lot subdivision to create four residential condominium units (SBMC Chapters 27.07 and 27.13).

The project requires an environmental finding pursuant to California Environmental Quality Act Guidelines Section 15183.

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, May 8, 2014.
2. Staff Memorandum, July 10, 2014.
3. Site Plans
4. Correspondence received in support of the project:
 - a. List names, address
5. Correspondence received in opposition to the project or with concerns:
 - a. Marilyn Johnson, via email
 - b. Dan Litten, via email
 - c. Michael Drury, hand-delivered

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

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

A. **ENVIRONMENTAL REVIEW**

The project qualifies for an exemption from further environmental review under CEQA Guidelines Section 15183, based on the City staff analysis and the CEQA Certificate of Determination on file for this project.

B. **FRONT SETBACK MODIFICATION (SBMC §28.92.110)**

The Front Setback Modification for the building to encroach into the W. Alamar Avenue 20-foot front setback is consistent with the purposes and intent of the Zoning Ordinance and promotes uniformity of improvement along the street. The development is consistent with the legislative intent of the SD-2 Zone Setback, the Urban Design Guidelines, and the pattern of development in the vicinity of the project. The reduced front setback also provides for four three-bedroom affordable condominium units with a 35-foot building setback from Mission Creek, where the applicant is only required to provide four two-bedroom units.

C. **TENTATIVE SUBDIVISION MAP (SBMC §27.07.100)**

As described in Section VII.C of the Staff Report, the Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara because it provides for four condominium units affordable to moderate income households, creek restoration, and an adequate setback from the Mission Creek top of bank. The site is physically suitable for the proposed development because sufficient lot area is available away from the creek for the proposed development. The project is consistent with the base density provisions of the Municipal Code and the General Plan because the project provides more than 3,500 square feet of lot area per unit, and the proposed use is consistent with the vision for this neighborhood of the General Plan because it provides multi-family units at approximately 11.8 units per acre in the Medium-High density residential area. The design of the project will not cause substantial environmental damage because the project is required to include construction and post-construction stormwater management best management practices, habitat restoration and monitoring, and associated improvements will not cause serious public health problems

D. **NEW CONDOMINIUM DEVELOPMENT (SBMC §27.13.080)**

1. There is compliance with all provisions of the City's Condominium Ordinance, as described in Section VII of the Staff Report.
2. The project complies with density requirements, and each unit includes laundry facilities, separate utility metering, adequate unit size and storage space, and the required private outdoor living space, as described in Section VII of the Staff Report.
3. The proposed development is consistent with the General Plan of the City of Santa Barbara because it provides four affordable condominium units, an adequate creek setback, and creek restoration, as described in Section VII of the Staff Report.
4. The project can be found consistent with policies of the City's General Plan including the Housing Element, Environmental Resources Element, and Land Use Element. The project will provide infill residential development that is compatible with the surrounding neighborhood and provides a proportionate level of protection and restoration of the riparian corridor, as described in Section VII of the Staff Report.

5. The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources because adequate parking is provided on-site, and the third story is substantially set back from Alamar Avenue, as described in Section VII of the Staff Report.
6. The project is an infill residential project proposed in an area where residential development is a permitted use. The project is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts because, once the minimal number of new trips (three AM and three PM peak hour) are added to the street network, there will not be an impact at any of the City's identified 2030 impacted intersections. The design has been reviewed by the Architectural Board of Review, which found the architecture and site design appropriate, as described in Section VII 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 Architectural Board of Review approvals.
2. Pay Land Development Team Recovery Fee (30% of all planning fees, as calculated by staff) prior to issuance of any building permit or recordation of the Map, whichever comes first.
3. Submit an application for and obtain a Building Permit (BLD) to demolish any structures / improvements that would conflict with the Parcel Map. A BLD may also be obtained to demolish non-conflicting structures/improvements and/or perform rough grading. Comply with Condition F "Construction Implementation Requirements."
4. Submit an application for and obtain Building Permit(s) for, and complete, the construction of all private improvements required **prior** to approval of the Map to ensure the lot is ready for subdivision.
5. Submit an application for and obtain City Council approval of the Parcel Map and Agreement(s) and record said documents.
6. Permits following recordation of Parcel Map.
7. Submit an application for and obtain a Building Permit (BLD) for construction of approved development.
8. Submit an application for and obtain a Public Works Permit (PBW) for all required public improvements.

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

B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, except a demolition or other appropriate (as determined by City staff) building permit for work in anticipation of primary project improvements, the Owner shall execute an *Agreement Relating to Subdivision Map Conditions Imposed on Real Property*, which shall be reviewed as to form and content by the City Attorney,

Community Development Director and Public Works Director, recorded in the Office of the County Recorder concurrent with the Parcel Map, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Planning Commission on May 15, 2014 is limited to the demolition of a single-family residence and detached garage, and construction of a two- and three-story 7,410 square foot condominium building containing four price-restricted, three-bedroom units affordable to moderate income households; and the improvements shown on the Tentative Subdivision Map signed by the chair of the Planning Commission on said date and on file at the City of Santa Barbara.
2. **Ownership Unit Affordability Restrictions.** The four dwelling units on the Tentative Subdivision Map shall be designated as Affordable Moderate-Income Units and sold only to households who, at the time of their purchase, qualify as Moderate-Income Households as defined in the City's adopted Affordable Housing Policies and Procedures. The maximum sale price upon initial sale shall not exceed **\$334,600**.

The Affordable Units shall be sold and occupied in conformance with the City's adopted Affordable Housing Policies and Procedures. The resale prices of the Affordable Units shall be controlled by means of a recorded affordability covenant executed by, Developer, Owner and the City to assure continued affordability for at least ninety (90) years from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.
3. **Uninterrupted Water Flow.** The Owner shall provide for the continuation of any historic uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
4. **Pesticide or Fertilizer Usage near Creeks.** The use of pesticides or fertilizer shall be prohibited within the creek setback area, which drains directly into Mission Creek.
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 and in accordance with the Storm Water BMP Guidance Manual. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.
6. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
7. **Required Private Covenants, Conditions and Restrictions (CC&Rs).** The Owners shall record in the official records of Santa Barbara County either private covenants,

conditions and restrictions, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for the following:

- a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium units.
 - b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
 - c. **Parking Space Assignment.** Parking spaces within the project shall be allocated.
 - d. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan. Such plan shall not be modified unless prior written approval is obtained from the appropriate design review board. If said landscaping is removed for any reason without approval by the appropriate design review board, the owner is responsible for its immediate replacement.
 - e. **Trash and Recycling.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the landscaping or be hauled off site by the landscaping maintenance company. If no green waste containers are provided for common interest developments, include an item in the CC&Rs stating that the green waste will be hauled off site.
 - f. **Public Improvement Districts.** A covenant that includes a waiver to protest formation of public improvement districts.
 - g. **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.
- C. **Public Works Submittal Prior to Parcel Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Parcel Map and prior to the issuance of any permits for the project except a demolition or other appropriate (as determined by City staff) permit for work in anticipation of primary project improvements:
1. **Parcel Map.** The Owner shall submit to the Public Works Department for approval, a Parcel Map prepared by a licensed land surveyor or registered Civil Engineer. The Parcel Map shall conform to the requirements of the City Survey Control Ordinance.
 2. **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.

3. **Required Private Covenants.** The Owner shall submit a copy of the draft private covenants, reciprocal easement agreement, or similar private agreements required for the project, concurrently with the Parcel Map.
 4. **W. Alamar Avenue Public Improvements.** The Owner shall submit C-1 public improvement or Public Works plans for construction of improvements along the property frontage on W. Alamar 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: 60 linear feet of 6-foot-wide sidewalk, driveway apron modified to meet Title 24 requirements with a maximum width of 16 feet, asphalt concrete or concrete pavement on aggregate base or crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limits of all trenching, connection to and/or relocation or extension of City water and sewer mains and utilities, supply and install one residential City standard Dome Style (or other) street light, coordinate with Public Works staff and Edison to retire light standard from existing utility pole, preserve and/or reset survey monuments, protect and relocate existing contractor stamps to parkway, supply and install directional/regulatory traffic control signs per the CA MUTCD during construction, one new street tree and tree grates per approval of the Parks and Recreation Commission, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.
 5. **Agreement to Secure Public Improvements.** The Owner shall submit an executed *Agreement for Land Development Improvements*, prepared by the Engineering Division. Owner shall submit an Engineer's Estimate, wet signed, and stamped by a civil engineer registered in the State of California, and shall submit securities for construction of improvements prior to execution of the Agreement.
 6. **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.
- D. **Design Review.** The project, including public improvements, is subject to the review and approval of the Architectural Board of Review (ABR). ABR shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.
1. **Riparian Restoration.** The Landscape Plan shall be revised to include a Riparian Buffer Restoration and Enhancement Plan, prepared by a qualified biological or resource specialist, and reviewed and approved by the City Environmental Analyst and the City Creeks Division. The Riparian Buffer Restoration and Enhancement Plan shall include revegetation, restoration, maintenance, and monitoring measures for the entire area creekside of the development. Creek bank stabilization and revegetation and restoration efforts shall consist of removal of non-native plants, installation of erosion control materials, and installation of native riparian plant species grown from local genetic stock.

The plan shall identify the plant species, plant quantities, planting locations, and irrigation. The plan shall include success criteria for revegetation efforts and weed coverage, reporting requirements, and a list of the maintenance practices to be used for meeting the success criteria. The plan shall also include requirements for monitoring/inspection of the landscape installation by the restoration specialist and shall require submittal of a written summary of the initial restoration efforts. The plan shall include a minimum of three (3) years of post-construction monitoring and reporting by the restoration specialist. The plan shall identify the responsible party (HOA, developer, land owner, bond, etc.) for oversight and funding of the long-term restoration monitoring and maintenance.

2. **Tree Protection Measures.** The landscape plan shall include the following tree protection measures:
 - a. **Tree Protection.** All trees not indicated for removal on the approved Tentative Subdivision Map shall be preserved, protected, and maintained, in accordance with the Tree Protection Plan, if required, and/or any related Conditions of Approval.
 - b. **Oak Trees.** The following additional provisions shall apply to existing oak trees on site:
 - (1) No irrigation system shall be installed within three feet of the dripline of any oak tree.
 - (2) Oak trees greater than four inches (4") in diameter at four feet (4') above grade removed as a result of the project shall be replaced at a ten to one (10:1) ratio, at a minimum one gallon size, from South Coastal Santa Barbara County Stock.
 - (3) No storage of heavy equipment or materials, or parking shall take place within five (5) feet of the dripline of any oak tree.
 - c. **Arborist's Report.** Include a note on the Landscape Plans that the recommendations contained in the arborist's report prepared by Bill Spiewak, dated December 7, 2013, shall be implemented.
 - d. **During Construction.**
 - (1) All activity, except for installation of the stormwater management system landscaping and paving for the uncovered parking space, related to construction of the structure and its related infrastructure shall be excluded from the 35-foot setback and adjacent creek. The permissible work zone shall be delineated with orange construction fencing to prevent inadvertent entry by workers into the riparian area. Appropriate installation of BMPs and implementation of construction methods adequate to prevent impacts (including sediment release or erosion) to the riparian zone shall be employed. No grading, heavy equipment, storage of materials or parking shall take place under the driplines of the sycamore trees.

- (2) Any roots encountered shall be cleanly cut and sealed with a tree-seal compound.
 - (3) Any root pruning and trimming shall be done under the direction of a qualified Arborist.
3. **Exterior Lighting.** All exterior lighting shall conform to the City's Outdoor Lighting & Streetlight Design Guidelines. Exterior lighting shall be designed to control glare, minimize light trespass into the riparian habitat area and onto adjacent properties, and minimize direct upward light transmission.
 4. **Pedestrian Pathway.** A separate pedestrian pathway shall be provided along the driveway from the sidewalk using a different paving material.
 5. **Screened Backflow Device.** The backflow devices for fire sprinklers, pools, spas and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building, as approved by the ABR.

E. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any Permit for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.

1. **Public Works Department.**

- a. **Approved Public Improvement Plans.** Public Improvement Plans as identified in Condition C.4 "W. Alamar Avenue Public Improvements" 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. **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.
- c. **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.

2. **Community Development Department.**

- a. **Recordation of Parcel Map and Agreements.** After City Council approval, the Owner shall provide evidence of recordation of the map and agreements to the Community Development Department prior to issuance of building permits for individual parcels.
- b. **Requirement for Archaeological Resources.** The following information shall be printed on the site and/or grading plan:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

- c. **Recorded Affordability Covenant.** Submit to the Planning Division a copy of an affordability control covenant that has been approved as to form and content by the City Attorney and Community Development Director, and recorded in the Office of the County Recorder, which includes the following:

Initial Sale Price and Resale Restrictions. Initial sale price and resale restrictions shall be as identified in Condition B.2 "Ownership Unit Affordability Restrictions."

- d. **Tenant Displacement Assistance Ordinance Compliance.** Submit evidence of compliance with the Tenant Displacement Assistance Ordinance (SBMC Chapter 28.89), including displacement assistance and right of first refusal.
- e. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the appropriate design review board and as outlined in Section D "Design Review," and all elements/specifications shall be implemented on-site.
- f. **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., Parcel 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 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.

3. **Creeks Division.**

- a. **Drainage and Water Quality.** The project is required to comply with Tier 3 (treatment, rate, and volume standards) of the Storm Water BMP Guidance Manual and Chapter 22.87 of the Santa Barbara Municipal Code (SBMC). The Owner shall submit a hydrology report prepared by a registered civil engineer or licensed architect demonstrating that the new development will comply with the City's Storm Water BMP Guidance Manual and SBMC 22.87. 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, or groundwater pollutants would result from the project.
- b. **Riparian Buffer Restoration and Enhancement Plan.** Submit the required Riparian Buffer Restoration and Enhancement Plan approved by the Architectural Board of Review for final staff review of conformance with Condition D.1.

F. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.

1. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number(s), work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet.
2. **Construction Hours.** Construction (including preparation for construction work) shall only be permitted Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m. and Saturdays between the hours of 9:00 a.m. and 4:00 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.

3. **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 Engineer with a Public Works permit.
4. **Biological Survey.** A contract biologist shall perform a biological survey of the restoration area (the rear property line to the 35-foot creek setback) and adjacent creek habitat before restoration efforts begin in order to determine that the site does not contain sensitive species of reptiles or amphibians. Activity in the creek bed shall be kept to a minimum during times of the year when water is present.
5. **Nesting Birds.** Birds and their eggs nesting on or near the project site are protected under the Migratory Bird Treaty Act and pursuing, hunting, taking, capturing, killing, or attempt to do any of the above is a violation of federal and state regulations. If construction is anticipated to occur during the local nesting season (February 1 through August 15), a survey of riparian woodland/forest habitats within 300 feet of the Project shall be performed by a contract biologist with special attention to the potential presence of nesting raptors. No trimming or removing brush or trees shall occur if nesting birds are found in the vegetation. All care should be taken not to disturb the nest(s). Removal or trimming may only occur after the young have fledged from the nest(s).
6. **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.

7. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

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

- G. Prior to Certificate of Occupancy. Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Complete Public Improvements.** Public improvements, as shown in the public improvement plans or building plans, shall be completed.
 3. **Ownership Affordability Provisions Approval.** For all dwelling units subject to affordability conditions obtain from the Community Development Director, or Director's designee in the City's Housing Programs Division, written approval of the following: (a) the Marketing Plan as required by the City's Affordable Housing Policies and Procedures; (b) the initial sales prices and terms of sale (including financing); (c) the eligibility of the initial residents; and (d) the recorded affordability control covenants signed by the initial purchasers which assure continued compliance with the affordability conditions.
 4. **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.
 5. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided to the Community Development Department, Planning Division that the private CC&Rs required in Section B "Recorded Conditions Agreement" have been recorded.
 6. **Restoration Monitoring Contract.** Submit a contract with a qualified restoration specialist acceptable to the City for required monitoring, which includes inspection of the project a minimum of twice per year by the restoration specialist for three (3) years or until performance standards have been met. The restoration specialist shall perform a qualitative assessment of restoration progress consisting of an evaluation of overall health and vigor. The restoration specialist shall thereafter promptly communicate the need for remedial action (replacement plantings and/or increased maintenance) to the landscape contractor. Performance Standards: All plantings should have a minimum 80% survival after three years, with interim goals of 90% survival for the first year and 85% survival after the second year. If these criteria have not been met, the applicant shall be responsible for replacing plantings to ensure eventual satisfaction of these requirements. Weed control efforts should be employed to ensure successful establishment of native plantings. A goal of 100% weed eradication is desirable, but may not practically be attainable given the aggressive nature of the introduced plants prevalent on adjacent properties where they are likely to remain uncontrolled. A goal of reducing weed cover to no more than 10% of the restoration area after three (3) years is reasonable and attainable.
- H. **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. **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 TENTATIVE SUBDIVISION MAP TIME LIMITS:

The Planning Commission action approving the Tentative Map shall expire two (2) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110.

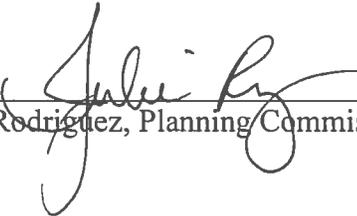
V. NOTICE OF TIME LIMITS FOR PROJECTS WITH MULTIPLE APPROVALS (S.B.M.C. § 28.87.370):

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 17th day of July, 2014 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 3 NOES: 2 (Bartlett, Pujó) ABSTAIN: 0 ABSENT: 2 (Jordan, 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.