



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 019-16

116 CASTILLO STREET

INTERIOR SETBACK MODIFICATIONS, COASTAL DEVELOPMENT PERMIT,  
DEVELOPMENT PERMIT, AND A DEVELOPMENT PLAN FOR TRANSFER OF

EXISTING DEVELOPMENT RIGHTS

JULY 14, 2016

**APPLICATION OF JOE ANDRULAITIS, ARCHITECT FOR KAZALI TRUST, 116 CASTILLO STREET; APN 033-061-011; HRC-1/SD-3 (HOTEL AND RELATED COMMERCE/COASTAL OVERLAY ZONES; GENERAL PLAN DESIGNATION: HOTEL AND RELATED COMMERCE I; LOCAL COASTAL PLAN DESIGNATION: HOTEL AND RELATED COMMERCE I (MST2014-00388)**

The project involves the demolition of the existing 8,208 net square-foot, 24-room motel, and construction of a new 14,458 square-foot three-story hotel containing 38 rooms. A total of 38 parking spaces would be provided in a parking garage and as uncovered parking. Access would be from two driveways along Castillo Street, similar to the existing access.

The discretionary applications required for this project are:

1. Interior Setback Modifications to allow encroachments into the required interior setbacks on the first and second stories adjacent to residentially-zoned parcels (SBMC §28.22.060 & SBMC §28.92.110.A.2).
2. A Coastal Development Permit (CDP2016-00007) to allow the proposed development in the Non-Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44.060);
3. A Development Plan to allow the construction of 5,281 square feet of net new nonresidential development at 116 Castillo Street (SBMC Chapter 28.85); and
4. A Development Plan for Transfer of Existing Development Rights to transfer 2,281 square feet of nonresidential floor area from 3714-3744 State Street (APNs 053-300-023, -031) to the project site (SBMC Chapters 28.85 and 28.95).

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 1 person appeared to speak in opposition thereto or with a concern, and the following exhibits were presented for the record:

1. Staff Report with Attachments, July 7, 2016
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. ENVIRONMENTAL REVIEW (CEQA GUIDELINES §15183)**

The project qualifies for an exemption from further environmental review under CEQA guidelines section 15183, based on city staff analysis and the CEQA certificate of determination on file for this project.

**B. INTERIOR SETBACK MODIFICATION (SBMC §28.92.110.A.2)**

The Modification along the interior property lines adjacent to residentially-zoned parcels to allow the first and second floors of the hotel building to be located a minimum of 10 feet from the interior property line and to allow the third floor to be located a minimum of 15 feet from the interior property line, rather than the required 16.5 feet (based on the hotel's 33-foot height), is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on a lot. The project's setbacks are appropriate because they respect the existing hotel development located to the east of the project site (which is zoned residential), as well as the residential development to the south (which is zoned non-residential) and provide adequate buffers between the uses, whereas strict compliance with the zoning standards would be less so, as discussed in Section VI.A.1 of the Staff Report.

**C. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)**

1. The project is consistent with the policies of the California Coastal Act because it does not impact public access or sensitive habitat and provides an appropriate development and use in a developed area of the City, as described in Section VI.D of the Staff Report.
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 because it provides a desired and appropriate use for the site, has been sensitively designed with respect to mountain views and will provide adequate parking to meet its demand, as described in Section VI.C of the Staff Report.

**D. DEVELOPMENT PLANS (SBMC §28.85.040)**

1. The proposed development complies with all provisions of the Zoning Ordinance, including the Non-Residential Growth Management Program requirements, because the project is consistent with the development standards for the HRC-1 Zone as shown in Section VI.A of the Staff Report.
2. The proposed development is consistent with the principles of sound community planning. The documents that guide development in this area are the City's General Plan, Local Coastal Plan, Zoning Ordinance, and the City's design review guidelines. The project is consistent with applicable regulations, goals and policies of these documents, as discussed in Section VI of the Staff Report.
3. The proposed development will not have a significant adverse impact upon the community's aesthetics or character in that the size, bulk or scale of the development will be compatible with the neighborhood based on the Project Compatibility Analysis criteria found in Section 22.22.145 of this Code, as determined by the Historic Landmarks Commission on July 1, 2015 and as described in Section VIII of the Staff Report.
4. The proposed development is consistent with the policies of the City of Santa Barbara Traffic Management Strategy as expressed in the allocation allowances specified in SBMC Section 28.85.050, as discussed in Section VI of the Staff Report.

**E. 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 mixed-use development on the sending site (3714-3744 State St.) was approved by the Planning Commission on April 3, 2014 (MST2012-00443), and was determined to be consistent

with the goals and objectives of the General Plan and the requirements of the Zoning Ordinance. As identified in Section VI of the staff report, with approval of the requested modification, the proposed hotel building complies with all of the requirements of the Municipal Code and with the policies of 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 building permits have been issued for the project. As described in Section VIII of the staff report, the Historic Landmarks Commission reviewed the proposed design for the new hotel on the receiving site and found it to be acceptable.
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 (5,281 s.f.) does not exceed the sum of the transferred square footage (2,281 s.f.) and the amount of the Existing Development Rights (existing floor area, Small and Minor Additions) of nonresidential square footage allocated to the receiving site, and, with approval of the modification 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 Sending Site(s) and Receiving Site(s) will meet all standards for review as set forth in Section 28.85.040 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 April 3, 2014, and met all standards for review. With the approval of the interior setback modification, the receiving site complies with all standards for review in Section 28.85.040, as stated in the findings D.1 through D.4 above.

5. Development remaining, or to be built, on the 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 33,267 s.f. of non-residential floor area, which was demolished to create a mixed-use commercial and multi-family residential project. That project was approved by the Planning Commission on April 3, 2014. The previously existing development has since been demolished and the approved development is under construction. That approved 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 VIII 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.

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 (30% of all planning fees, as calculated by staff) at time of building permit application.
3. Submit an application for and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform rough grading. Comply with condition E "Construction Implementation Requirements."
4. Record any required documents (see Recorded Conditions Agreement section).
5. Permits.
  - a. Submit an application for and obtain a Building Permit (BLD) for demolition of existing development.
  - b. Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.
  - c. 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 July 14, 2016 is limited to a new 38-room three-story hotel totaling approximately 14,458 square feet and the improvements shown on the plans signed by the chairperson 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.

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 and Operations and Maintenance Procedure Plan approved by the Creeks Division. 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. **Transportation Demand Management.** As proposed as part of the project application, 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 Transportation Demand Management (TDM) Plan.
  - a. **Bus Passes.** The hotel operator shall contact the Metropolitan Transit District (MTD) to purchase bus passes or the equivalent for their employees. These passes shall be provided free of charge to employees who request them for travel to and from work. Notice of the free passes shall be provided to existing employees and new employees when they are hired. A copy of any agreements/correspondence with MTD shall be provided to the Public Works Director prior to issuance of the Certificate of Occupancy for the project.
  - b. **Bus Routes and Schedules.** Notice of MTD bus routes and schedules shall be posted and maintained up-to-date wherever Federal/State Employee Rights materials are required to be posted. MTD bus routes and schedules shall also be made available to hotel guests.
  - c. **Ride-Sharing Program.** All project employees shall be made aware of the Santa Barbara Association of Governments (SBCAG) or successor agency Ride-Sharing Program. The hotel operator shall have all employees registered semi-annually in the Ride-Sharing Program and shall make every effort to encourage participation in the program.
  - d. **New Employee Information.** Information regarding free programs, bus routes, time schedules and Ridesharing programs shall be provided within a written pamphlet/package of materials to existing employees and new employees when they are hired. Traffic Solutions' phone number will be provided to all employees. A Traffic Solutions information sheet will be provided with all employees' orientation materials. While participation in the Ridesharing program is encouraged, it is not a mandatory condition of employment.

- e. **Information for Hotel Guests.** Information shall be provided on the hotel webpage regarding alternative transportation modes (e.g. Santa Barbara Car Free provides information and Amtrak discount tickets). MTD bus routes and schedules shall also be made available at the hotel for guests.
7. **Visitor Information Program.** A Visitor Information Program shall be prepared and implemented, subject to review and approval by the Public Works Director. The program shall include, but not be limited to:
    - a. Provide links to alternative transportation sites on the company website.
    - b. A means of providing train, bus and airline schedules and maps to prospective hotel guests.
    - c. 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. In addition, the hotel operator shall contact the Metropolitan Transit District to purchase bus and/or shuttle passes or tokens for hotel guests. Explicit notice of the free passes shall be provided to hotel guests upon arrival, and these passes shall be available to any guests who request them.
    - d. 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.
    - e. A means of coordinating special events with the City so that appropriate traffic controls, rerouting, and timing of events can be achieved.
    - f. Bike rentals shall be made available to hotel guests.
  8. 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 and green waste 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.
  9. **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. **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.
  2. **Screened Bicycle Parking.** Landscaping or another type of screening shall be provide to obscure view of the bicycle parking located behind/ under the stairs.

3. **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 HLC.
4. **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.
5. **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.

- 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 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.
- c. **Castillo Street Public Improvements.** The Owner shall submit public improvement or Public Works plans for construction of improvements along the property frontage on Castillo Street. Plans can 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 required by the City Engineer. All public improvements design and construction shall conform to City Interim Design Guidelines, Draft Design Guidelines and current construction standard plans. Applicant shall install street lights per the City Public Works Design Guidelines. Any work in the public right-of-way requires a Public Works Permit.
- d. **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.

- e. **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.
  - f. **Agreement to Construct and Install Improvements as Required by the City Engineer.** 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.
  - g. **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. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water BMP Guidance Manual, pursuant to Santa Barbara Municipal Code Chapter 22.87 (treatment, rate and volume). 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. 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 unpermitted construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants, or groundwater pollutants would result from the project.
  - c. **Archaeological Monitoring Contract.** Submit a contract with an archaeologist from the most current City Qualified Archaeologists List for a pedestrian re-survey when the structure and pavement is removed and monitoring during all ground-disturbing activities associated with the project, including, but not limited to, grading, excavation, trenching vegetation or paving removal and ground clearance in the areas identified in the Phase 1 Archaeological Resources Report prepared for this site by Macfarlane Archaeological Consultants, dated February 28, 2015. The contract shall be subject to the review and approval of the Environmental Analyst.  
  
The archaeologist's monitoring contract shall include the provisions identified in condition D.2.d "Requirement for Archaeological Resources" below.
  - d. **Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

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

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

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

- e. **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.
- f. **Transfer of Existing Development Rights.** The documents transferring the development rights from the sending site (3714-3744 State Street) to the receiving site (116 Castillo Street) 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.
- g. **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.
- h. **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.
- i. **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.

3. **Fire Department.** Reproduce the Code Modification approval letter related to commercial driveway access on the construction plans.
- 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 Contractor(s), site rules and Conditions of Approval pertaining to construction activities, and any additional information that will assist Building Inspectors, Police Officers and the public in addressing problems that may arise during construction.
  2. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number(s), construction work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet in a multi-family or commercial zone.
  3. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be carefully salvaged and delivered to the City Corporation Annex Yard on Yanonali Street.
  4. **Construction 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, for non-noisy or “quiet” construction only (e.g. painting, interior work), on 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.

5. **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 Public Works Director with a Public Works permit.
6. **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 Public Works Director.
7. **Nesting Birds.** Birds and their eggs nesting on or near the project site are protected under the Migratory Bird Treaty Act and pursuing, hunting, taking, capturing, killing, or attempt to do any of the above is a violation of federal and state regulations. No trimming or removing brush or trees shall occur if nesting birds are found in the vegetation. All care should be taken not to disturb the nest(s). Removal or trimming may only occur after the young have fledged from the nests(s).
8. **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](http://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.
- 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. **Archaeological Monitoring Report.** A final report on the results of the archaeological monitoring shall be submitted to the Planning Division within 180 days of completion of the monitoring or prior to the issuance of the Certificate of Occupancy, whichever is earlier.
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.

**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. **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 §28.85.090, 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):**

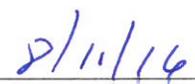
If multiple discretionary applications are approved for the same project, the expiration date of all discretionary approvals shall correspond with the longest expiration date specified by any of the land use discretionary applications, unless such extension would conflict with state or federal law. The 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 14th day of July, 2016 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 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, as reviewed by video.

  
\_\_\_\_\_  
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.**

