



# City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 089-08  
416 E. COTA STREET  
MODIFICATION  
NOVEMBER 19, 2008

**APPLICATION OF THE HOUSING AUTHORITY OF THE CITY OF SANTA BARBARA, 416-424 E. COTA STREET, APNS 031-212-024, 27 & 29, C-M ZONE, GENERAL PLAN DESIGNATION: OFFICES AND COMMERCIAL (MST2008-00097)**

The project consists of a proposal to demolish a 20,450 square foot one story commercial building and associated paved areas and construct a three story affordable apartment complex. As proposed, the project would include 55 studio units and 1 two bedroom unit, a 13,000 square foot on grade parking garage, a community room and auxiliary uses such as laundry and utilities. The 55 studio units would be designated as very low income affordable rentals and the two bedroom unit would serve as the manager's residence. The applicant is also proposing a voluntary lot merger of the three existing lots to create one legal lot. Access to the site would be provided by a driveway from Olive Street, which would also include an easement for access to the adjacent parcel (APN 031-212-028).

The discretionary applications required for this project are:

1. Modification of the lot area requirements to allow 32 over-density units (bonus density) on a lot in the C-M Zone (SBMC §28.21.080);
2. Modification to allow the garage and a second story deck to encroach into the interior yard setback (SBMC §28.21.060); and
3. Modification to allow the entry sign tower and two (2) third floor units to encroach into the front setback (SBMC §28.21.060); and
4. Modification to allow a second story deck to encroach into the rear setback (SBMC §28.21.060); and
5. Modification to provide forty (40) parking spaces instead of the required seventy-four (70) parking spaces (SBMC §28.90.100)

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15332, Infill Development Projects

**WHEREAS**, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

**WHEREAS**, two people appeared to speak in favor of the application and the following exhibits were presented for the record:

1. Staff Report with Attachments, November 10, 2008.
2. Site Plans

**NOW, THEREFORE BE IT RESOLVED** that the City Staff Hearing Officer:

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

***Findings for the Modification related to bonus density (SBMC §28.87.150)***

The modification of the number of units allowed on the site to increase from 24 to 56 is appropriate and necessary to construct a housing development which is affordable to very low, low, moderate or middle-income households. The provision of affordable housing and request for bonus density units is consistent with the Zoning Ordinance. The General Plan Land Use Element allows for variations in unit density based on the size of a unit, just over 400 net square feet, and the occupancy potentials and states that, in some cases, densities in terms of dwelling units per acre may be allowed to increase beyond those limits recommended by the General Plan without causing an inappropriate increase in the intensity of activities. Further, the trend to develop higher density development downtown is encouraged because of the proximity to jobs, transit, and recreation/cultural activities. The project will provide 55 residential units for very low income residents and is consistent with the City's Housing Element and Affordable Housing Policies. This density will allow the applicant to secure an affordable housing project serving the needs of very low income residents that is appropriate for the site.

***Findings for the Modification related to the Front, Interior and Rear Yard Setbacks (SBMC §28.21.060)***

The proposed front, interior and rear yard setback modifications are consistent with the purposes and intent of the Zoning Ordinance and are necessary construct this affordable housing project. The intent of yard setbacks in terms of buffering adjacent land uses is met by the adjacent parking lot and walkways that surround the proposed development. Additionally, the design of the project and its size, bulk, and scale is to be appropriate for the predominately commercial neighborhood. Staff is supportive of these encroachments because it allows for uniformity of improvement because the proposed setback encroaches less into the front yard than other adjacent buildings. The garage is designed to meet the minimum dimensions.

***Findings for the Modification related to Parking (SBMC §28.90.100(G)(3))***

The modification to provide 40 parking spaces instead of the required 70 parking spaces will not be inconsistent with the purposes and intent of the Zoning Ordinance and will not cause an increase in the demand for parking space or loading space in the immediate area because: (1) The project is an affordable City Housing Authority project which will have restricted vehicle ownership through lease agreements with tenants; (2) the project is located in the downtown area and is within walking and cycling distance of many services and places of employment; (3) a bus stop and the transit center within walking distance from the project site; and, (4) there is adequate guest parking on-site that would be available in the evenings and on weekends.

The proposed project would provide affordable housing, targeted to very low income residents, with an emphasis on those with special needs, in the downtown area. The

project is located close to downtown employers and services and to the City's transit center. As a result, the project provides an opportunity for its residents to lessen their dependence on the automobile as their primary form of transportation.

II. Said approval is subject to the following conditions:

- A. **Design Review.** The project is subject to the review and approval of the Architectural Board of Review (ABR). ABR shall not grant preliminary approval of the project until the following Staff Hearing Officer land use conditions have been satisfied
1. **Landscape Screening.** Landscaping with low water use plants and/or a solid screen wall or fence shall be provided to buffer the parking area from the adjacent properties.
  2. **Useable Common Open Space.** Adequate usable common open space shall be provided in a location accessible by all units within the development.
  3. **Pedestrian Pathway.** A separate pedestrian pathway shall be provided along the driveway and to the units at the rear of the property from the sidewalk using a different paving material to improve pedestrian friendliness.
  4. **Minimize Visual Effects of Paving.** Textured or colored pavement shall be used in paved areas of the project to minimize the visual effect of the expanse of paving, create a pedestrian environment, and provide access for all users.
  5. **Crime Analyst Plan Review.** The Developer shall meet with the City Police Department Crime Analyst prior to Preliminary Approval to determine how lighting, locking mechanisms, egress, and fencing can be designed and installed to reduce the potential number of calls for police service from occupants of the Real Property.
  6. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.
  7. **Permeable Paving.** Incorporate a permeable paving system for the project driveways, walkways and parking areas) that will allow a portion of the paved area runoff to percolate into the ground, except as necessary to meet Fire Department weight requirements. Materials in driveways and parking areas must be approved by the Public Works Director/Transportation Manager.
  8. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Lighting shall be directed toward the ground.
  9. **Trash Enclosure Provision.** A trash enclosure with an area for recycling containers shall be provided on the Real Property and screened from view from surrounding properties and the street. Such structure shall be located at least five (5) feet from any building unless protected with fire sprinklers.

- B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute a written instrument, 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, and shall include the following:
1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer (SHO) on November 19, 2008 is limited to approximately 45,000 square feet of building area, 56 dwelling units and the improvements shown on the Site Plan signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
  2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted 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 ABR. Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the ABR, 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 intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc. ) in a functioning state (and in accordance with the Operations and Maintenance Procedure Plan prepared in accordance with the Storm Water Management Plan 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 applicant 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.

The Owner shall provide an Operations and Maintenance Procedure Plan (describing replacement schedules for pollution absorbing pillows, etc.) for the operation and use of the storm drain surface pollutant interceptors. The Plan shall be reviewed and approved by the Water Resources Specialist.

6. **Rental Housing Restrictions.** For 55 of the 56 dwelling units, the rent will not exceed the rent limit specified in the City's Affordable Housing Policies and Procedures (AHP&P) for low-income units targeted to sixty percent (60%) of Area Median Income (AMI).

The Affordable Units shall be rented and occupied in conformance with the City's adopted AHP&P. The rental rates and tenant selection of the Affordable Units shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure continued affordability for at least ninety (90) years from the initial occupancy of the project.

Owner may charge rents higher than the identified affordability targets if Section 8 vouchers are used in accordance with the City's AHP&P, but the tenant share of the rent shall not be higher than the affordability targets stated above.

One of the 56 units, as shown on the plans, may be a manager's unit and shall not be subject to rent or income restrictions.

7. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County private covenants or a similar agreement which, among other things, shall provide for all of the following:
  - a. **Garages Available for Parking.** A covenant that includes a requirement that the garage 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.
  - b. **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.
8. **Use Limitations.** Due to potential traffic and parking impacts, uses other than residential are not permitted without further environmental and/or Staff Hearing Officer review and approval. Prior to initiating a change of use, the Owner shall submit a letter to the Community Development Director detailing the proposal, and the Director shall determine the appropriate review procedure and notify the Applicant.
9. **Residential Permit Parking Program.** Residents shall not participate in the Residential Permit Parking Program.

- C. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works

Department for review and approval, prior to the issuance of a Building Permit for the project.

1. **Lot Merger.** The Real Properties known as APN 031-212-024, APN 031-212-027 and APN 031-212-029 shall be merged into one (1) legal lot, following the procedure in the Municipal Code Chapter 27.30.
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 will prepare said agreement for the Owner's signature.
3. **Drainage Calculations.** The Owner shall submit drainage calculations prepared by a registered civil engineer or licensed architect demonstrating that the new development will not increase runoff amounts above existing conditions for a 25-year storm event. Any increase in runoff shall be retained on-site.
4. **Drainage and Water Quality.** Project drainage shall be designed, installed, and maintained such that stormwater runoff from the first inch of rain from any storm event shall be retained and treated onsite in accordance with the City's NPDES Storm Water Management Permit. Runoff should be directed into a passive water treatment method such as a bioswale, landscape feature (planter beds and/or lawns), infiltration trench, etc. Project plans for grading, drainage, stormwater treatment methods, and project development, shall be subject to review and approval by 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. The Owner shall maintain the drainage system and storm water pollution control methods in a functioning state.
5. **Cota Street and Olive Street Public Improvement Plans.** The Owner shall submit C-1 public improvement plans for construction of improvements along the property frontage on E. Cota Street and Olive Street including a new 6 foot wide sidewalk along Cota Street, including transitions to be consistent with the Pedestrian Master Plan section of the Circulation Element and bus shelters at the Cota Street bus stops at Olive Street for the Metropolitan Transit District's Cross Town Shuttle. The C-1 plans shall be submitted separately from plans submitted for a Building Permit. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: two (2) commercial fire hydrants, replacement of Cota Street Sidewalk with 6 foot wide sidewalk including transitions, all remaining cracked and uplifted sidewalk, underground service utilities, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations and/or hydrology report for installation of curb drain outlets, detention, and erosion protection (provide off-site storm water

BMP plan), preserve and/or reset survey monuments and contractor stamps, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

6. **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.
  7. **Removal or Relocation of Public Facilities.** Removal or relocation of any public utilities or structures must be performed by the Owner or by the person or persons having ownership or control thereof.
  8. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building permit.
- D. **Community Development Requirements with Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit and finalized prior to Building or Public Works Permit issuance:
1. **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.
  2. **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, site rules and Conditions of Approval pertaining to construction activities and any additional information that will assist the Building Inspectors, Police Officers and the public in addressing problems that may arise during construction. 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.
  3. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.
  4. **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:

- a. **Affordability Conditions.** Owner shall sign and cause to be recorded against the Property an affordability control covenant, in a form approved by the City Attorney, which requires compliance with the requirements for low income rental units as specified in the City's Affordable Housing Policies and Procedures, with rents targeted as follows:
  - (1) For 55 of the units, the target income percentage shall be sixty percent (60%).
  - (2) The covenant shall require that the Property be owned by a not-for-profit public benefit corporation, and shall include an assignment of rents whereby the owner assigns to the City all rents collected in violation of the covenant. The covenant shall also require the owner to make periodic reports to the City to verify compliance with the covenant.
5. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment that states that, prior to disturbing any part of the project site for any reason and after the Building permit has been issued, the General Contractor shall schedule a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, the assigned Building Inspector, the Planning Division, the Property Owner, the Archaeologist, the Architect, the Arborist, the Landscape Architect, the Geologist, the Project Engineer, the Project Environmental Coordinator, the Contractor and each subcontractor.
- E. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.
  1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Architectural Board of Review, outlined in Section A. above.
  2. **Grading Plan 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.

3. **Post-Construction Erosion Control and Water Quality Plan.** Provide an engineered drainage plan that addresses the existing drainage patterns and leads towards improvement of the quality and rate of water run-off conditions from the site by capturing, infiltrating, and/or treating drainage and preventing erosion. The Owner shall employ passive water quality methods, such as bioswales, catch basins, or storm drain on the Real Property, or other measures specified in the Erosion Control Plan, to intercept all sediment and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) from the parking lot areas and other improved, hard-surfaced areas prior to discharge into the public storm drain system, including any creeks. All proposed methods shall be reviewed and approved by the Public Works Department and the Community Development Department. Maintenance of these facilities shall be provided by the Owner, as outlined in Condition Number 4, above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.
4. **Emergency Evacuation Plan.** Provide an emergency evacuation plan subject to approval by the Fire Department.
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.
6. **Bicycle Parking.** In addition to the general requirements for bicycle parking spaces, three bicycle hitching posts or other facilities to accommodate 6 visitors shall be provided near the community center/managers office.

7. **Residential Parking.** Forty parking spaces will be provided for use by the residents, manager and guests. Assignment of parking spaces to residents will be strictly monitored by the Housing Authority by implementing a program to limit tenant parking, including access to DMV records and on site observations. Residents who choose to own cars and require a parking space on site will be required to pay a parking fee resulting in higher monthly rent.
8. **Conditions on Plans/Signatures.** The final Staff Hearing Officer 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., Archaeologist contract submitted to Community Development Department for review). A statement shall also be placed on the above 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. \_\_\_\_\_

- 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. Community Development Department staff shall review the plans and specifications to assure that they are incorporated into the bid documents, such that potential contractors will be aware of the following requirements prior to submitting a bid for the contract.
  1. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Building Division, Planning Division, the Property Owner, Archaeologist, Architect, Arborist, Landscape Architect, Geologist, Project Engineer, Mitigation Monitors, Contractor and each Subcontractor.

2. **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.
3. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below: (look at longer or shorter hours and Saturday construction, depending on project location)

New Year's Day	January 1st*
Martin Luther King's Birthday	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 Chief of Building and Safety 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 night 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 that is answered by a person, not a machine.

4. **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.
5. **Water Sprinkling During Grading.** The following dust control measures shall be required, and shall be accomplished using recycled water whenever the Public Works Director determines that it is reasonably available:
  - a. Site grading and transportation of fill materials.
  - b. Regular water sprinkling; during clearing, grading, earth moving or excavation.
  - c. Sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied on-site to prevent dust from leaving the site.
  - d. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.
  - e. Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement on-site damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph.
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, 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.** 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 associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the applicant 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.

- 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 damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. 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 improvement/building plans, including utility service undergrounding and installation of street trees.
  3. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
  4. **Fire Hydrant Replacement.** Replace existing nonconforming type fire hydrant(s) with commercial-type hydrant(s) described in Standard Detail 6-003.1 Paragraph 2 of the Public Works Department Standard Details.
  5. **Manholes.** Raise all sewer and water manholes on easement to final finished grade.
  6. **Noise Measurements.** Submit a final report from a licensed acoustical engineer, verifying that interior and exterior living area noise levels are within acceptable levels as specified in the Noise Element. In the event the noise is not mitigated to acceptable levels, additional mitigation measures shall be recommended by the noise specialist and implemented subject to the review and approval of the Building and Safety Division and the ABR.
  7. **Rental Affordability Provisions Approval.** Obtain from the Community Development Director, or Director's designee in the City's Housing Programs Division, written approval of the of the following: (a) the recorded affordability covenant as approved by the City Attorney, (b) the process for selecting the initial residents of the affordable rental units, (c) the eligibility of the initial residents, and (d) the form of the rental agreement used. For projects with senior occupancy requirements or restrictions on the number of motor vehicles per resident, obtain from the Community Development Director, or Director's designee in the City's Housing Programs Division, written approval of the recorded implementing document, which assures compliance with the senior housing restriction and/or the restrictions on the number of motor vehicles owned, used, possessed or stored by residents.

8. **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.
9. **Bus Shelters.** Provide on the plans an inclusion of bus shelters at the Cota Street bus stops at Olive Street for the Metropolitan Transit District's Cross Town Shuttle.
10. **Bicycle Hitching Posts.** Provide three bicycle hitching posts or other facilities to accommodate 6 visitors bike visitors near the community center/managers office.

H. **Litigation Indemnification Agreement.** In the event the Staff Hearing Officer approval of the Project is appealed to the Planning Commission I, 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 Planning Commission'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 the City Council denial of the appeal and approval of 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.

#### **NOTICE OF APPROVAL TIME LIMITS:**

The Staff Hearing Officer's action approving the Modifications shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

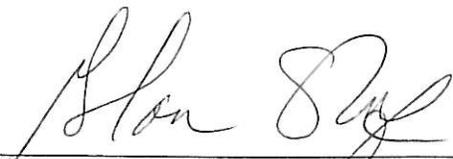
1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued within and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

3. The approval has not been discontinued, abandoned or unused for a period of six months following the earlier of (a) an Issuance of a Certificate of Occupancy for the use, or (b) two (2) years from granting the approval.

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 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 application, unless otherwise specified by state or federal law.

This motion was passed and adopted on the 19th day of November, 2008, by the Staff Hearing Officer of the city of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Staff Hearing Officer at its meeting of the above date.



\_\_\_\_\_  
Gloria Shafer, Staff Hearing Officer Secretary



\_\_\_\_\_  
Date

**PLEASE BE ADVISED:**

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If the scope of work exceeds the extent described in the Modification request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
4. Subsequent to the outcome of any appeal action your next administrative step should be to apply for Architectural Board of Review (ABR) approval and then a building permit.
5. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
6. **NOTICE OF APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Performance Standard Permit or Modifications shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
  - a. A building permit for the construction authorized by the approval is issued within twenty four months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;
  - b. The approved use has not been discontinued, abandoned or unused for a period of six months following the earlier of:
    - i. an Issuance of a Certificate of Occupancy for the use, or;
    - ii. one (1) year from granting the approval.

