



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 034-11 1213 HARBOR HILL DRIVE MODIFICATION JULY 27, 2011

APPLICATION OF JARRETT GORIN, AGENT FOR CLENET-PURPERO AND GATHERCOLE, LLC, 1213 HARBOR HILLS DRIVE; APN 035-480-037, -039, -040, -041; E-1 ONE FAMILY RESIDENTIAL ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL - 3 UNITS PER ACRE (MST2009-00385)

The project involves the assemblage and merger of six lots that were created as part of the illegal Roger's Tract subdivision in order to create a new 1.089-acre lot and satisfy a Conditional Certificate of Compliance. A new single-family residence would be constructed on the 1.089-acre lot. In order to satisfy the conditions of the Certificate of Compliance, a lot frontage modification is required because the lot would have only 15 feet of frontage on a public street, where 90 feet is required. The new house would total 4,217 net square feet with an attached 672 square foot garage. The building would be two stories and would have a maximum height of 30 feet above finished grade. Site development also includes a new driveway, site retaining walls, patios, barbeque and fire pit, landscaping and a spa. An existing four-foot wide pedestrian trail easement is proposed to be realigned onto the project site because the proposed driveway would conflict with the existing conceptual alignment. In order to minimize the grading required to carry out the project, the new house would be constructed on caissons. The project includes landscaping (yet to be designed) that would be consistent with the City's Fuel Management Requirements, and storm water management improvements including permeable pavement, cisterns, a catch basin, and vegetated swale with French drain.

The discretionary application required for this project is:

1. A lot frontage Modification to provide less than the required 90 feet of frontage on a public street in the E-1 Zone (SBMC §28.15.080; §28.92.110.A.2).

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

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

WHEREAS, one person appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, July 18, 2011.
2. Site Plans
3. Correspondence received in opposition to the project:
 - a. Paula Westbury, Santa Barbara, CA.

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

- I. Adopted the Final Mitigated Negative Declaration and Mitigation Monitoring Program, as revised at the hearing, and approved the Modification making the following findings:

A. The Final Mitigated Negative Declaration

1. The Staff Hearing Officer has considered the proposed Final Mitigated Negative Declaration, dated July 11, 2011 for the 1213 Harbor Hills Drive Project (MST2009-00385), and comments received during the public review process prior to making a recommendation on the project.
2. The Final Mitigated Negative Declaration has been prepared in compliance with California Environmental Quality Act requirements, and constitutes adequate environmental analysis of the project.
3. In the Staff Hearing Officer's independent judgment and analysis based on the whole record (including the initial study and comments received), there is no substantial evidence that the Project will have a significant effect on the environment. The Final Mitigated Negative Declaration, dated July 11, 2011 and revised on July 27, 2011, is hereby adopted.
4. Mitigation measures identified in the Mitigated Negative Declaration that would avoid or reduce all potentially significant impacts to less than significant levels have been included in the project or made a condition of approval. Additional mitigation measures to minimize adverse but less than significant environmental effects have also been included as conditions of approval.
5. A Mitigation Monitoring and Reporting Program prepared in compliance with the requirements of Public Resources Code § 21081.6, is included in the Final Mitigated Negative Declaration for the Project and is hereby adopted.
6. The location and custodian of documents or other material which constitute the record of proceedings upon which this decision is based is the City of Santa Barbara Community Development Department, 630 Garden Street, Santa Barbara, CA 93101.
7. The California Department of Fish and Game (DFG) is a Trustee Agency with oversight over fish and wildlife resources of the State. The DFG collects a fee from project proponents of all projects potentially affecting fish and wildlife, to defray the cost of managing and protecting resources. The project is subject to the DFG fee, and a condition of approval has been included, which requires the applicant to pay the fee within five days of project approval.

B. Lot Frontage Modification (SBMC §28.92.110)

A modification of the lot frontage is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on a lot. Due to the steep slopes and the lack of potential street connection, the potential to create a lot with frontage on a public street does not exist, as discussed 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. Pay Fish and Game fee immediately upon project approval. Delays in payment will result in delays in filing the required Notice of Determination.
2. Obtain all required design review approvals.
3. Record any required documents (see Recorded Conditions Agreement section).
4. Pay Land Development Team Recovery Fee at time of submittal of the first Building Permit or Public Works Permit application associated with this project.
5. Permits.
 - a. Make application and obtain a Building Permit (BLD) for construction of approved development.
 - b. Make application and obtain a Public Works Permit (PBW) for all required public improvements as outlined in the Conditional Certificate of Compliance, recorded 8/17/09 as Instrument Number 2009-0050328.

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 Staff Hearing Officer on July 27, 2011 is limited to one dwelling unit of approximately 4,217 square feet with an attached 672 square foot garage on a 1.089-acre lot and the improvements shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
2. **Development Rights Restrictions.** The Owner shall not make any use of the restricted portion of the Real Property as designated on the approved plans (those areas outside the Development Envelope) in order that those portions of the Real Property remain in their natural state. The Owner shall not make use of the restricted area including, but not limited to, grading, irrigation, structures, ornamental landscaping, or utility service lines, with the exception of stormwater management improvements identified on the plans and implementation of the Fuel Management Plan. The restricted areas shall be shown on the landscape plans. The Owner shall continue to be responsible for maintenance of the restricted area, and compliance with orders of the Fire Department. Any brush clearance shall be performed without the use of earth moving equipment and in accordance with the approved Fuel Management Plan.
[VIS-1]

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. **Recreational Vehicle Storage Limitation.** No recreational vehicles, boats, or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
5. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB) including High Fire Hazard Area Landscape Requirements. Such plan shall not be modified unless prior written approval is obtained from the SFDB and the Fire Department. The landscaping on the Real Property shall be provided and maintained in accordance with said Landscape Plan, including any tree protection measures and irrigation requirements. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement.
6. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall inspect and maintain the post-construction drainage system and storm water pollution control devices in a functioning state. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit 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.
7. **Pesticide or Fertilizer Usage Near Drainage.** The use of pesticides or fertilizer shall be prohibited outside the Development Envelope.
8. **Geotechnical Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from landslides, erosion, retreat, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.
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 Single Family Design Board (SFDB). The SFDB shall not grant project design approval until the following Staff Hearing Officer land use conditions have been satisfied.

1. **Fuel Management / Landscape Plan.** The following strategies for an environmentally sensitive vegetation management approach shall be incorporated into the required Fuel Management / Landscape Plan, consistent with the City's High Fire Hazard Area Landscape Requirements. This Plan shall be reviewed and approved by the City's Environmental Analyst and Fire Department prior to Project Design Approval by the Single Family Design Board.

Zone 1 (0-30 feet from structures) – Shall remain free of non-irrigated, woody vegetation. All vegetation within 30 feet of the residence and other structures shall be moisture retaining irrigated groundcover, shrubs, and/or trees.

Zone 2 (30-50 feet from structures) – Shall be landscaped with fire resistant, drought tolerant, deep-rooted, irrigated plants. Grasses and groundcovers shall be maintained at no more than 18 inches in height on slopes that require erosion control measures. Grasses are mowed elsewhere. Remove non-irrigated ladder fuels and deadwood annually.

Zone 3 (50-70 feet from structures) – Shall be landscaped with fire resistant, drought tolerant, deep-rooted, native irrigated plants. Irrigation is required to establish and maintain vegetation, but minimal irrigation should be provided given slope and erosion concerns. Grasses and groundcovers shall be maintained at no more than 18 inches in height on slopes that require erosion control measures. Grasses are mowed elsewhere. Existing native shrubs shall remain, but be thinned to 15-foot centers with roots left intact. Remove non-irrigated ladder fuels and deadwood annually.

Zone 4 (70-100 feet from structures) – Vegetation shall remain and be treated every 3 to 5 years to remove deadwood and up to a total of 50% cover. Roots shall be left intact. No irrigation should be located in this zone.

The Fuel Management / Landscape Plan shall include, to the maximum extent permitted by the Fire Department, the following:

- Maintenance of existing coastal sage scrub to the maximum extent feasible consistent with Fire Department requirements.
- Native, drought-tolerant and deep-rooted vegetation.
- Temporary, rather than permanent, irrigation to establish new landscaping. Any approved temporary irrigation must be removed once plants have established themselves.
- Non-irrigated plantings in Zone 4 to the extent allowable.
- Plant spacing at such a distance that plants at maturity will not require frequent pruning.
- Plant species shall be chosen based on a preference for plants that will not require frequent maintenance such as pruning.

[BIO-1]

2. **Review Of Exterior Paint Color By Single Family Design Board.** The color scheme for the proposed residence and associated exterior improvements shall utilize a neutral and/or earth-tone color palette in order to blend in with vegetation on the hillside and adjacent open space areas. The applicant shall select colors consistent with this mitigation measure and present the selections to the Single Family Design Board prior to final approval by the Single Family Design Board. [VIS-2]
 3. **Landscaping.** Provide a landscape plan that will further mitigate adverse impacts to views from Shoreline Park. The landscaping shall be reviewed by the Fire Department for compliance with high fire requirements and the Fuel Management Plan prior to project approval by the Single Family Design Board. [VIS-3]
 4. **Appropriate Plants on Steep Slope.** Special attention shall be paid to the appropriateness of the existing and proposed plant material on the steep slope.
 5. **Irrigation System.** The irrigation system shall be designed and maintained with the most current technology to prevent a system failure. Watering of vegetation on the steep slope shall be kept to the minimum necessary for plant survival in accordance with the approved Fuel Management Plan.
 6. **Pedestrian Pathway.** The pedestrian easement shall be differentiated from the driveway through use of a different paving material, pattern or color.
 7. **Screened Backflow Device.** The backflow devices for fire sprinklers, pools, spas, solar panels and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building, as approved by the SFDB.
 8. **Green Building Techniques Required.** Owner shall design the project to meet Santa Barbara Built Green Three-Star level requirement or equivalent.
- D. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.
1. **Public Works Department.**
 - a. **Approved Public Improvement Plans.** Public Improvement Plans, as identified in condition D.1.e “Harbor Hills Drive Public Improvements,” shall be submitted to the Public Works Department for review and approval. Upon acceptance of completed public improvement plans, a Building permit may be issued if the Owner has bonded for public improvements and executed the *Agreement to Construct and Install Improvements (Not a Subdivision)*.

- b. **Dedication(s).** Easements, as shown on the approved site plan and described as follows, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:
- (1) A four-foot wide pedestrian trail easement.
- c. **Water Rights Assignment Agreement.** The Owner of the Real Property shall execute and submit an *Agreement Assigning Water Extraction Rights* in a form approved by the City Attorney, irrevocably offering to dedicate and assign to the City of Santa Barbara the exclusive right to extract water from under the Real Property, which may be subsequently accepted by the City Council of the City of Santa Barbara by adoption of a resolution of the Council and the subsequent recordation of the resolution in the Official Records of the County of Santa Barbara. Engineering Division Staff prepares said agreement for the Owner's signature.
- d. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water Management Plan (treatment, rate and volume). The Owner shall submit drainage calculations prepared by a registered civil engineer or licensed architect demonstrating that the new development will comply with the City's Storm Water Management Plan. Project plans for grading, drainage, stormwater facilities and treatment methods, and project development, shall be subject to review and approval by the City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants or groundwater pollutants would result from the project.
- The Owner shall provide an Operations and Maintenance Procedure Plan (describing replacement schedules for pollution absorbing pillows, etc.) for the operation and use of the storm drain surface pollutant interceptors. The Plan shall be reviewed and approved consistent with the Storm Water Management Plan BMP Guidance Manual.
- e. **Harbor Hills Improvement Plans.** Public Improvement plans shall be submitted for Harbor Hills Drive, as outlined in the Conditional Certificate of Compliance recorded as Instrument Number 2009-0050328. The Owner shall submit C-1 public improvement plans for construction of improvements along the property frontage of Harbor Hills Drive. Public Works C-1 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 in a form to be reviewed and approved by the Santa Barbara City Engineer.. *As determined by the City Public Works Department, the public street improvements shall include, but not be limited to, new alley entrance; replace curb gutter and sidewalk where damaged; street light with underground wiring; appropriate directional and regulatory traffic control devices per MUTCD w/CA supplements during construction;*

connection to City sewer and water, adequate drainage and storm drain improvements; and slurry seal or other required repair of existing public street as identified by Public Works. Any work in the Rights-of-Way requires a separate Public Works permit.

- f. **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.
- g. **Agreement to Construct and Install Improvements.** The Owner shall submit an executed *Agreement to Construct and Install Improvements (Not a subdivision)*, prepared by the Engineering Division.
- h. **Engineers Estimate.** 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 as outlined in the Subdivision Map Act, Chapter 27 of the Municipal Code, and the Green Book for Public Works construction.

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. **Lot Merger Required.** In order to comply with the conditions of the Conditional Certificate of Compliance recorded 8/17/09 as Instrument Number 2009-0050328, the Real Property known as portions of APN 035-480-037, APN 035-480-039, APN 035-480-040 and APN 035-480-041 shall be merged into one (1) lot, following the procedure in Santa Barbara Municipal Code Chapter 27.30.
- c. **Project Environmental Coordinator Required.** Submit to the Planning Division a contract with a qualified independent consultant to act as the Project Environmental Coordinator (PEC). Both the PEC and the contract are subject to approval by the City's Environmental Analyst. The PEC shall be responsible for assuring full compliance with the provisions of the Mitigation Monitoring and Reporting Program (MMRP) and Conditions of Approval to the City. The contract shall include the following, at a minimum:
 - (1) The frequency and/or schedule of the monitoring of the mitigation measures.
 - (2) A method for monitoring the mitigation measures.
 - (3) A list of reporting procedures, including the responsible party, and frequency.

- (4) A list of other monitors to be hired, if applicable, and their qualifications.
 - (5) Submittal of weekly reports during grading, excavation, and site preparation and biweekly reports on all other construction activity regarding MMRP and condition compliance by the PEC to the Community Development Department/Case Planner.
 - (6) Submittal of a Final Mitigation Monitoring Report.
 - (7) The PEC shall have authority over all other monitors/specialists, the contractor, and all construction personnel for those actions that relate to the items listed in the MMRP and conditions of approval, including the authority to stop work, if necessary, to achieve compliance with mitigation measures.
- d. **Radon.** Any structures constructed for human habitation should incorporate adequate ventilation to allow any naturally occurring radon gas emissions to ventilate, rather than accumulating indoors. Information on construction measures intended to reduce radon accumulation indoors shall be provided to the Building and Planning Divisions as part of construction drawings prior to issuance of a building permit. [H-1]
- e. **Soils Report.** The project shall comply with the recommendations of the Foundation Exploration prepared for the site by Coast Valley Testing, Inc, dated March 11, 2008 and the Update by same dated October 13, 2010. Submit to the Building and Safety Division a copy of these reports and any applicable or appropriate revisions/amendments and implement the recommendations outlined in the report. [GEO-2]
- f. **Caissons and Grading.** The foundation design for any new residence on the project site shall utilize caissons to minimize grading and erosion on site. Any changes to this proposed design or the addition of significant amounts of grading will require additional environmental analysis. [GEO-3]
- g. **Stormwater Management.** Any changes to the approved Storm Drainage and Hydrology Report prepared by Mike Gones and dated October 2010 must be reviewed and approved by a geologist to ensure that there are no adverse impacts related to erosion. [GEO-4]
- 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. **Mitigation Monitoring and Reporting Requirement.** Note on the plans that the Owner shall implement the Mitigation Monitoring and Reporting Program (MMRP) for the project's mitigation measures, as outlined in the Mitigated Negative Declaration for the project.

- j. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner Date

Contractor Date License No.

Architect Date License No.

Engineer Date License No.

- E. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.
1. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor's and Project Environmental Coordinator's (PEC) names, contractor's and PEC's telephone numbers, construction work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. Said sign shall not exceed six square feet.
 2. **Avoidance of Bird Nesting Season.** Removal of coastal sage scrub, and any trees if applicable, should take place outside of the breeding bird season (February 1-August 15). If these activities can not feasibly be avoided during the breeding bird season, the applicant shall submit a contract with a qualified biologist to conduct a survey of all areas within 300 feet of the shrub removal area to determine presence and behavior of birds, raptors, and other sensitive species. The surveys should occur no more than 7 days prior to any project operations. In the event that any sensitive wildlife species, raptors, or other birds exhibit reproductive or nesting behavior, development activities shall be halted until the contract biologist and City Environmental Analyst have determined that sufficient measures have been taken to avoid impacts to nesting or breeding birds or sensitive species. These measures are likely to include postponement of work within 300 feet from the nest (could be larger for some species) until nests are vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting. [BIO-2]
 3. **Grading.** Any cut slopes created during grading activities shall be observed by an engineering geologist to determine if adverse bedding planes exist onsite. If adverse bedding planes are observed during grading operations, remedial actions, including, but not limited to retaining walls or cut slopes, shall be recommended at that time. [GEO-1]

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 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'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 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 Transportation Manager with a Public Works permit.
6. **Construction Equipment Sound Control.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
7. **Construction Dust Control - Watering.** During site grading and transportation of fill materials, regular water sprinkling shall occur using reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to achieve minimum soil moisture of 12% to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust. Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas every three hours. Increased watering frequency will be required whenever the wind speed exceeds 15 mph. [AQ-1]

8. **Construction Dust Control – Tarping.** Trucks transporting fill material to and from the site shall be covered from the point of origin and maintain a freeboard height of 12 inches. [AQ-2]
9. **Construction Dust Control – Gravel Pads.** Gravel pads shall be installed at all access point to prevent tracking of mud onto public roads. [AQ-3]
10. **Construction Dust Control – Minimize Disturbed Area/Speed.** Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less. [AQ-4]
11. **Construction Dust Control – Disturbed Area Treatment.** After clearing, grading, earth moving, excavation, or demolition is completed, the entire area of disturbed soil shall be treated to prevent wind erosion. This may be accomplished by:
 - a. Seeding and watering until grass cover is grown;
 - b. Spreading soil binders;
 - c. Sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind;
 - d. Other methods approved in advance by the Air Pollution Control District.[AQ-5]
12. **Construction Dust Control – Surfacing.** All surfaces for roadways, driveways, sidewalks, etc., shall be laid as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. [AQ-6]
13. **Stockpiling.** If importation, exportation and stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist by applying water at a rate of 1.4 gallons per hour per square yard, or treated with soil binders to prevent dust generation. Apply cover when wind events are declared. [AQ-7]
14. **Construction Dust Control – Project Environmental Coordinator (PEC).** 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 construction 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 for the structure. [AQ-8]
15. **Engine Size.** The engine size of construction equipment shall be the minimum practical size. [AQ-9]
16. **Equipment Numbers.** 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. [AQ-10]

17. **Equipment Maintenance.** Construction equipment shall be maintained to meet the manufacturer's specifications. [AQ-11]
18. **Catalytic Converters.** Catalytic converters shall be installed on gasoline-powered equipment, if feasible. [AQ-12]
19. **Diesel Catalytic Converters.** Diesel catalytic converters, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California shall be installed, if available. [AQ-13]
20. **Diesel Replacements.** Diesel powered equipment shall be replaced by electric equipment whenever feasible. [AQ-14]
21. **Idling Limitation.** All commercial diesel vehicles are subject to Title 13, Section 2485 and 2449 of the California Code of Regulations, limiting engine idling times. Idling of heavy-duty diesel trucks and diesel fueled or alternative diesel fueled off-road compression ignition vehicle during loading and unloading shall be limited to five minutes; auxiliary power units shall be used whenever possible. [AQ-15]
22. **Portable diesel equipment.** All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program or shall obtain an APCD permit. [AQ-16]
23. **Mobile construction equipment.** 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, Section 2449), the purpose of which is to reduce diesel particulate matter (PM) and criteria pollutant emission from in-use (existing) off-road diesel-fueled vehicles. The current requirements include idling limits of 5 minutes, labeling of vehicles with ARB-issued equipment identification numbers, reporting to ARB, and vehicle sales disclosures for more information, please refer to the CARB website at www.arb.ca.gov/msprog/ordiesel/ordiesel.htm. [AQ-17]
24. **Mitigation Monitoring Compliance Reports.** The PEC shall submit weekly reports during grading, excavation, and site preparation and biweekly reports on all other construction activity regarding MMRP compliance to the Community Development Department Planning Division.
25. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or

monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

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

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

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

F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60.090. 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 public improvement plans, including utility service undergrounding and installation of street trees and street lights, shall be completed.
3. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.
4. **Final Mitigation Monitoring Report.** Submit a final construction report for mitigation monitoring.

G. **General Conditions.**

1. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.

2. **Approval Limitations.**

- a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
- b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Staff Hearing Officer.
- c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

3. **California Department of Fish and Game Fees Required.** Pursuant to Section 21089(b) of the California Public Resources Code and Section 711.4 et. seq. of the California Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified Department of Fish and Game fees are paid and filed with the California Department of Fish and Game within five days of the project approval. The fee required is \$2,044.00 for projects with Negative Declarations. Without the appropriate fee, the Notice of Determination cannot be filed and the project approval is not operative, vested, or final. The fee shall be delivered to the Planning Division immediately upon project approval in the form of a check payable to the California Department of Fish and Game. Please note that a filing fee of \$50.00 is also required to be submitted with the Fish and game fee in the form of a separate check payable to the County of Santa Barbara.

4. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of first building permit application associated with this project.


5. **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.

This motion was passed and adopted on the 27th day of July 2011 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.



Kathleen Goo, 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 Single Family Design Board (SFDB) 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 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.