



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 005-14

128 ANACAPA STREET

TENTATIVE SUBDIVISION MAP AND COASTAL DEVELOPMENT PERMIT

JANUARY 22, 2014

APPLICATION OF JAMES MCDONALD, OWNER, 128 ANACAPA STREET, APN 033-083-022, OCEAN-ORIENTED COMMERCIAL (OC)/COASTAL OVERLAY (S-D-3) ZONES, GENERAL PLAN DESIGNATION: OCEAN RELATED COMMERCIAL/MEDIUM-HIGH, LOCAL COASTAL PLAN DESIGNATION: OCEAN ORIENTED COMMERCIAL & HOTEL AND RESIDENTIAL (MST2012-00332)

The proposed project involves a one-lot subdivision to create two residential condominium units and the construction of the two detached residential units, each with a two-car garage. The subject lot is 5,085 square feet in size and is currently vacant. The net sizes of the two units, including garages, are 3,202 square feet (Unit A) and 2,668 square feet (Unit B). Each unit would be three stories with a roof-top deck and have access to all common open yard space at the ground level. Grading for the project would comprise 140 cubic yards of excavation and 90 cubic yards of import. Access to the site is directly from Anacapa Street.

The discretionary applications required for this project are:

1. A Tentative Subdivision Map for a one-lot subdivision to create two (2) residential condominium units (SBMC Chapters 27.07/27.13); and
2. A Coastal Development Permit (CDP2012-00007) to allow the subdivision and proposed development in the Non-Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.45.009).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section §15183.

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

WHEREAS, no one appeared to speak either in favor or in opposition of the application thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, January 15, 2014.
2. Site Plans
3. Correspondence received in opposition to the project:
 - a. Thomas Coleman, Santa Barbara, CA.

I. NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer approved the subject application making the following findings and determinations:

A. ENVIRONMENTAL REVIEW

The Staff Hearing Officer finds that the project qualifies for an exemption from further environmental review under CEQA Guidelines Section 15183, based on the City staff analysis and the CEQA certificate of determination on file for this project.

B. THE TENTATIVE MAP (SBMC §27.07.100)

As described in Section VI of the Staff Report, the Tentative Subdivision Map is consistent with the General Plan, Local Coastal Plan, and the Zoning Ordinance of the city of Santa Barbara. The site is physically suitable for the type and density of development because it is an infill project in an urbanized area with all services available. The proposed use is consistent with the vision for this neighborhood of the General Plan because residential use is allowed as long as the use is subordinate to the commercial uses of this area. The subject lot is among a small group of lots that are allowed the option to develop exclusively residential units in the OC Zone. The design of the project will not cause substantial environmental damage because no sensitive resources are on site and the use of the building will not involve any hazardous material. Although there is lead contamination in the soil, it will be remediated and the site is not located in any hazard areas designated by local, State, or Federal agencies and is not identified as a hazardous waste site pursuant to Section 65962.5 of the Government Code.

C. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)

1. The project is consistent with the policies of the California Coastal Act, because the project is not within an area that has significant Coastal issues, described further in Section VI.C of the Staff Report. Additionally, the project will not have adverse impacts on coastal views, nor will it impact access to the coastline or public recreation.
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 Municipal Code because there are no sensitive resources on the project site, the project proposal incorporates a remediation plan for contaminated soil and building design to address surrounding noise levels, which is further described in Section VI of the Staff Report.

D. RESIDENTIAL CONDOMINIUM DEVELOPMENT (SBMC §27.13.080)

- (a) The project is in compliance with all provisions of Chapter 27.13; and
- (b) The proposed development is consistent with the General Plan of the City of Santa Barbara; and
- (c) The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources.

II. Said approval is subject to the following Conditions of Approval:

- A. Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:
1. Obtain all required design review approvals.
 2. Pay Land Development Team Recovery Fee.
 3. Submit an application for and obtain City Council approval of the Final Map and Agreements and record said documents.
 4. Permits following recordation of Final Map.
 - a. Submit an application for and obtain a Building Permit (BLD) for construction of approved development.
 - b. Submit an application for and obtain a Public Works Permit (PBW) for all required public improvements.

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

- B. Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an *Agreement Relating to Subdivision Map Conditions Imposed on Real Property*, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder concurrent with the Final Map, and shall include the following:
1. **Approved Development.** The project consists of a one-lot subdivision to create two residential condominium units and the construction of the two detached residential units, each with a two-car garage. The net sizes of the two units, including garages, are 3,202 square feet (Unit A) and 2,668 square feet (Unit B). Each unit would be three stories with a roof-top deck, and have access to all common open yard space at the ground level. Grading for the project would comprise 140 cubic yards of excavation and 90 cubic yards of import. Access to the site is directly from Anacapa Street.
 2. **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 Owner.
 3. **Uninterrupted Water Flow.** The Owner(s) of each newly created parcel shall allow for the continuation of any historic flow of water onto their newly created parcels including water from adjacent sources such as, but not limited to, public or private property drainage swales, natural watercourses, conduits, runoff from public or private roads, etc, as may be deemed appropriate.

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 Architectural Board of Review (ABR).
5. **General Plan and Zoning Designation Advisory.** The current General Plan and Zoning designation of the project site and surrounding parcels, as of the date of approval of this project by the Staff Hearing Officer, is Ocean Related Commercial /Medium High Residential and OC (Ocean-Oriented Commercial)/SD-3 (Coastal), respectively. Most of the allowed uses in the OC Zone district may be developed up to the parcel boundaries. Future owners of the condominiums are advised to review the regulations in effect at the time of sale of the units to determine the development potential of the adjacent lots, as well as, the required setbacks (if any). Adjacent development could require physical changes to the condominiums, such as, removing the fixed windows and/or affect private views.
6. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water control devices in a functioning state. Should any of the project's surface or subsurface drainage structures fail to capture storm water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. 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. **Required Private Covenants, Conditions and Restrictions (CC&Rs).** The Owners shall record in the official records of Santa Barbara County either private covenants, conditions and restrictions, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for the following:
 - a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium units.
 - b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
 - c. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan. Such plan shall not be modified unless prior written approval is obtained from the appropriate design review board. If said landscaping is removed for any reason without approval by the appropriate design review board, the owner is responsible for its immediate replacement.

- d. **Trash and Recycling.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the landscaping or be hauled off site by the landscaping maintenance company. If no green waste containers are provided for common interest developments, include an item in the CC&Rs stating that the green waste will be hauled off site.
- e. **Public Improvement Districts.** A covenant that includes a waiver to protest formation of public improvement districts.
- f. **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.

C. Public Works Submittal Prior to Parcel Map Approval. The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Parcel Map and prior to the issuance of any permits for the project:

1. **Parcel Map.** The Owner shall submit to the Public Works Department for approval, a Parcel Map prepared by a licensed land surveyor or registered Civil Engineer. The Parcel Map shall conform to the requirements of the City Survey Control Ordinance.
2. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff prepares said agreement for the Owner's signature.
3. **Required Private Covenants.** The Owner shall submit a copy of the draft private covenants, reciprocal easement agreement, or similar private agreements required for the project, concurrently with the Parcel Map.
4. **Drainage and Water Quality.** The project is required to comply with Tier 2 of the Storm Water Management Plan (treatment, rate and volume). The Owner shall submit worksheets from the Storm Water BMP Guidance Manual for Post Construction Practices 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, storm water facilities and treatment methods, and project development, shall be subject to review and approval by the City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants (including, but not limited to trash, hydrocarbons, fertilizers, bacteria, etc.), or groundwater pollutants would result from the project.
5. **Anacapa Street Public Improvements.** The Owner shall submit C-1 public improvement or Public Works plans for construction of improvements along the property frontage on Anacapa Street. Plans shall be submitted separately from plans submitted for a Building Permit, and shall be prepared by a licensed civil

engineer registered in the State of California. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: a minimum of 20 linear feet of sidewalk, driveway apron modified to meet Title 24 requirements with a maximum width of 16 feet, a minimum of 12 linear feet of curb and gutter, crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limits of all trenching, connection to City water and sewer mains and utilities, supply and install commercial City standard Dome Style street light, coordinate with Public Works staff and Edison to retire light standard from existing utility pole, preserve and/or reset survey monuments, supply and install directional/regulatory traffic control signs per the CA MUTCD during construction, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

6. **Agreement to Secure Public Improvements.** The Owner shall submit an executed *Agreement for Land Development Improvements*, prepared by the Engineering Division. Owner shall submit an Engineer's Estimate, wet signed, and stamped by a civil engineer registered in the State of California, and shall submit securities for construction of improvements prior to execution of the Agreement.
7. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way or easements shall be obtained by the Owner.

D. Design Review. The project, including public improvements, is subject to the review and approval of the Architectural Board of Review (ABR). ABR shall not grant project design approval until the following Staff Hearing Officer land use conditions have been satisfied.

1. **Screened Backflow Device.** The backflow devices for fire sprinklers, pools, spas and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building, as approved by the ABR.
2. **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 ABR.
3. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (at least 50 percent of the total area) shall be provided on the Real Property and screened from view from surrounding properties and the street.
4. **Building Height.** Study the height of the buildings and determine what elements of the development (e.g. towers, grading, etc.) can be reduced in height and bulk to be more in scale with immediately adjacent development.

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

1. **Public Works Department.**

- a. **Approved Public Improvement Plans.** Public Improvement Plans as identified in condition C.5 "Anacapa Street Public Improvements" shall be submitted to the Public Works Department for review and approval. Upon acceptance of conceptual public improvement plans, a Building permit may be issued if the Owner has bonded for public improvements and executed the *Agreement for Land Development Improvements*.
- b. **Haul Routes Require Separate Permit.** Apply for a Public Works Permit to establish the haul route for all construction-related trucks with a gross vehicle weight rating of three tons or more, entering or exiting the site. The Haul Routes shall be approved by the Transportation Engineer.
- c. **Construction-Related Truck Trips.** Construction-related truck trips for trucks with a gross vehicle weight rating of three tons or more shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) in order to help reduce truck traffic on adjacent streets and roadways.

2. **Community Development Department.**

- a. **Recordation of Parcel Map and Agreements.** After City Council approval, the Owner shall provide evidence of recordation of the map and agreements to the Community Development Department prior to issuance of building permits for individual parcels.
- b. **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 draft copy of the notice to the Planning Division for review and approval.
- c. **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 F.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 who compiled the mailing list shall be submitted to the Planning Division.
- d. **Remediation Action Plan.** The Owner shall submit a copy of the Remediation Action Plan approved by Santa Barbara County Public Health Department Environmental Health Services on July 12, 2013 along with all required permits (e.g. Santa Barbara County Air Pollution Control).

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

Signed:

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Property Owner		Date
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Contractor	Date	License No.
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Architect	Date	License No.
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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, 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 on parcels adjoining the project site on all sides, including across Anacapa Street. 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 Contractors, 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.
- 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 numbers, 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 if in a multi-family or commercial zone or six square feet if in a single family zone.
- 3. **Construction Hours.** Construction (including preparation for construction work) shall only be permitted Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m. and Saturdays between the hours of 9:00 a.m. and 4:00 p.m., excluding the following holidays:

New Year's Day	January 1st*
Martin Luther King, Jr. Day	3rd Monday in January
Presidents' Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the City to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out said construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

4. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Transportation Engineer with a Public Works permit.
5. **Air Quality and Dust Control.** The following measures shall be shown on grading and building plans and shall be adhered to throughout grading, hauling, and construction activities:
 - a. During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used whenever possible. However, reclaimed water should not be used in or around crops for human consumption.
 - b. Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.
 - c. If importation, exportation and stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.
 - d. Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
 - e. After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil

binders until the area is paved or otherwise developed so that dust generation will not occur.

- f. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading of the structure.
- g. All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.
- h. Fleet owners of mobile construction equipment are subject to the California Air Resource Board (CARB) Regulation for In-use Off-road Diesel Vehicles (Title 13 California Code of Regulations, Chapter 9, § 2449), the purpose of which is to reduce diesel particulate matter (PM) and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles. For more information, please refer to the CARB website at www.arb.ca.gov/msprog/ordiesel/ordiesel.htm.
- i. All commercial diesel vehicles are subject to Title 13, § 2485 of the California Code of Regulations, limiting engine idling time. Idling of heavy-duty diesel construction equipment and trucks during loading and unloading shall be limited to five minutes; electric auxiliary power units should be used whenever possible.
- j. Diesel construction equipment meeting the California Air Resources Board (CARB) Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting CARB Tier 2 or higher emission standards should be used to the maximum extent feasible.
- k. Diesel powered equipment should be replaced by electric equipment whenever feasible.
- l. If feasible, diesel construction equipment shall be equipped with selective catalytic reduction systems, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California.
- m. Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
- n. All construction equipment shall be maintained in tune per the manufacturer's specifications.
- o. The engine size of construction equipment shall be the minimum practical size.
- p. The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time. Construction worker trips should be minimized by requiring carpooling and by providing for lunch onsite.

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

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

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

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

- G. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
 1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Complete Public Improvements.** Public improvements, as shown in the public improvement plans or building plans, shall be completed.
 3. **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 Architectural Board of Review (ABR).

4. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11” board and submitted to the Planning Division.
5. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided to the Community Development Department, Planning Division that the private CC&Rs required in Section B “Recorded Conditions Agreement” have been recorded.
6. **Evidence of Remediation Action Implementation.** Provide a copy of the remedial action implementation report as required by the Santa Barbara County Public Health Department Environmental Health Services in their letter dated July 12, 2013. Also, provide a copy of a letter from Environmental Health Services stating acceptance of this report.

H. General Conditions.

1. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
2. **Approval Limitations.**
 - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
 - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the 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 Staff Hearing Officer Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
3. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid prior to issuance of any building permit or recordation of the Map, whichever comes first.

4. **Litigation Indemnification Agreement.** In the event the Staff Hearing Officer 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 22nd day of January, 2014 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 **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 COASTAL DEVELOPMENT PERMIT TIME LIMITS:** The Staff Hearing Officer 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:
 - a) Otherwise explicitly modified by conditions of approval for the coastal development permit.
 - b) A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.
 - c) 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.
7. **NOTICE OF TENTATIVE SUBDIVISION MAP TIME LIMITS:** The Staff Hearing Officer action approving the Tentative Map shall expire two (2) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110.
8. **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.