City of Santa Barbara
California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 059-15
1240 W. MICHELTORENA STREET
MODIFICATIONS
OCTOBER 14, 2015

APPLICATION OF MARK TRAVERS ARCHITECT FOR KATHERINE HAHN, 1240 W MICHELTORENA STREET, APN: 041-101-010, R-1 ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL (MAX 5 DU/ACRE) (MST2014-00555)

Proposal for a new three-story, 2,011 square foot, single-family residence on a 6,098 square foot vacant parcel with a 73% slope in the Hillside Design District. A total of eight specimen oak trees will be removed and replaced with 40 oak saplings. The proposal includes approximately 952 cubic yards of grading under the main building footprint and to widen the improved public road in front of residences to a width of 20 feet clear. The floor-to-lot-area ratio (FAR) is 74% of the required maximum floor-to-lot area ratio (FAR).

The discretionary applications required for this project are:

1. A Front Setback Modification to allow the first story of the residence to encroach into the required fifteen-foot front setback (SBMC §28.15.060 and §28.92.110);
2. A Front Setback Modification to allow the garage and the upper stories of the residence to encroach into the required twenty-foot front setback (SBMC §28.15.060 and §28.92.110);
3. An Open Yard Modification to allow the additional open yard for slope lots to be reduced to less than the required 160 square feet (SBMC §28.15.060 and §28.92.110); and
4. An Over Height Wall/Fence Modification to allow the proposed retaining walls and related safety railing within ten feet of the front lot line to exceed a maximum height of three and one-half feet (SBMC §28.87.170 and §28.92.110).

The project activity is within the scope of the 2011 General Plan and the Program EIR analysis for the General Plan. No further environmental document is required for this project pursuant to the California Environmental Quality Act (Public Resources Code §21083.3 and Code of Regulations §15183). City Council environmental findings adopted for the 2011 General Plan remain applicable for this project.

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 in favor of the application, and three people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, October 7, 2015.
2. Site Plans
3. Correspondence received in support of the project:
   a. Kathy Hahn, Santa Barbara, CA.

4. Correspondence received in opposition to the project:

   a. Jean and Jim Demro, Santa Barbara, CA.

   b. Fray Crease, Santa Barbara, CA.

   c. Malca B. Lebell, Ph.D., Santa Barbara, CA.

   d. Alan and Elizabeth Kasehagen, Santa Barbara, CA.

NOW, THEREFORE BE IT RESOLVED that:

I. The Staff Hearing Officer finds that due to the site's significant constraints including, but not limited to, the lot's irregular shape, steep slope, shallow depth and further constraints described in Section V of the written Staff Report dated October 7, 2015, the requested Front Setback, Additional Open Space, and Wall Height Modifications are necessary to secure the development of a single-family residence. Staff also finds that development of the site with a single-family residence is an appropriate improvement on the lot. The requested Modifications are consistent with the purpose and intent of the ordinance to promote low-density residential development that is well-integrated into the hillside. The Single Family Design Board's has determined that the project is compatible with the neighborhood. In addition, the subject lot is setback approximately eight- to nine-feet from the improved right-of-way, which will give the appearance of a greater setback. The subject property and the neighbors at the terminus of the street will benefit from the increased road width of twenty-feet allowing two vehicles to pass.

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. Submit an application for and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform rough grading. Comply with condition E "Construction Implementation Requirements."

3. Record any required documents (see Recorded Conditions Agreement Sections B and D.1.(f)).

4. Permits.

   a. Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.

   b. Submit an application for and obtain a Public Works Permit (PBW) for all required public improvements and complete said improvements.

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

B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on October 14, 2015_is limited to one dwelling unit 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. **Uninterrupted Water Flow.** The Owner shall allow for the continuation of any historic flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.

3. **Recreational Vehicle Storage 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.

4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan, including any tree protection measures. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement.

5. **Oak Tree Protection.** The existing oak tree(s) shown on the Tree Protection and Landscape Plan shall be preserved, protected, and maintained in accordance with the recommendations contained in the arborist's report prepared by Bill Spiewak, dated May 15, 2015 and addendum dated July 27, 2015.

6. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state and in accordance with the Storm Water BMP Guidance Manual and Operations and Maintenance Procedure Plan approved by the Creeks Division. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit 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. **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.

8. **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. **Parks and Recreation Commission Tree Removal Approval.** Submit to the Planning Division verification of approval from the Parks and Recreation Commission for the removal of the five oak trees located in the unimproved right-of-way.

2. **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s), as determined by the SFDB.

3. **Oak Trees.** The following additional provisions shall apply to existing oak trees on site:

   a. No irrigation system shall be installed within three feet of the dripline of any oak tree.

   b. Oak trees greater than four inches (4") in diameter at four feet (4') above grade removed as a result of the project shall be replaced at a five to one (5:1) ratio, at a minimum five (5) gallon size, from South Coastal Santa Barbara County Stock.

   c. The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.

   d. No storage of heavy equipment or materials, or parking shall take place within five (5) feet of the dripline of any oak tree.

   e. The Arborist shall establish success criteria and additional measures to implement in the event that the success criteria is not met. The plan shall include the requirement for a minimum survival rate of 3:1 replacement ratio and shall suggest sufficient spacing for the replacement oaks to enhance the likelihood of survival. Said success criteria and evaluation measures shall be reviewed and approved by the City's Environmental Analyst prior to Project Design Approval by the Single Family Design Board.

4. **Arborist's Report / Tree Protection Plan.** Include a note on the landscape and grading plans that the recommendations/conditions contained in the arborist's report / Tree Protection Plan prepared by Bill Spiewak, dated October 8, 2014, May 15, 2015 and the July 27, 2015 addendum shall be implemented.

   a. **Tree Protection.** All trees not indicated for removal on the approved tree protection and landscape plan shall be preserved, protected, and

maintained, in accordance with the Tree Protection Plan and any related Conditions of Approval.

b. **During Construction.**

i. **Pre-Construction Meeting.** A pre-construction meeting shall be held with the project arborist and the contractors, prior to the commencement of work, to discuss tree protection measures.

ii. **Tree Protection Zones (TPZ).** Install fencing, as designated on the site plan, to establish tree protection zones (TPZ). These TPZs shall be at the outside edge of all work areas, around trees. Fences shall be maintained in an upright positions throughout the duration of the project.

iii. **Storage and Staging in TPZ.** The TPZs shall be void of all activities, including parking vehicles, operation of equipment, storage of materials, and dumping (including temporary spoils from excavation). Due to the limited size of the site, planning is important proper to excavation to assure that all spoils and materials are stored outside of the TPZs.

iv. **Arborist Monitoring.** All excavation and grading near trees shall be monitored by the project arborist.

v. **Root Pruning.** Any roots encountered during grading that are ½" or greater shall be cleanly cut.

vi. **Tree Pruning.** Tree pruning, where limbs may conflict with equipment and proposed structures, shall be done prior to the excavation and grading.

vii. **Arborist Supervision of Tree Pruning.** Pruning shall be performed or supervised by a qualified Certified Arborist. The project arborist shall review the goals with the workers prior to the commencement of any tree pruning. Tree workers shall be knowledgeable of *ISA Best Management Practices for Tree Pruning*.

viii. **Supplemental Irrigation.** It may be determined by the project arborist that supplemental irrigation is necessary to aid trees that incur root loss and/or during hot periods. If determined to be necessary, said supplemental irrigation shall be installed.

ix. **Relocation of Oak Seedlings.** Oak seedlings and saplings less than four inches (4") at four feet (4') above the ground that are removed during construction shall be transplanted where feasible. If transplantation is not feasible, replacement trees shall be planted at a minimum one to one (1:1) ratio. Replacement trees shall be a minimum of one (1) gallon size derived from South Coastal Santa Barbara County stock.

5. **Appropriate Plants on Steep Slope.** Special attention shall be paid to the appropriateness of the existing and proposed plant material on the steep slope. All existing succulent plants that add weight to the steep slope and/or contribute

to erosion shall be removed in a manner that does not disturb the root system and replaced with appropriate plant material in a manner that does not increase the rate of erosion.

6. **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. The drip system along the steep slope shall be removed after one full season of plant growth.

7. **Landscape Screening.** Landscaping with low water use plants shall be provided to screen the retaining walls at the front of the residence.

8. **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 SFDB.

9. **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 painted "Malaga Green," and if feasible, they shall be screened as approved by SFDB.

10. **Storm Water Management Program (SWMP).** Prior to receiving final approval by the Single-Family Design Board the following changes must be made to the report and shown on the plans:

    a. From Figure 2 in the storm water report, it appears that a significant portion (approx. 40%) of the roof runoff will be directed from a downspout to the open-celled pavers. The open-celled pavers do not appear designed (i.e. limited infiltration rate) to take on run-on. All areas where roof runoff will be directed shall be installed with the permeable pavers detailed on Figure 3 or some other type of BMP with an infiltration rate capable of handling a large volume of storm water.

    b. On Figure 2 Clearly indicate how the roof runoff from the Eastern portion (indicated by 40% roof runoff) of the building will reach the BMPs. It is not clear whether this water will be routed offsite or to the open-celled pavers. Will this water be piped subsurface? Or will it spill onto the surface of the BMP?

    c. Include the permeable pavement detail from Figure 3 on the plan set. Also, make a note on the detail that the sub-base #2 stone layer will be compacted in 4-6" lifts. Also, include detailed construction notes consistent with ICPI specifications to make sure the pavers will be installed properly and perform as intended. These specifications can be found here: http://www.icpi.org/node/721

    d. For the bioretention BMPs, specify the type of soil media as 60 to 70% sand, 15 to 25% compost, and 10 to 20% clean topsoil; organic content 8 to 12%; pH 5.5 to 7.5. Please refer to page 6-13 of the City's Storm Water BMP Guidance Manual.

D. Requirements Prior to Permit Issuance. The Owner shall submit 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 conditionsare 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.c "West Micheltorena Street Public Improvements" shall be submitted to the Public Works Department for review and approval. Upon acceptance of 30% conceptual public improvement plans, a Building Permit may be issued if the Owner has bonded for public improvements and executed the *Agreement to Construct and Install Improvements (Not a Subdivision).*

b. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff prepares said agreement for the Owner's signature.

c. **West Micheltorena Street Public Improvements.** The Owner shall submit C-1 public improvement or Public Works plans for construction of improvements along the property frontage on West Micheltorena 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: Widening of the street by approximately four (4) feet for the entire project frontage of approximately 90 lineal feet. Additional width and length removal and replacement of asphalt concrete or concrete pavement on aggregate base may be necessary to provide an acceptable road section. An equal length of concrete curb and gutter is required. Approximately 30 lineal feet of 3'-4' high retaining wall may be needed on the western side of the project and approximately 5'-10' of 3'-4' high retaining wall may be needed on the eastern side of the project to accommodate the new curb alignment. Crack seal and slurry the entire width of the street along the entire subject property frontage and slurry seal a minimum of 20 feet beyond the limits of all trenching. Connection to and/or relocation or extension of City water and sewer mains and utilities; public drainage improvements with supporting drainage calculations and/or hydrology report for installation of drainage pipe or connection to existing City or County storm drain; preserve and/or reset survey monuments; supply and install directional/regulatory traffic control signs per the CA MUTCD during construction; storm drain stenciling; and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

d. **Haul Routes Require Separate Permit.** Apply for a Public Works permit to establish the haul route(s) for all construction-related trucks with a gross vehicle weight rating of three tons or more entering or exiting the site.

e. **Construction-Related Truck Trips.** Construction-related truck trips for trucks with a gross vehicle weight rating of three tons or more shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) in order to help reduce truck traffic on adjacent streets and roadways.

f. **Agreement to Construct and Install Improvements.** 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. Payment and Performance securities will be required.

g. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way or easements shall be obtained by the Owner. The retaining wall on either side of the driveway, enhanced paving in the right-of-way and related features will require a Minor Encroachment Permit in accordance with SBMC §10.56. The house must be designed to be independent and permanently stable in the event the retaining walls located in the right-of-way are ever removed.

2. **Community Development Department.**

a. **Recordation of Agreements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in condition B "Recorded Conditions Agreement" to the Community Development Department prior to issuance of any building permits.

b. **Drainage and Water Quality.** The project is required to comply with **Tier 3** of the Storm Water BMP Guidance Manual, pursuant to Santa Barbara Municipal Code Chapter 22.87 treatment. The Owner shall submit a hydrology report prepared by a registered civil engineer or licensed architect demonstrating that the new development will comply with the City's Storm Water BMP Guidance Manual. Project plans for grading, drainage, stormwater facilities and treatment methods, and project development, shall be subject to review and approval by the City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no unpermitted construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants (including, but not limited to trash, hydrocarbons, fertilizers, bacteria, etc.), or groundwater pollutants would result from the project.

For any proprietary treatment devices that are proposed as part of the project's final Storm Water Management Plan, the Owner shall provide

an Operations and Maintenance Procedure Plan consistent with the manufacturer's specifications (describing schedules and estimated annual maintenance costs for pollution absorbing filter media replacement, sediment removal, etc.). The Plan shall be reviewed and approved by the Creeks Division for consistency with the Storm Water BMP Guidance Manual and the manufacturer's specifications.

After certificate of occupancy is granted, any proprietary treatment devices installed will be subject to water quality testing by City Staff to ensure they are performing as designed and are operating in compliance with the City's Storm Water MS4 Permit.

c. **Arborist's Monitoring.** Submit to the Planning Division an executed contract with a qualified arborist for monitoring of all excavation and grading work near trees during construction. The contract shall include a schedule for the arborist's presence during grading and construction activities, and is subject to the review and approval of the Planning Division.

d. **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.

e. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

_____
Property Owner Date

_____
Contractor Date License No.

_____
Architect Date License No.

_____
Engineer Date License No.

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. **Storage of Equipment/materials.** No storage of heavy equipment or materials, or parking shall take place within five (5) feet of the dripline of any oak tree.

2. **Tree Protection Zones (TPZ).** Install fencing, as designated on the site plan, to establish tree protection zones (TPZ). These TPZs shall be at the outside edge of all work areas, around trees. Fences shall be maintained in an upright positions throughout the duration of the project.

3. **Relocation of Oak Seedlings.** Oak seedlings and saplings less than four inches (4") at four feet (4') above the ground that are removed during construction shall be transplanted where feasible. If transplantation is not feasible, replacement trees shall be planted at a minimum one to one (1:1) ratio. Replacement trees shall be a minimum of one (1) gallon size derived from South Coastal Santa Barbara County stock.

4. **Storage and Staging in TPZ.** The TPZs shall be void of all activities, including parking vehicles, operation of equipment, storage of materials, and dumping (including temporary spoils from excavation). Due to the limited size of the site, planning is important proper to excavation to assure that all spoils and materials are stored outside of the TPZs.

5. **Arborist Monitoring.** All excavation and grading near trees shall be monitored by the project arborist.

6. **Root Pruning.** Any roots encountered during grading that are ½" or greater shall be cleanly cut.

7. **Tree Pruning.** Tree pruning, where limbs may conflict with equipment and proposed structures, shall be done prior to the excavation and grading.

8. **Arborist Supervision of Tree Pruning.** Pruning shall be performed or supervised by a qualified Certified Arborist. The project arborist shall review the goals with the workers prior to the commencement of any tree pruning. Tree workers shall be knowledgeable of *ISA Best Management Practices for Tree Pruning*.

9. **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), contractor(s) telephone number(s), construction work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.

10. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Public Works Director with a Public Works permit.

11. **Construction Parking.** During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Public Works Director.

12. **Nesting Birds.** Birds and their eggs nesting on or near the project site are protected under the Migratory Bird Treaty Act and pursuing, hunting, taking,

capturing, killing, or attempt to do any of the above is a violation of federal and state regulations. No trimming or removing brush or trees shall occur if nesting birds are found in the vegetation. All care shall be taken not to disturb the nest(s). Removal or trimming may only occur after the young have fledged from the nets(s).

13. **Grading Activities.** Grading and soil disturbance shall be timed to be completed during the dry season (May – November) and all disturbed soils shall be hydro-mulched or retaining walls completed by the onset of the rainy season.

14. **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.

15. **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. 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.

G. **General Conditions.**

1. **Tree Monitoring Reports.** Tree Monitoring Reports shall be submitted annually to the Planning Division for five (5) years or for the duration of replacement trees establishment.

2. **Arborist's Monitoring.** Submit to the Planning Division a final tree monitoring report with the findings of the monitoring activities including additional recommendations that were carried out in the field during excavation and grading work near trees.

3. **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.

4. **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.

5. **Site Maintenance**. The existing site/structure(s) shall be maintained and secured. Any landscaping shall be watered and maintained until demolition occurs.

6. **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 14th day of October, 2015 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 10/19/15

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 shall 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 (subject to change w/COAs): 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 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, or;

   b. An extension is granted by the Community Development Director prior to the expiration of the approval.

7. **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.