



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 005-24

531 E ORTEGA STREET

MODIFICATION, DEVELOPMENT PLAN, AND CONDITIONAL USE PERMIT

MARCH 14, 2024

Assessor's Parcel Number: 031-101-024
Zoning Designation: R-M (Residential Multi-Unit)
Application Number: PLN2023-00178
Owner: Providence School
Applicant: Jay Higgins, H&H Environmental, Inc.

The 1.45-acre site is currently developed with a one-story main building, a gymnasium, and a surface parking lot. The project consists of redevelopment of the existing site to accommodate a Junior/High School (grades 6-12) campus for Providence School. The project involves additions and alterations to the existing single-story main building; demolition of the existing gymnasium and construction of a new 10,500-square-foot gymnasium; a new 4,969-square-foot two-story building comprised of a theatre, library and chapel; and a new 4,244-square-foot two-story building comprised of additional classroom and office administration space. The project includes alterations to the existing surface parking lot to accommodate a total of 40 uncovered vehicle spaces and 56 bicycle parking spaces, as well as grading and landscape/hardscape improvements throughout the site.

The discretionary applications required at this hearing under the purview of the Planning Commission are:

- A. A Modification of the minimum 12-foot interior setback for new nonresidential structures or additions to existing nonresidential structures in the R-M zone (SBMC §30.20.030.B & SBMC §30.250.020);
- B. A Development Plan to allow the construction of 11,283 square feet of net new nonresidential development (SBMC Chapter 30.230); and
- C. A Conditional Use Permit to allow for the operation of a school use in the R-M zone (SBMC §30.20.020 & SBMC Chapter 30.215).

Confirm the Environmental Analyst's determination that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15332, [In-Fill Development Projects], and SBMC Chapter 22.100.

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, 3 people appeared to speak and the following exhibits were presented for the record:

1. Staff Report with Attachments, March 7, 2024
2. Project Plans
3. Correspondence received:

- a. Fernand Alvarado Ram
- b. Alma Rosa Heredia
- c. Jerg B. Jergenson
- d. Thomas R. Curry
- e. Corine Del Campo
- f. Alessandro Moretto
- g. Jamie De Vries
- h. Angel Madrigal

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission:

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

A. ENVIRONMENTAL REVIEW (SBMC §22.100.160.C; CEQA GUIDELINES)

The determination of exemption, as discussed in the staff report dated March 7, 2024, is appropriate. The project qualifies for an exemption from further environmental review under CEQA Guidelines Section 15332 [In-Fill Development Projects], based on the City staff analysis and the CEQA Certificate of Determination on file for this project, because the project meets all criteria under this exemption. The project involves infill development on a 1.45-acre lot that is surrounded by urban uses. The project is consistent with the applicable Medium High-Density Residential general plan designation and all applicable general plan policies (as described in Section VI.B of the staff report) as well as with the applicable R-M zoning designation and regulations (as described in section VI.A of the staff report); the project site has no value as habitat for endangered, rare or threatened species; the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services. None of the exceptions to the exemption under CEQA Guidelines Section 15300.2 apply.

B. INTERIOR SETBACK MODIFICATION (SBMC §30.20.030.B & §30.250.020)

The Modification of the minimum 12-foot Interior Setback for new nonresidential structures or additions to existing nonresidential structures in the R-M zone is consistent with the general purposes of Title 30 (Zoning Ordinance) and the R-M zoning district, which allows for a school use with a Conditional Use Permit as it is a use that supports daily life of neighborhoods and will complement the surrounding development comprised of residential, multi-unit residential, commercial, and institutional uses. The Modification is necessary to accomplish appropriate improvements on the lot to accomplish the needs for the school use and will result in development that is generally consistent with existing patterns of development for the neighborhood and promote uniformity of improvement to existing structures on the site, because the subject lot is at the edge of a residential zone which neighbors a commercial zone with no setbacks, and there is variation with respect to setbacks in the neighborhood. Additionally, the location of the proposed buildings provides appropriate sensitivity to the historic resource on the property.

C. CONDITIONAL USE PERMIT (SBMC §30.20.020 & §30.215.070)

1. The proposed use is allowed with a Conditional Use Permit within the applicable zone district and complies with all specific requirements for the Conditional Use Permit, as well as all other applicable provisions of this title and all other titles of the municipal code;

The subject lot is in the R-M (Residential Multi-Unit) zone. Nonresidential uses are limited to those that support daily life of neighborhoods, complement surrounding residential development, and mitigate impacts to traffic, parking demand, light, glare, and noise. Schools are allowed in the R-M zoning district with a Conditional Use Permit (SBMC Table 30.20.020). Schools support daily life of neighborhoods by providing educational opportunities to youth, furthermore the project will satisfy the required parking requirement for the use, and the design and siting of the project has received positive feedback from the HLC for the use and redevelopment of the site. The proposed school use is also not inconsistent with the prior historic use as a childcare center.

2. The proposed use and development is deemed essential or desirable to the public convenience or welfare and is consistent with the General Plan and any applicable specific plan;

Providence School currently operates under a temporary CUP within proximity of the project site without noise, traffic, or other nuisance complaints. The use is desirable to the public convenience or welfare and is consistent with the General Plan as described in Section VI.A and VI.B of the staff report dated March 7, 2024; the General Plan identifies this neighborhood as being an area of varying uses, and the use provides additional educational opportunities in the urban core, in a neighborhood comprised of residential, multi-unit residential, commercial, and industrial uses including schools, and a community park.

3. The proposed use and development will not be adverse to the public health, safety, or general welfare of the community, nor materially detrimental to surrounding properties or improvements;

The use will not be adverse to the public health, safety, or general welfare of the community, nor materially detrimental to surrounding properties or improvements. Historically, the site has operated as a childcare center in varying capacities since 1963. The school use is complementary to the original use of the site. Although a Modification relative to interior setbacks is requested, the amount of encroachment is not inconsistent with the surrounding developed neighborhood, and the development is comprised of one- and two-story buildings that is found throughout the neighborhood.

4. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided;

The subject lot is at the edge of the Residential Multi-Unit (R-M) zoning district abutting the Manufacturing-Commercial (M-C) zone, which is a zone that does not require setbacks for nonresidential uses. The project respects the front setbacks from E Ortega Street and N Salsipuedes Street, with the single-story main building remaining in its current location, and the new buildings set back from N Salsipuedes Street on the other side of the surface parking lot. The project provides interior setbacks that are not inconsistent with the surrounding developed neighborhood. The new gymnasium will be constructed partially below grade and all buildings are positioned away from the property frontages.

5. The design and operation of the project and its components, including hours or manner of operation, outdoor lighting and noise generating equipment, will not be a nuisance to the use of property in the area, particularly residential use;

The subject lot has operated as a childcare center since 1963 and will be replaced with a school to provide educational opportunities to middle and high school students in the neighborhood and Santa Barbara community. The school currently operates at 632 E Canon Perdido, in proximity to the project site under a temporary CUP and will be relocated to the subject lot. The design and operation are not inconsistent with the surrounding neighborhood which includes other institutional uses, including Santa Barbara High School and Santa Barbara Junior High School, as well as Ortega Park. School hours of operation will occur from 8:00 a.m. – 3:00 p.m. Monday through Friday, which is not inconsistent with other schools in the vicinity. As the project does not include a large outdoor sporting field, or associated lighting for evening games, the operation will not be a nuisance to the use of property in the area, particularly residential use. A gymnasium currently exists on the property from the prior childcare use and will be replaced with a gymnasium compliant to current regulatory sporting standards. Indoor events in both the theatre and gymnasium will occur intermittently, consistent with any other school use in the vicinity of the site.

6. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time; and

The project provides the amount of required off-street parking for the school use and the required amount of bicycle parking. Access to the surface parking lot off N. Salsipuedes Street will remain in its current location, with loading/unloading to occur on Ortega Street and limited to school start and end times such that on-street parking will be maintained outside the hours of 7:00 a.m. – 9:00 a.m. and 2:00 p.m. to 4:00 p.m. on school days.

7. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the structures, location of parking areas, landscaping, open space and other features is compatible with the character of the area.

The appearance of the developed site is compatible with the character of the existing neighborhood. The site currently is developed with a single-story building, gymnasium, and surface parking. As part of the project, the single-story building will remain and the surface parking lot, while increasing in size to accommodate the required parking for the school use, will remain in its current location. The gymnasium will be replaced with a compliant gymnasium to regulatory sporting standards. The Historic Landmarks Commission reviewed the project, including site arrangement, architectural style, sensitivity to the onsite historic resource, scale, height, open space, and landscaping and have noted that the project is consistent with the neighborhood and a design improvement to the site.

D. DEVELOPMENT PLAN (SBMC §30.230.060):

1. The proposed development complies with all applicable provisions of the Zoning Ordinance, since with approval of the Modification and Conditional Use Permit, it can be found consistent with the purpose and intent of the Ordinance and the project is an appropriate use for the neighborhood which includes a mix of uses including other institutional uses, residential, multi-unit residential, and commercial; and

2. The proposed development is consistent with the principles of sound community planning because the project is consistent with the surrounding residential, multi-unit residential, institutional, and commercial development in the immediate area, and the project will provide educational opportunities to the neighborhood and community at large; and
3. The proposed development will not have a significant adverse impact upon the community's aesthetics or character in that the size, bulk, and scale of the development will be compatible with the neighborhood and is consistent with the Project Compatibility Findings based on feedback from the Historic Landmarks Commission; and
4. The proposed development is consistent with the policies of the City of Santa Barbara Traffic Management Strategy as expressed in the allocation allowances specified in SBMC §30.170.030, Traffic Management Strategy, and discussed in VI.B of the staff report, dated March 7, 2024, as the project will not result in a project specific traffic congestion effect. The project complies with the Pedestrian Master Plan (PMP) for sidewalk width and amenities and will incorporate a curb extension at the northwest corner of the Salsipuedes/Ortega Intersection, which improves walking access and safety to the school. The project also meets the Zoning Ordinance requirements for vehicle and bicycle parking for the school use.

II. Said approval is subject to the following conditions:

- A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:
 1. Obtain all required design review approvals.
 2. 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 section).
 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 and Community Development Director, recorded in the Office of the County Recorder, and shall include the following:
 1. **Approved Development.** The development of the Real Property approved by the Planning Commission on March 14, 2024, is limited to redevelopment of the existing site to accommodate a Junior/High School (grades 6-12) campus for Providence School, with 6 High School classrooms and 5 Junior High School classrooms, and a maximum of 250 students. The project involves additions and alterations to the existing single-story main

building, demolition of the existing gymnasium and construction of a new 10,500-square-foot gymnasium, a new 4,969-square-foot two-story building comprised of a theatre, library and chapel, and a new 4,244-square-foot two-story building comprised of additional classroom and office administration space. The project includes alterations to the existing surface parking lot to accommodate a total of 40 uncovered vehicle spaces, 56 bicycle parking spaces, grading, and landscape/hardscape improvements throughout the site as described in the Applicant Letter dated March 5, 2024 and as shown on the plans signed by the chairperson of the Planning Commission on said date and on file at the City of Santa Barbara.

- a. Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Lighting shall be directed towards the ground.
 - b. There shall be a maximum of 250 students on-site at any given time.
 - c. All outdoor areas shall comply with the City's Noise Ordinance.
 - d. A change in use or increase in intensity of use of the property could have potential land use and parking impacts. Prior to initiating a change of use or an increase in intensity of use, a report shall be submitted by the school to the Community Development Director to determine whether additional City approvals are necessary such as Temporary Use Permits or an Amendment to the Conditional Use Permit, or any other appropriate review procedure.
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. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Historic Landmarks Commission (HLC). Such plan shall not be modified unless prior written approval is obtained from the HLC. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan, including any tree protection measures. If said landscaping is removed for any reason without approval by the HLC, the owner is responsible for its immediate replacement.
 4. **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.

5. **Areas Available for Parking.** All parking areas and access thereto shall be kept open and available in the manner in which it was designed and permitted.
- C. **Design Review.** The project, including public improvements, is subject to the review and approval of the Historic Landmarks Commission (HLC). The HLC shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.
1. **Tree Removal and Replacement.** All trees removed, except fruit trees and street trees approved for removal without replacement by the Parks Department, shall be replaced on-site on a one-for-one basis with minimum 15 gallon size trees of an appropriate species or like species, in order to maintain the site's visual appearance and reduce impacts resulting from the loss of trees.
 2. **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 any tree with a trunk diameter greater than four (4) inches located in the required Front Setback on the E Ortega Street or N Salsipuedes Street frontages.
 3. **Tree Protection Measures.** The landscape plan and grading plan shall include the following tree protection measures:
 - a. **Tree Protection.** All trees not indicated for removal on the approved site plan / landscape plan shall be preserved, protected, and maintained.
 4. **Screened Backflow Device.** The backflow devices for fire sprinklers, pools, spas and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building, as approved by the HLC.
 5. **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 the HLC.
- 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.f "E Ortega Street and N Salsipuedes Street 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. **E Ortega Street and N Salsipuedes Street Public Improvements.** The owner shall submit C-1 public improvement or Public Works Plans for construction of improvements along the property frontages on both E Ortega Street and N Salsipuedes Street. Plans 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 12 feet of right of way along the property frontages of E. Ortega Street and N Salsipuedes Street, consisting of a six inch curb, four foot parkway, six foot sidewalk (Type A sidewalk) and one and a half foot frontage zone; construction of a new curb extension at the northwest corner of N Salsipuedes Street and E Ortega Streets; installation of red curb measured from beginning from the ends of the curb extension measuring 30 feet along the northwest corner of N Salsipuedes Street and E Ortega Streets; asphalt concrete or concrete pavement on aggregate base or crack seal to the centerline of the street along the entire subject property frontage and slurry seal a minimum of 20 feet beyond the limits of all trenching; public drainage improvements with supporting drainage calculations and/or hydrology report for installation of curb outlet drains, preserve and/or reset monuments; protect and relocate existing contractor stamps to parkway, supply and install directional/regulatory traffic control signs per the CA MUTCD during construction; 8 new street trees per approval of the Parks and Recreation Commission and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.
- c. **Pedestrian Ramp/Curb Extension.** The plans submitted for building permit/public works permit shall show installation of the curb extension at the northwest corner of Ortega Street and Salsipuedes Street to shorten the crossing distance for students and families walking across the street and to improve the visibility and site lines of the intersection.
- d. **On-Street Loading/Unloading Zone and Signage Along E Ortega Street.** From the end of the red curb, 170 feet of on-street loading and unloading area (approximately 8 parking spaces) shall be provided from 7:00 a.m. – 9:00 a.m. and 2:00 p.m. to 4:00 p.m. on school days to accommodate student drop-off and pick-up activities. Signage of loading and unloading area is required and shall be installed per CA MUTCD standards.
- e. **Haul Routes Require Separate Permit.** Apply for a Public Works permit to establish the haul routes for all construction-related trucks with a gross vehicle weight rating of three tons or more entering or exiting the site.
- 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.
- g. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of

improvements (including any required appurtenances) within their rights of way or easements shall be obtained by the Owner.

2. **Community Development Department.**

- a. **Recordation of Agreements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in condition B “Recorded Conditions Agreement” to the Community Development Department prior to issuance of any building permits.
- b. **Easement For Drainage Purposes.** Provide the City with amendment to Instrument No. 1985-042714, “easement for drainage purposes” demonstrating relocation of the drainage easement consistent with the location on the plans approved by the Planning Commission on March 14, 2024.
- c. **Site Investigation.** Any non-native fill material encountered during grading shall be analyzed for Total Petroleum Hydrocarbon (TPH), Polycyclic Aromatic Hydrocarbons (PAHs), Volatile Organic Compounds, and metals. Provide the results to a regulatory oversight agency, such as the County Environmental Health Services (EHS), the Central Coast Regional Water Quality Board, or the Department of Toxic Substances Control for evaluation. Depending on the results of the investigation additional sampling may be required to delineate the lateral and vertical extent of contamination. This work shall be performed under the oversight of a regulatory agency. Once the contamination has been sufficiently delineated, a remedial action plan would be required to be submitted to, reviewed, and approved by a regulatory agency. Based upon the extent of contamination, implementation of the remedial action may be incorporated into the building permit.
- d. **Drainage and Water Quality.** The project is required to comply with **Tier 4** (for the private redevelopment) and **Tier 2** (for public improvements in the public right-of-way) of the Storm Water BMP Guidance Manual, pursuant to Santa Barbara Municipal Code Chapter 22.87 (treatment, rate and volume). The Owner shall submit drainage calculations and 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.

- e. **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.
- f. **Letter of Commitment for Neighborhood Notification Prior to Construction.** The Owner shall submit to the Planning Division a letter of commitment to provide the written notice specified in condition E.1 “Neighborhood Notification Prior to Construction” below. The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the persons who compiled the mailing list shall be submitted to the Planning Division.
- g. **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. Owner voluntarily agrees to request to be admitted to the Joint Use Committee C between School District and City and will show proof of the request to the Community Development Director.
- h. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. The following statement shall be signed prior to issuance of and permits: 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:

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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.

E. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.

1. **Neighborhood Notification Prior to Construction.** At least twenty (20) days prior to commencement of construction, the contractor shall provide written notice to all property owners, businesses, and residents within 300 feet of the project area. The notice shall contain a description of the project, the construction schedule, including days and hours of construction, the name and phone number of the Contractor(s), site rules and Conditions of Approval pertaining to construction activities, and any additional information that will assist Building Inspectors, Police Officers and the public in addressing problems that may arise during construction.
2. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number(s), construction work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. 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 Public Works Director with a Public Works permit.

5. **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.
6. **Lead Based Paint & Asbestos Containing Materials.** Any work to the site buildings where asbestos containing material (ACM), presumed asbestos containing material (PACM), and/or lead based paint is suspected shall be handled and/or disposed of by contractors licensed to handle and abate these materials.
7. **Unanticipated Hazardous Materials.** If stained/odiferous soil is encountered during construction, work shall be halted in that area and the County Environmental Health Services (EHS) shall be notified immediately.
8. **Santa Barbara County Air Pollution Control District (APCD) Regulatory Requirements.**
 - a. All portable diesel-fired construction engines rated at 50 brake horsepower or greater must have either statewide Portable Equipment Registration Program (PERP) certificates or District permits prior to grading/building permit issuance. Construction engines with PERP certificates are exempt from the District permit, provided they will be on-site for less than 12 months. If a District permit is required, proof of receipt of the District permits shall be submitted by the applicant to planning staff.
 - b. The application of architectural coatings, such as paints, primers, and sealers that are applied to buildings or stationary structures, shall comply with District Rule 323.1, Architectural Coatings that place limits on the VOC-content of coating products.
 - c. Asphalt paving activities shall comply with District Rule 329, Cutback and Emulsified Asphalt Paving Materials.
 - d. Construction/ demolition activities are subject to District Rule 345, Control of Fugitive Dust from Construction and Demolition Activities. This rule establishes limits on the generation of visible fugitive dust emissions at demolition and construction sites, includes measures for minimizing fugitive dust from on-site activities, and from trucks moving on- and off-site. Please see www.ourair.org/wp-content/uploads/rule345.pdf. Activities subject to Rule 345 are also subject to Rule 302 (Visible Emissions) and Rule 303 (Nuisance).
 - e. Natural gas-fired fan-type central furnaces with a rated heat input capacity of less than 175,000 British thermal units per hour (Btu/hr) and water heaters rated below 75,000 Btu/hr must comply with the emission limits and certification requirements of District Rule 352. Please see www.ourair.org/wp-content/uploads/rule352.pdf for more information.
 - f. Boilers, water heaters, and process heaters rated between 75,000 and 2.0 million British thermal units per hour (Btu/hr) must comply with the emission limits and

- 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.

10. **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. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
2. **Approval Limitations.**
 - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
 - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission.
 - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
3. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors (“City’s Agents”) from any third party legal challenge to the City Council’s denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively “Claims”). Applicant/Owner further agrees to indemnify and hold harmless the City and the City’s Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City’s sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City’s Agents from independently defending any Claim. If the City or the City’s Agents decide to independently defend a Claim, the City and the City’s Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

III. Said approval is subject to the following time Limits:

- A. The Planning Commission action approving the Conditional Use Permit, Modification, and Development Plan shall terminate three (3) years from the effective date of the approval, per Santa Barbara Municipal Code §30.205.120, 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.

This motion was passed and adopted on the 14th day of March, 2024 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 7 NOES: 0 ABSTAIN: 0 ABSENT: 0

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Planning Commission at its meeting of the above date.



Mariah Johnson, Commission Secretary

April 18, 2024

Date

PLEASE BE ADVISED:

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) CALENDAR DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.