



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 009-05
517 W. FIGUEROA STREET
TENTATIVE SUBDIVISION MAP
FEBRUARY 3, 2005

**APPLICATION OF STEVE JOHNSON, AGENT FOR UNION PACIFIC RAILROAD
(PROPERTY OWNER), 517 W. FIGUEROA , 039-010-010 , R-3, MULTIPLE FAMILY
RESIDENTIAL ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 12 UNITS/ACRE
(MST2004-00268)**

The proposal involves a two-lot subdivision. Proposed Parcel 1 would be 0.765 gross acres (33,323 square feet) and proposed Parcel 2 would be 0.516 gross acres (22,477 square feet). Parcel 1 would continue to function as the Union Pacific Railroad operational right-of-way. Parcel 2 would potentially be developed with residential units, but the current project does not propose development.

The discretionary application required for the project is a Tentative Subdivision Map, SBMC §27.07, to create two parcels.

The Planning Commission will consider approval of the Negative Declaration prepared for the project pursuant to the California Environmental Quality Act Guidelines Section 15074.

WHEREAS, the Planning Commission 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 no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, January 31, 2005
2. Site Plans **NOW, THEREFORE BE IT RESOLVED** that the City Planning

Commission:

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

A. MITIGATED NEGATIVE DECLARATION FINDINGS

1. The Planning Commission has considered the proposed Final Mitigated Negative Declaration, dated February 3, 2005, for 517 W. Figueroa Street Subdivision, (MST2004-00268), and comments received during the public review process. The proposed Final Mitigated Negative Declaration has been prepared in compliance with California Environmental Quality Act requirements, and constitutes adequate environmental analysis of the 517 W. Figueroa Street Subdivision Project (MST2004-00268).

2. Mitigation measures identified in the Mitigated Negative Declaration have been agreed-to by the applicant and incorporated into the project, which would avoid or reduce all potentially significant impacts to less than significant levels. Additional mitigation measures would be applied as conditions of approval to minimize adverse but less than significant environmental effects. In the Planning Commission's independent judgment and analysis based on the whole record, there is no substantial evidence that the 517 W. Figueroa Street Subdivision (MST2004-00268) will have a significant effect on the environment. The Final Mitigated Negative Declaration, dated February 3, 2005, is hereby adopted.
3. A Mitigation Monitoring and Reporting Program prepared in compliance with the requirements of Public Resources Code § 21081.6, is included in the Final Mitigated Negative Declaration for the 517 W. Figueroa Street Subdivision (MST2004-00268) and is hereby adopted.
4. The location and custodian of documents associated with the environmental review process and decision for the 517 W. Figueroa Street Subdivision (MST2004-00268) is the City of Santa Barbara Community Development Department, 630 Garden Street, Santa Barbara, CA 93101.
5. The California Department of Fish and Game (DFG) is a Trustee Agency with oversight over fish and wildlife resources of the State. The DFG collects a fee from project proponents of all projects potentially affecting fish and wildlife, to defray the cost of managing and protecting resources. The project has the potential to affect fish and wildlife resources. The Initial Study/ Mitigated Negative Declaration for the project identified potential impacts as mitigable to less than significant levels. The project is subject to the DFG fee (\$1250 for a Negative Declaration). A condition of approval has been included which requires the applicant to pay the fee within five days of project approval.

B. FINDINGS FOR THE TENTATIVE SUBDIVISION

The Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara since the proposed lots would meet the minimum lot size specified in the R-3 zone and the density requirements of the General Land Use Designation of twelve units per acre. The site is physically suitable for the potential future development.

II. Said approval is subject to the following conditions:

- A. **Recorded Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the following conditions shall be imposed on the use, possession and enjoyment of Parcel 2 of the Real Property and shall be recorded with the Parcel Map on an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property" which shall be reviewed as to form and content by the City Attorney:

1. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through Parcel 2 of the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate. The Owner is responsible for the adequacy of any drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard of life, health or damage to the Real Property or any adjoining property.
 2. **Allowed Development.** The project approved by the Planning Commission on February 3, 2005 is limited to the subdivision of a 1.281 acre lot into two parcels, Parcel 1 would be 0.765 acres or 33,232 square feet and Parcel 2 would be 0.516 acres or 22,477 square feet, with the development envelope on Parcel 2 adjusted to minimize intrusion into the banks of the swale or the creek, and the improvements shown on the Tentative Map, signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
- B. Public Works Submittal Prior to Parcel Map Recordation.** The Owner shall submit the following or evidence of completion of the following to the Public Works Department prior to the recordation of the Parcel Map for the project.
1. **Parcel Map Submittal.** The owner shall submit to the Public Works Department, 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. **Street Improvement Plans.** The Owner/Developer shall submit C-1 public improvement plans for construction of improvements along the subject property road frontage on Figueroa Street. Public Works C-1 Improvement Plans shall be submitted separately from Building Permit plans. As determined by the Public Works Department, the improvements shall include City standard sidewalk, curbs, gutters, driveway approach modified to meet Title 24 requirements, crack seal to the centerline of the street, City/private water and sewer mains, drop inlet, storm drain at Figueroa Street, storm drain stenciling, detention, erosion protection, etc., preserve and/or reset contractor stamp and/or survey monuments, biofilter/swale, drought-tolerant parkway landscaping, street trees, and provide adequate positive drainage from site. The public improvement plans shall be prepared by a registered civil engineer or licensed architect and reviewed and signed by the City Engineer.
 3. **Agreement for Land Development Improvements.** An Executed Agreement for Land Development Improvements and improvement security for construction of improvements.
 4. Pursue, in good faith, an easement that connects the bikeway easement on Parcel 2 with City-owned parcel to the south.
- C. California Department of Fish and Game Fees Required** Pursuant to Section 21089(b) of the California Public Resources Code and Section 711.4 et. seq. of the

California Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified Department of Fish and Game fees are paid and filed with the California Department of Fish and Game within five days of the project approval. The fee required is \$1,250 for projects with Negative Declarations. The fee shall be delivered to the Planning Division within five days of project approval in the form of a check payable to the California Department of Fish and Game.

- D. Required Prior to Building/Grading Permit or Public Works Permit Issuance.** The Owner shall submit the following or evidence of completion of the following to the Public Works Department prior to the issuance of a Building Permit or a Public Works Permit.
1. **Mitigation Monitoring and Reporting Requirement.** The owner shall submit to the City's Environmental Analyst a monitoring program for the project's mitigation measures, as stated in the Mitigated Negative Declaration or the Environmental Impact Report for the project. A Project Environmental Coordinator (PEC) and Mitigation monitors responsible for permit compliance monitoring must be hired and paid for by the applicant. The mitigation monitoring program shall include, but not be limited to:
 - a. A list of the project's mitigation measures.
 - b. An indication of the frequency of the monitoring of these mitigation measures.
 - c. A schedule of the monitoring of the mitigation measures.
 - d. A list of reporting procedures.
 - e. A list of the mitigation monitors to be hired.
 2. **Project Environmental Coordinator.** A qualified representative for the Owner, approved by the City Planning Division, shall be designated as the Project Environmental Coordinator (PEC). The PEC shall be responsible for assuring full compliance with the provisions of the mitigation monitoring and reporting program to the City. The PEC shall have authority over all other monitors/specialists, the contractor, and all construction personnel for those actions that relate to the items listed in this program.
 3. **Pre-Construction Conference.** Prior to commencement of construction, a construction conference shall be scheduled by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Building Division, Planning Division, the Property Owner, Architect, Arborist, Landscape Architect, Biologist, Geologist, Project Engineer, Project Environmental Coordinator, Mitigation Monitors, Contractor and Subcontractor(s).
 4. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading,

contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and an archaeologist from the most current City Qualified Archaeologists List shall be retained by the applicant. 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. (CR-1)

5. **On-site Drainage Plan.** A complete drainage plan that addresses the existing drainage patterns and leads towards improvement of the quality of water run-off conditions from the site.
6. **Hydrology.** Submit to the Land Development Engineer hydrology calculations demonstrating that the onsite/offsite proposed and existing drainage conveyance system adequately convey a 25-year storm event.
7. **Encroachment Permits.** Submit any encroachment permits from other jurisdictions (County Flood Control) for the construction of improvements (including any required appurtenances) within their right of way (easement). Such permits shall be submitted to the Land Development Engineer.
8. **Water Rights Assignment.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract water from under Parcel 2 of the Real Property. Said assignment and any related agreements are subject to the review and approval of the City Attorney and the City Public Works Director. Said agreement shall be recorded in the Office of the County Recorder.

E. Required Prior to Building Permit or Public Works Permit Issuance. The Owner shall submit the following, prior to the issuance of a Building permit or Public Works permit:

1. **Design Review.** Prior to building permit issuance, proposed project grading and landform alteration, structural design, landscaping, and lighting shall be subject to preliminary and final review and approval by the Architectural Board of Review for consistency with design guidelines for views, visual aesthetics and compatibility, and lighting (AES-1).
2. **Lighting.** Lighting design shall conform with City Lighting Ordinance requirements, including shielding and direction to the ground to avoid off-site lighting and glare effects, and shall be approved by the Architectural Board of Review (AES-2).
3. **Riparian Restoration.** A Riparian Buffer Restoration and Enhancement Plan, prepared by a qualified biological or resource specialist, shall be submitted, for review and approval by the City Environmental Analyst: Develop and Implement a 35-Foot Restored Buffer and Restoration Plan for Old Mission Creek. A 35-foot riparian buffer, measured from the top of biological bank to the edge of any improvements, shall be established. The riparian buffer shall consist of a restoration plan that incorporates native species appropriate to the habitat conditions onsite per the project biologist and shall be in accordance with the Biological Assessment prepared by Rachel Tierney Consulting, dated August 1, 2004.(BIO-1).
4. **Restoration Plan for Swale.** A restoration plan for swale area, including drainage improvements and installation of a bioswale, shall be developed and implemented when development of the site is proposed. Plants shall be native species appropriate to the habitat conditions on site per the project biologist and shall be in accordance with the Biological Assessment prepared by Rachel Tierney Consulting, dated August 1, 2004. (BIO-2).
5. **Erosion Control Plan/Water Quality.** A detailed grading and erosion-control plan shall be submitted for review and approval prior to issuance of grading permit. The plan shall be coordinated with drainage and landscaping plans, and shall incorporate the following measures (B-3 and W-2):
 - a. Grading shall incorporate any applicable measures recommended in soils and geology reports. Detailed plans and a geologic report shall be submitted for any permanent erosion-control structures.
 - b. Grading shall be designed to minimize erosion and control drainage.
 - c. Graded areas shall be revegetated within four weeks of grading activities with deep-rooted, native, drought-tolerant species to minimize slope failure and erosion. Planted areas shall be irrigated if necessary, and maintained to ensure that plants are established.

- d. Install silt fence, sand bag, hay bale or silt devices where necessary around the project site to prevent offsite transport of sediment.
 - e. Silt fencing (buried and staked) shall be installed 15 feet from the top of the bank along the entire length of the creek on the property to prevent sediment from entering the creek. Vehicles and material storage shall not be allowed within 15 feet of the creek bank.
 - f. Excavation and grading shall be limited to the dry season of the year (i.e., April 15-November 1) unless otherwise approved by the Building Division based on identified erosion-control measures.
6. **Geotechnical Conditions and Design.** The applicant shall submit evidence with project plans for City Building and Safety Division review and approval, which indicate compliance with Uniform Building Code seismic safety design requirements and with the recommendations contained in the Preliminary Foundation Investigation prepared by Pacific Materials Laboratory, dated April 5, 2004, regarding site preparation, grading and construction plans. (G-1)
 7. **Site Remediation.** Prior to issuance of demolition, grading or building permit for the proposed project, the applicant shall demonstrate compliance with all applicable federal, state, and local regulations relative to remediation of hazardous materials on the subject property (H-2)
 8. **Number of Residential Units.** The future residential development shall be limited to a maximum of 10 units. If additional units are proposed, a traffic analysis will be necessary to ensure that project impacts on traffic are less than significant. If they are found to be significant, a mitigation measure would be required or an EIR would be prepared. (T-1)
 9. **Construction Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods. The Transportation Engineer shall approve the haul route(s) for all construction-related trucks of three tons or more, entering or exiting the site. (TC-2)
 10. **Construction Parking.** Construction parking shall be provided as follows:
 - a. 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 Transportation and Parking Manager.
 - b. On-site or off-site storage shall be provided for construction materials and equipment. Storage of construction materials within the public right-of-way is prohibited. (TC-3)
 11. **Disabled Accessibility.** Project circulation shall provide for disabled accessibility or equivalent facilitation in accordance with American Disabilities Act requirements. (T-4)

12. **Construction Dust Control - Watering.** During site grading and transportation of fill materials, regular water sprinkling shall occur using reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph. (AQ-1)
13. **Construction Dust Control – Tarping.** Trucks transporting fill material to and from the site shall be covered from the point of origin. (AQ-2)
14. **Construction Dust Control – Gravel Pads.** Gravel pads shall be installed at all access points to prevent tracking of mud on to public roads. (AQ-3)
15. **Construction Dust Control – Disturbed Area Treatment.** After clearing, grading, earth moving or excavation is completed; the entire area of disturbed soil shall be treated to prevent wind pickup of soil. This may be accomplished by: (AQ-4)
 - a. Seeding and watering until grass cover is grown;
 - b. Spreading soil binders;
 - c. Sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind;
 - d. Other methods approved in advance by the Air Pollution Control District.
16. **Construction Dust Control – Paving.** All roadways, driveways, sidewalks, etc., should be paved as soon as possible. Additionally, building pads should be laid as soon as possible after grading unless seeding or soil binders are used. (AQ-5)
17. **Dust Control Monitor.** 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 for the structure. (AQ-6)

18. **Prohibition of Wood-burning fireplaces and stoves.** Wood-burning fireplaces and wood stoves shall be prohibited. (AQ-8)
19. **Construction Equipment/Construction Noise Mitigation.** All construction equipment and vehicles shall be maintained in tune per manufacturer's specifications. All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices. (AQ-7 & N-2)
20. **Construction Fencing.** Prior to commencement of construction (demolition and subsequent installation of utilities, grading and soils excavation, and foundation work), an orange construction fence shall be installed along the approved creek setback/buffer line. The fence shall be kept in place until construction is completed. (BIO-5)
21. **Protection from Pollutants.** Vehicles and material storage shall not be allowed within approved creek setback/buffer area. Construction personnel shall not refuel machinery and vehicles, or handle any solvents or other pollutants within 50 feet of the creek. Washing concrete, paint or equipment shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Washing shall not be allowed near the creek or swale area. The swale shall be designed and constructed as a functioning bioswale to treat run-off from the site as well as the adjacent City streets. Important design considerations would include: creating a vegetated strip that could contain the expected run-off from low flows; developing a gradient that would retain the flows for the longest possible time, allowing for pollutant adsorption to soil particles and absorption of water into the ground and provide flood storage; and incorporating native plants to supplement habitat value of Old Mission Creek.(BIO-3)
22. **Construction Personnel/ Resource Discovery.** 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 during any site preparation, demolition, grading or construction on the site such archaeological resources are encountered or suspected, work in the area of the find shall be halted immediately, and the City Master Environmental Assessment Procedures followed as outlined above. Work in the area may only proceed after the Environmental Analyst grants authorization.

If prehistoric or other Native American remains are encountered, a Native American representative shall be consulted, and the archaeologist and Native American representative shall monitor all further subsurface disturbances in the area of the find. If the discovery consists of potentially human remains, the Santa Barbara County Coroner and the California Native American Heritage Commission must also be contacted. Work in the area may only proceed after the Environmental Analyst grants authorization. (CR-1)

23. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara as shown below: (N-1)

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

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday respectively shall be observed as a legal holiday. (N-4)

24. **Contact Information.** Signage shall be posted at the points of entry to the site that list the contractor(s) name and phone number, work hours, and site rules to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval and inform subcontractors of site rules and restrictions. Signage location shall be readily visible from public viewing areas and shall be a minimum of 24'' x 18'' in size.
25. **Emergency Response Plan.** An Emergency Response Plan shall be formulated and submitted by the developer and approved by the City Fire and Police Departments. The Plan shall address evacuation of the development in the event of a train derailment, release of hazardous materials from a train car, or other emergency (H-1)
26. **Recommended Noise Barrier Wall.** A continuous, solid masonry noise barrier wall six feet above the finished floor elevation of the residences will provide adequate protection from transportation noise in the required outdoor living spaces on the northeast side of the site. (N-1)
27. **Recommended Dwelling Unit Construction for Northeast Façade** The following construction specifications will result in the required performance of less than 45 dBA interior noise level along the critical northeast-facing side of dwelling units, facing the noise source. (N-2)
- a. **Vents and roof penetrations:** Soffit vents, eave vents, dormer vents and other wall and roof penetrations shall be located on the walls and roofs facing away from the noise source wherever possible. If soffit or eave or dormer vents or doors or windows or skylights or other roof or wall penetrations must be placed facing toward the transportation noise

source, they shall be acoustically rated and designed to have a Sound Transmission Class (STC) rating of 30 or greater. (N-2a.)

- b. **Walls:** The northeast-facing walls of habitable spaces of dwelling units nearest the noise source shall have wall construction with an STC rating of 30 or greater. For instance, stucco exterior or equivalent on 2" x 4" stud walls with minimum R-13 batt insulation and two layers of 1/2" gypsum board, with staggered seams and mounted on resilient channels on the interior will provide an S.T.C. rating of 30 or greater along these walls. Common acoustic leaks, such as electrical outlets, pipes, vents, ducts, flues and other breaks in the integrity of the wall, especially at the header, the ceiling or roof construction on the northeast side of the dwellings nearest transportation noise source shall receive special attention during construction. All construction openings and joints on walls on the noise facing side of the site shall be insulated, sealed and caulked with a resilient, non-hardening caulking material. All such openings and joints shall be airtight to maintain sound isolation. (N-2b.)
- c. **Windows:** To meet the interior LDN 45 DBA requirements, windows for habitable spaces of affected units facing the noise source shall be of double-glazed construction with one light of laminated glass, and installed in accordance with the recommendations of the manufacturer. The windows shall be fully gasketed, with an S.T.C. rating of 30 or better, as determined in testing by an accredited acoustical laboratory. (N-2c.)

- 28. **Construction Notification.** At least 20 days prior to commencement of construction, the contractor shall provide written notification to property owners and residents within 450 feet of the project area, to surrounding area homeowners associations, and posted at the construction site. The notice shall provide a construction schedule, required noise conditions applied to the project, and the name and telephone number of the Project Manager who can address questions and problems that may arise during construction. (N-3)
- 29. **Construction Recycling.** Construction-related solid waste shall be minimized through source reduction, re-use and recycling, and bins shall be provided on the site (PS-1).
- 30. **Storm Water Quality.** The Owner shall apply storm water quality control guidelines to the project per the Public Works Department Construction Project Best Management Practices.
- 31. **Contractor's Stamps Preserved.** Any existing contractor stamps in the sidewalks, driveway aprons, and curbs shall be preserved and protected in place during all construction to the satisfaction of the Public Works Department.
- 32. **Conditions on Plans/Signatures.** All Planning Commission Conditions of Approval shall be provided on a full size drawing sheet as part of the drawing

sets. A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner	Date
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Contractor	Date	License No.
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Architect	Date	License No.
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Engineer	Date	License No.
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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 damaged public improvements (curbs, gutters, sidewalks, etc.) subject to the review and approval of the Public Works Department.
2. **Complete Public Improvements.** Public improvements as shown on the C-1 public improvement plans.
3. **Cross-Connection Inspection Required.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.

G. 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 the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the

approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses and costs of that independent defense.

NOTICE OF TENTATIVE SUBDIVISION TIME LIMITS:

The Planning Commission's action approving the tentative subdivision 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 section 27.07.110 or the provisions of the California Subdivision Map Act.

This motion was passed and adopted on the 3rd day of February, 2005 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 ABSTAIN: 0 ABSENT: 1 (Maguire)

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.



Liz N. Ruiz, Planning Commission Secretary

8-11-05

Date

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

