

PLANNING COMMISSION CONDITIONS OF APPROVAL

1905 CLIFF DRIVE (MST2002-00729, CDP2002-00014)
MODIFICATIONS, COASTAL DEVELOPMENT PERMIT, DEVELOPMENT PLAN
SEPTEMBER 15, 2005

- 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 the Real Property and shall be recorded by the Owner in a written instrument which shall be reviewed as to form and content by the City Attorney, Community Development Director and/or Public Works Director which shall be recorded in the Office of the County Recorder:
1. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural water courses, conduits and any access road, as appropriate. 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.
 2. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats or trailers shall be stored on the Real Property.
 3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan as approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan.
 4. **Allowed Development.** The development of the Real Property approved by the Planning Commission on September 15, 2005 is limited to 3,470 sq. ft. of commercial building area, four dwelling units and the improvements shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
 5. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Exterior lighting shall be directed toward the ground.
 6. **Storm Water Pollution Control Systems Maintenance.** The Owner(s) shall maintain drainage system, storm drain water interceptor and other storm water pollution control devices in accordance with the Operations and Maintenance Procedure Plan approved by the City Land Development Engineer.
- B. **Design Review.** The following is subject to the review and approval of the Architectural Board of Review (ABR):
1. **Trash Enclosure Provision.** A trash enclosure with equal and easily accessed area for trash and recycling containers shall be provided on the Real Property and screened from view from surrounding properties and the street. Such structure shall be located at least five (5) feet from any building unless protected with fire sprinklers, with final location approved by ABR.

EXHIBIT A

2. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler (and irrigation) systems shall be provided in a location screened from public view or included in the exterior wall of the building.
- C. **Public Works Submittal Prior to Building 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 Public Works permit.
1. **Water Rights Assignment.** Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property. This assignment of rights shall not include a right of surface entry on or from the Real Property.
 2. **Street Improvement Plans.** The Owner shall submit revised building/ improvement plans for construction of improvements along the subject property road frontage on Cliff Drive and Meigs Road. As determined by the Public Works Department, the improvements shall include City standard sidewalk, driveway aprons, curbs, gutters, resetting sandstone curbs, access ramps, underground utilities, storm drainage system, pollution interceptor device, preserve and/or reset contractor stamp and preserve the existing survey monument located at the intersection corner, and provide adequate positive drainage from site. Where tree roots are the cause of the damage, the roots are to be pruned under the direction of the City Arborist. The public improvement plans shall be prepared by a registered civil engineer or licensed architect and reviewed by the City Engineer. The Owner shall apply storm water quality control guidelines to the project per the Public Works Department Construction Project Best Management Practices.
 3. **Executed Agreement for Land Development Improvements.** The Owner shall submit an executed Agreement for Land Development Improvements, an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement.
 4. **Storm Drain Operations and Maintenance Plan.** The Owner shall provide an Operations and Maintenance Procedure Plan (describing replacement schedules for pollution absorbing pillows, etc.) for the operation and use of the storm drain surface pollutant interceptors. The Plan shall be reviewed and approved by the Water Resources Specialist.
 5. **Hydrology Calculations Required.** Submit to the Land Development Engineer hydrology calculations justifying that the onsite proposed and existing drainage conveyance system adequately conveys a 25-year storm event. If the proposed storm drain system is determined to have inadequate capacity to convey the additional runoff (for a 25-year storm event), the Owner shall upgrade the storm drain system at the sole expense of the Owner.
 6. **Encroachment Permits.** Encroachment permits from the State for the construction of improvements (including any required appurtenances) within the Cal Trans right of way. Such permits shall be submitted to the Public Works Department.

- D. **Required Prior to Building Permit Issuance.** The Owner shall complete the following prior to the issuance of building permits:
1. **Contractor and Subcontractor Notification.** All contractors and subcontractors shall be notified in writing of site rules, restrictions and Conditions of Approval.
 2. **Leaking Underground Fuel Tank (LUFT) Remediation.** Evidence of full compliance with the Leaking Underground Fuel Tank remediation plan as required by the Santa Barbara County Protective Services Department shall be submitted the City. Permits necessary to demolish existing structures and complete remediation may be issued separately from and prior to completing requirements necessary to construct the approved project.
- E. **Building Permit Plan Requirements.** The following requirements shall be incorporated into the construction plans submitted to the Building & Safety Division with applications for building permits. All of these construction requirements shall be carried out in the field and completed prior to the issuance of a Certificate of Occupancy:
1. **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.
 2. **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. The owner shall install bioswales, catch basins, storm drainage interceptors or clarifiers on the Real Property to intercept drainage pollutants from the parking lot areas and other service areas prior to drainage discharge into the public storm drain system. The proposed interceptors or clarifiers shall be reviewed and approved by the Public Works Department. Maintenance of these facilities shall be provided by the Owner which shall include the regular sweeping and/or vacuuming of parking areas where interceptors and clarifiers are located and a catch basin cleaning program.

3. **Commercial Dumpsters.** Commercial dumpsters shall be provided, including an area for recycling containers and shall not be placed within 5 feet of combustible walls, openings or combustible roof eaves lines unless sprinkler coverage is provided.
4. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out and containers shall be provided on site for that purpose in order to minimize construction-generated waste conveyed to the landfill.
5. **Construction-Related Truck Trips.** Construction-related truck trips 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.) to help reduce truck traffic on adjacent streets and roadways.
6. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Transportation Operations Manager.
7. **Haul Routes.** The haul route(s) for all construction-related trucks, three tons or more, entering or exiting the site, shall be approved by the Transportation Operations Manager.
8. **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:

New Year's Day	January 1 st *
Martin Luther King's Birthday	3 rd Monday in January
Presidents' 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 Thanksgiving Day
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.

9. **Construction Parking/Storage.** Construction parking and storage 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 Streets, Parking, and Transportation Operations Manager.
 - b. On-site or off-site storage shall be provided for construction materials and equipment.
 - c. Storage of construction materials within the public right-of-way is prohibited.
 - d. Free off-site parking for construction workers and off-site storage for materials and equipment shall be provided during phases of the construction when it cannot be accommodated on-site. The location of this off-site area shall be subject to the approval of the Community Development Director.
10. **Water Sprinkling During Grading.** 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.
11. **Covered Truck Loads.** Trucks transporting fill material to and from the site shall be covered from the point of origin.
12. **Disturbed Soil Stabilization.** After clearing, grading, earth moving and/or excavation is completed, the entire area of disturbed soil shall be treated to prevent wind pickup of soil. This may be accomplished by:
 - a. Seeding and watering until grass cover is grown;
 - b. Spreading soil binders;
 - c. Sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind;
or
 - d. Other methods approved in advance by the Air Pollution Control District.
13. **Expeditious Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

14. **Construction Contact Sign.** Immediately after building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) (and Project Environmental Coordinator's (PEC)) name, contractor(s) (and PEC's) telephone number, work hours and site rules to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.
15. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
16. **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
Contractor	Date	License No.
Architect	Date	License No.
Engineer	Date	License No.

- 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. 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 improvement/building plans.
 3. **Check Valve/Anti-Backflow Device.** Provide an approved check valve or anti-backflow device placed on the property side of consumer's service pursuant to Santa Barbara Municipal Code Section 14.20.120 and Public Works Construction Standard Detail 5-009.0.

- 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 APPROVAL TIME LIMITS:

The Planning Commission's action approving the Modifications shall terminate one (1) year from the date of the approval, per SBMC 28.87.360, unless:

1. A building permit for the use authorized by the approval is sought within twelve months of the approval. An extension may be granted by the Planning Commission if the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
2. The approval has not been discontinued, abandoned or unused for a period of six months following the earlier of (a) an Issuance of a Certificate of Occupancy for the use, or (b) one (1) year from granting the approval.
3. The project also includes approval of a Development Plan or a Coastal Development Permit, in which case the longer approval period shall prevail.

NOTICE OF DEVELOPMENT PLAN TIME LIMITS:

The development plan approved, per SBMC Section 28.87.350, shall expire four (4) years from the date of approval unless:

1. A building or grading permit for the work authorized by the development plan is issued prior to the expiration date of the approval.
2. A time extension is granted by the Planning Commission for one (1) year prior to the expiration date of the approval, only if it is found that there is due diligence to implement and complete the proposed project. No more than one (1) time extension may be granted.

NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:

The Planning Commission's action approving the Coastal Development Permit shall expire two (2) years from the date of approval, per SBMC 28.45.009.q, unless:

1. Otherwise explicitly modified by conditions of approval of the development permit, or unless construction or use of the development has commenced.
2. A building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.
3. A one (1) year time extension may be granted by the Planning Commission if the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy. Not more than three (3) extensions may be granted.