

PLANNING COMMISSION CONDITIONS OF APPROVAL

523-531 CHAPALA STREET
TENTATIVE SUBDIVISION MAP AND DEVELOPMENT PLAN
NOVEMBER 10, 2005

In consideration of the project approval granted by the Planning Commission and for the benefit of the owners and occupants of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession and enjoyment of the Real Property:

- A. **Recorded Agreement.** Prior to the issuance of any Public Works permit or building permit for the project on the Real Property, the Owner shall execute an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property," which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
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 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.
 4. **Approved Development.** The development of the Real Property approved by the Planning Commission on November 10, 2005 is limited to two commercial condominiums and seven residential condominiums, and the improvements shown on the Tentative Subdivision Map signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
 5. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:
 - a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium parcels.

EXHIBIT A

- b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
 - c. **Trash and Recycling.** Adequate space shall be provided and maintained for trash and recycling purposes.
 - d. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
 - e. **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.
6. **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.
7. **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 approved Operations and Maintenance Procedure Plan.
- B. **Design Review.** The following is subject to the review and approval of the Historic Landmarks Commission (HLC):
1. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Lighting shall be directed toward the ground.
 2. **Trash Enclosure Provision.** A trash enclosure with an equal area for 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.
 3. **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. **Final Map Submittal.** Prior to the recordation of the Final Map, issuance of any Public Works Permit or Building Permit for the project on the Real Property, the Owner shall submit to the Public Works Department a Final Map prepared by a licensed land surveyor or registered Civil Engineer in conformance with the current Subdivision Map Act and in conformance with the requirements of the City Survey Control Ordinance.
- D. **Public Works Submittal Prior to Permit Issuance.** The Owner shall submit the following or evidence of completion of the following to the Public Works Department

prior to recordation of the Final Map or issuance of a Building Permit or Public Works Permit for the project:

1. **Street Improvement Plans.** The Owner shall submit building plans for construction of improvements along the subject property road frontage on Chapala Street. As determined by the Public Works Department, the improvements shall include new, and/or remove and replace to City standards: sidewalk tiles and driveway apron modified to meet Title 24 requirements and following the Chapala Street Design Guidelines, apply crack seal to the centerline of the street along entire subject property frontage, underground service utilities, new connection to City/private water mains, inspect existing sewer lateral with a closed circuit inspection camera and repair any defects, install backflow valves, drainage system (curb drain outlets, slot/trench drain, etc.), preserve and/or reset survey monuments, one onsite pollution prevention interceptor device, on-site electrical transformer and provide adequate positive drainage from site. Vehicular and pedestrian access along Chapala Street and the rear alleyway shall be maintained, and there shall be no extended exclusive use of the public right of way without written consent of the Public Works Director. The building plans shall be prepared by a registered civil engineer or licensed architect.
 2. **Land Development Agreement.** The owner shall submit an executed Agreement for Land Development Improvements and an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement.
 3. **Required Private Covenants.** The Owner shall submit a copy of the recorded private covenants, reciprocal easement agreement, or similar agreement required for the project.
 4. **Water Rights Assignment.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property. Said agreement will be prepared by Engineering Division Staff for the Owner's signature. Said assignment and any related agreements are subject to the review and approval of the City Attorney and the Public Works Director and shall be recorded in the Office of the County Recorder. This assignment of rights does not include a right of surface entry on or from the Real Property.
- E. **Required Prior to Building or Public Works Permit Application/Issuance.** The following shall be finalized prior to, and/or submitted with, the application for any Building or Public Works permit:
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 450 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 the Building Inspectors, Police Officers and the public in addressing problems that may arise during construction. The language of the notice shall be reviewed and approved by the Planning Division prior to being distributed.

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 Fire Department Fire Prevention Division (FPD), shall be submitted to the Planning Division.
3. **Air Pollution Control District Notification.** Demolition of the office buildings require notification to the Air Pollution Control District (APCD) and submittal of a "Notification for Renovation and Demolition" form prior to issuance of a building permit to ensure that any discovery of asbestos is properly handled per APCD regulations.
4. **Contractor and Subcontractor Notification.** All contractors and subcontractors shall be notified in writing of site rules, restrictions and Conditions of Approval. Provide a copy of the notification to the Planning Division.
4. **Archaeological Monitoring Contract.** Submit to the Planning Division a contract with an archaeologist from the most current City Qualified Archaeologists List for monitoring during all ground disturbing activities associated with the project, including, but not limited to, grading, excavation, trenching vegetation or paving removal and ground clearance in the areas identified in the Phase 1 Archaeological Resources Report prepared for this site by Stone Archaeological Consulting, dated January 2005. The contract shall be subject to the review and approval of the Planning Division.

The archaeologist's monitoring contract shall include the following provisions: If cultural resources are encountered or suspected, work shall be halted or redirected by the archaeologist immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent and significance of any discoveries and 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, preparation of further site studies and/or mitigation.

If the discovery consists of possible human remains, the Owner shall contact the Santa Barbara County Coroner immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. The Owner shall retain 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 Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, the Owner shall retain 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 Planning Division grants authorization.

F. **Building Permit Plan Requirements.** The following requirements shall be incorporated into the construction plans submitted to the Building and 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. **Design Review Requirements.** Plan submitted for building permits shall show all design elements, as approved by Historic Landmarks Commission, outlined in Section B above.
2. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent and significance of any discoveries and 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 Planning Division 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 Planning Division grants authorization.

3. **Supplemental Phase 1 Archaeological Survey.** A supplemental Phase 1 archaeological survey by the contracted archaeologist shall be completed after the existing pavement within the proposed project area is removed. The survey shall be submitted for review and approval by the Planning Division prior to the continuation of ground disturbing activities. If potentially intact prehistoric or historic cultural remains are identified during the supplemental Phase 1 survey, an

Extended Phase 1 investigation (shovel test or backhoe trenching) shall be performed to identify the integrity and spatial extent of the cultural deposit.

4. **Controlled Grading.** Under the observation of the contracted archaeologist, controlled grading to a three-foot depth along the westerly 15 feet of the project site shall be carried out after structural demolition and prior to overall project site grading.

If potentially intact prehistoric or historic cultural remains are identified during the controlled grading, the grading shall be suspended and an Extended Phase 1 investigation (shovel test pits or backhoe trenching) shall be performed to identify the integrity and spatial extent of the cultural deposit. If the remains appear to be potentially significant, a Phase 2 significance assessment shall be performed, pursuant to the City's Master Environmental Assessment criteria, to determine any further treatments.

5. **Mechanical Ventilation Required.** The design for the residential units along Chapala Street must include means by which adequate ventilation can be provided with the windows and doors closed, such as mechanical ventilation and/or air conditioning.
6. **Pre-Construction Conference.** Prior to commencement of construction, a conference shall be held 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, archaeologist, Contractor and Subcontractor(s).
7. **Best Management Practices.** Construction activities shall address water quality through the use of Best Management Practices (BMPs) as approved by the City Building Official.
8. **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. Identify on the plans the location of the container(s).
9. **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.
10. **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.
11. **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.

12. **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.

When, based on required construction type or other appropriate reasons, it is necessary to do work at night, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in SBMC § 9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night 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.

13. **Construction Parking/Storage.** Construction parking and storage shall be provided as follows:
- During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Streets, Parking, and Transportation Operations Manager.
 - Equipment staging and storage of construction materials and equipment within the public right-of-way is prohibited.
14. **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.

15. **Covered Truck Loads.** Trucks transporting fill material to and from the site shall be covered from the point of origin.
16. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.
17. **Street Sweeping.** The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.
18. **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.
19. **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.
20. **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, work hours and site rules to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.
21. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
22. **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:

<hr/>		
Property Owner		Date
<hr/>		
Contractor	Date	License No.
<hr/>		
Architect	Date	License No.
<hr/>		
Engineer	Date	License No.

G. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

1. **Repair Damaged Public Improvements.** Repair any 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.
4. **Archaeological Monitoring Report.** A final report on the results of the archaeological monitoring shall be submitted to the Environmental Analyst within 180 days of completion of the monitoring and prior to the issuance of the Certificate of Occupancy, whichever is earlier.
5. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.

H. **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 MAP TIME LIMITS:

The Planning Commission's action approving the Tentative Map shall expire two (2) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code, Section 27.07.110 or the provisions of the California Subdivision Map Act.