

PLANNING COMMISSION CONDITIONS OF APPROVAL

3885 AND 3887 STATE STREET  
MODIFICATIONS, TENTATIVE SUBDIVISION MAP  
DECEMBER 8, 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 documented in a written instrument titled, "Agreement Relating to Subdivision Map Conditions Imposed on Real Property", which shall be reviewed and approved as to form and content by the City Attorney, Community Development Director and/or Public Works Director, executed by the Owner and recorded with the Final Map 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 December 8, 2005 is limited to three commercial condominium units totaling no more than 8,845 square feet of floor area, fifty-five residential condominium 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. **Middle-Income Unit Sale Restrictions.** Fifteen of the one-bedroom dwelling units on the Real Property shall be sold on initial sale at \$219,400, a price affordable to middle-income households in accordance with the City of Santa Barbara Affordable Housing Policies and Procedures dated July 2004. The target income for the sale price calculations shall be 120% of Area Median Income (AMI) for the one-bedroom units. The affordability requirements shall be set forth in a document prepared by Housing and Redevelopment Staff. Said document shall be executed by the Owner and recorded prior to the issuance of building permits.
  6. **Moderate-Income Unit Sale Restrictions.** Two of the one-bedroom dwelling units on the Real Property shall be sold on initial sale at \$175,700, a price affordable to moderate-income households in accordance with the City of Santa Barbara Affordable Housing Policies and Procedures dated July 2004. The target income for the sale price calculations shall be 100% of AMI for the one-bedroom units. The affordability

requirements shall be set forth in a document prepared by Housing and Redevelopment Staff. Said document shall be executed by the Owner and recorded prior to the issuance of building permits.

7. **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.
  - b. **Parking Spaces Available for Parking.** A covenant that includes a requirement that the fifty-five subterranean parking spaces that are reserved for the residential units be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the spaces were designed and permitted. The thirty-one subterranean parking spaces and the fifteen uncovered parking spaces that are to be shared between the residential and commercial uses shall also be kept open and available for the parking of vehicles in the manner for which the spaces were designed and permitted.
  - c. **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.
  - d. **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 and which also provides that such covenants may be enforced by the owners' association in accordance with the requirements of the state Subdivision Sales Law.
  - e. **Home Occupation Restriction.** All residential units are limited to residential use only; therefore, only home occupations, as described in SBMC§28.04.280, not commercial uses, would be allowed in the units.
8. **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.
9. **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.
10. **Use Limitations.** Due to potential parking impacts, uses other than commercial office and retail are not permitted without further environmental and /or Planning Commission

review and approval. Prior to initiating a change of use, the Owner shall submit a letter to the Community Development Director detailing the proposal, and the Director shall determine the appropriate review procedure and notify the Applicant.

- B. **Design Review.** The project is subject to the review and approval of the Architectural Board of Review (ABR), including, but not limited to, the following:
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.
  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.
  3. **Sound walls.** Sound walls are required to be constructed on the eleven residential units referenced in the Noise Study prepared by Dudek and Associates dated April 11, 2005.
  4. **Pedestrian Access through Project.** Separate pedestrian access shall be provided though the property from State Street to the rear property line, in a manner that will allow connection to La Cumbre Lane when the parcel to the south is redeveloped in the future.
- C. **Recorded Affordability Document.** The affordability requirements shall be set forth in a document prepared by Housing and Redevelopment Staff. Said document shall be executed by the Owner and recorded prior to the issuance of building permits.
- D. **Prior to Recordation of Final Map.** Prior to the recordation of Final Map or issuance of any Public Works permit or Building permit for the project on the Real Property:
1. **Recorded Agreement/ Water Rights Assignment.** The Owner shall execute an Agreement Assigning Water Extraction Rights. Said assignment and any related agreements are subject to the review and approval of the City Attorney. Said agreement shall be recorded in the Office of the County Recorder.
  2. **Final Map Preparation.** The Final Map shall be prepared by a licensed land surveyor or registered civil engineer in conformance with current Subdivision Map Act and in conformance with the requirements of the City Survey Control Ordinance.
  3. **Public Improvements.** The Owner shall submit the following or evidence of completion of the following to the Public Works Department prior to the recordation of the Final Map or issuance of a Building permit or Public Works permit.
    - a. **State Street Improvements.** The Owner shall submit C-1 public improvement plans for construction of improvements along the subject property road frontage on State Street. Public Works C-1 Improvement Plans shall be submitted separately from Building Permit plans directly to the Public Works Department. As determined by the Public Works Department, the improvements shall include

City standard 8 foot wide sidewalk, 4 foot wide parkway, driveway apron modified to meet Title 24 requirements, curbs, gutters, slurry seal to the centerline of the street along entire property frontage and a minimum of 20 feet beyond the saw-cut lines where trenching occurs, underground utilities, connection to City water and sewer mains, drainage system as recommended in Hydrology report and to be finally approved by the Public Works Department, preserve and/or reset contractor stamp and survey monuments, directional/regulatory traffic control signs, storm drain stenciling, onsite pollution prevention interceptor device(s), drought-tolerant parkway landscaping, street trees approved by the City Arborist, tree grates, 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.

- b. **Recorded Agreement.** 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.
- c. **Storm Drainage.** 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 Engineer.
- d. **Water Treatment Requirement.** Owner shall address water quality through the use of best management practices (BMPs) as determined by the City. BMPs shall be applied in the following order of priority: site design, source control, and treatment control, and shall seek to reduce post-development runoff volumes from pre-development volumes through such measures as infiltration, evapo-transpiration, and storage/reuse.
- e. **Hydrology Calculations.** Submit to the Land Development Engineer hydrology calculations justifying that the onsite proposed and existing drainage conveyance system adequately convey a 25-year storm event.
- f. **Offer of Dedication of Easements.** The Owner shall covenant or offer to make a dedication for easement as shown on the approved tentative subdivision map, as described below, subject to approval as to form by the City Attorney and content by the Public Works Director and the Community Development Director.

An easement for all street purposes three and one-half feet (3-1/2') wide measured from the edge of the right of way and parallel to the right of way for the entire length of the project frontage along State Street in order to increase the sidewalk width in the public right of way.

- g. **Storm Water Treatment.** The Owner shall apply storm water quality control guidelines to the project per the Public Works Department Construction Project Best Management Practices.

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. **Tenant Relocation Plan.** The owner shall submit a motel tenant relocation plan to the City for review and approval. Said plan shall be implemented prior to the issuance of building permits.
2. **Green Building.** The building shall meet the requirements of a level three green building as promulgated through the County Regulations or subsequently developed City regulations.
3. **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.

4. **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.

5. **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.
6. **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.
7. **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.
8. **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.
9. **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.
10. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 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 <sup>st</sup> *
Martin Luther King's Birthday	3 <sup>rd</sup> Monday in January
Presidents' Day	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 <sup>th</sup> *
Labor Day	1 <sup>st</sup> Monday in September
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25 <sup>th</sup> *

\*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

Notwithstanding the prohibition above, when, based on required construction type or other appropriate reasons, it is necessary to do work outside the hours allowed, owner/contractor may request a waiver from the construction hour limitations from the Chief of Building and Safety in accordance with the procedure outlined in SBMC§9.16.015, Construction Work at Night. Contractor

shall notify all residents within 300 feet of the parcel of the 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.

11. **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.
  
12. **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.
  
13. **Covered Truck Loads.** Trucks transporting fill material to and from the site shall be covered from the point of origin.
  
14. **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.
- 15. **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.
- 16. **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.
- 17. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
- 18. **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:

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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.

- 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 improvement plans.
  - 3. **Cross connection Inspection.** 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 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 Tentative Subdivision Map, in which case the longer approval period shall prevail.

**NOTICE OF TENTATIVE SUBDIVISION MAP TIME LIMITS:**

The Planning Commission's action approving the Tentative Subdivision Map shall expire two (2) years from the date of approval, per SBMC Section 28.07.110.a & .b, unless the subdivider requests an extension of time, not to exceed two (2) years beyond the expiration of the original two (2) years expiration date or per the allowances provided in the Subdivision Map Act. 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.