

PLANNING COMMISSION CONDITIONS OF APPROVAL

800 MIRAMONTE DRIVE
MODIFICATIONS AND DEVELOPMENT PLANS
JANUARY 19, 2006

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 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. **Parking Garage.** The parking garage shall only be used for the tenants of the site and shall not be used for storage or other non-parking purposes.
4. **Annual Employee Report/ Number of Employees.** The condition of approval in Planning Commission Resolution 011-93, requiring an annual employee report, is no longer required. The number of employees continues to be restricted to a total of sixty-five.
5. **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.
6. **Development Rights Restriction.** The Owner shall not make any use of the restricted portion of the Real Property as designated on the approved Development Plan in order that those portions of the Real Property remain in their natural state. These restrictions include, but are not limited to the right to develop the restricted portions with any grading, irrigation, buildings, structures or utility service lines. The Owner shall continue to be responsible for (i) maintenance of the restricted area, and (ii) compliance with orders of the Fire Department. Any brush clearance shall be performed without the use of earth moving equipment.

EXHIBIT A

7. **Approved Development.** The development of the Real Property approved by the Planning Commission on January 19, 2006 is limited to two additions totaling 2,117 square feet to the existing 17,635 square foot office building, reconfiguration of two parking areas for a total of 66 parking spaces, enlargement of an as-built trash enclosure, as-built perimeter fencing, as-built steps and the improvements shown on the Development Plan signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
 8. **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 Architectural Board of Review (ABR):
1. **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.
 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.
- C. **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 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 Miramonte Drive. As determined by the Public Works Department, the improvements shall include a new five foot wide sidewalk designed to ensure stability of the onsite slope to the satisfaction of the Building Official and the City Engineer, preserve and/or reset contractor stamp and/or survey monuments in public right of way, and provide adequate positive drainage from site. Where tree roots are the cause of the damage in the public right of way, the roots are to be pruned under the direction of the City Arborist. The building plans shall be prepared by a registered civil engineer or licensed architect and reviewed by the City Engineer.
 2. **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.

3. **Drainage Calculations.** Submit to the Land Development Engineer drainage calculations justifying that the onsite existing and proposed drainage conveyance system adequately conveys a 25-year storm event.
 4. **Best Management Practices.** The owner shall apply storm water quality control guidelines, in effect at the time of project approval, to the project per the Construction Best Management Practices.
- D. **Required Prior to Building or Public Works Permit Issuance.** The Owner shall complete the following prior to the issuance of building 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. **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.
- E. **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. **Best Management Practices.** Construction activities shall address water quality through the use of Best Management Practices (BMPs) as approved by the City Building Official.
 2. **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).
 3. **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.
 4. **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.

5. **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.

6. **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.
7. **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.
8. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
9. **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.

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. **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 Development Plan 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.