



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 007-07

1533 W. VALERIO STREET

TENTATIVE SUBDIVISION MAP, GARAGE SIZE MODIFICATION, LOT FRONTAGE MODIFICATIONS,
PUBLIC STREET FRONTAGE WAIVER, NEIGHBORHOOD PRESERVATION ORDINANCE FINDINGS
FEBRUARY 8, 2007

**APPLICATION OF JUSTIN VAN MULLEM, ON DESIGN, AGENT FOR LLC FOR
JAMES AND PAMELA HALDEMAN, 1533 W. VALERIO STREET, APN: 041-071-031,
A-2/R-1 ZONES, GENERAL PLAN DESIGNATION: MAJOR HILLSIDE (MST2003-
00338)**

The proposed project consists of the subdivision of an existing 3.45 acre site into two lots of approximately 1.725 acres each. The lots would take access from West Valerio Street via a shared private driveway that also serves two existing single-family residences. Proposed Parcel 1 would be 75,140 square feet with an average slope of 29%. A new residence is proposed on this parcel and would be approximately 5,843 square feet, including basement and garages. Proposed Parcel 2 would be 75,142 square feet with an average slope of 31%. This parcel contains the existing residence, which is approximately 5,948 square feet.

The discretionary applications required for this project are:

1. Modifications to allow the two newly created lots to have less than the required 100 feet of frontage on a public street (SBMC §28.15.080);
2. A Modification to permit garage space in excess of 750 square feet in the A-2 zone (SBMC §28.87.160.4);
3. A Tentative Subdivision Map (TSM) to allow the division of one parcel into two lots (SBMC §27.07).
4. A Public Street Frontage Waiver to create a lot that does not front on a public street (SBMC, §22.60.300).
5. Neighborhood Preservation Ordinance Findings to allow grading in excess of 500 cubic yards on a project site located within the Hillside Design District (SBMC §22.68.070).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15332, Infill Development.

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 2 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, January 3, 2007
2. Staff Report with attachments, January 31, 2007
3. Site Plans
4. Correspondence received in opposition to the project:
 - a. Joan Stuster, via email
 - b. Sharon Smith, via email
 - c. Pauline Smith, Carpinteria, CA

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission:

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

A. Garage Size Modification (SBMC §28.92.110 (1))

The modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The subdivision would create one additional lot that takes access off of West Valerio Street through a shared private driveway. This new parcel does not have direct access to on-street parking along West Valerio. Therefore, the provision of additional off-street parking is important. The increased garage square footage provides ample area to accommodate additional parking on the site and does not create visual concerns on this large parcel given its design and location.

B. Street Frontage Modifications (SBMC §28.15.080)

The modifications are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure an appropriate improvement on the lot. The property is a flag lot that does not currently satisfy the required lot frontage requirements. The subdivision would create one additional lot that takes access off of West Valerio Street through a shared private driveway. The development satisfies the minimum Fire Department access requirements and does not compromise public health or safety.

C. Public Road Waiver (SBMC §22.60.300)

1. The private driveway will be improved to provide adequate access to the proposed parcels. The proposed driveway is acceptable to the Fire Department and Public Works Department.
2. The proposed driveway and adjacent paved areas will provide adequate access for fire suppression vehicles, as required by applicable fire regulations.
3. There is adequate provision for maintenance of the proposed driveway because the owners of the proposed lots would be required to adequately maintain the private driveways pursuant to an agreement with the subdivider, to be recorded prior to or concurrent with recordation of the Parcel Map.

4. The waiver is in the best interests of the City and will improve the quality and reduce impacts of the proposed development. Development of a public road to serve the proposed lots would not improve the quality of the development and would likely increase the impacts of the development given the constraints of the site.

D. NEIGHBORHOOD PRESERVATION ORDINANCE FINDINGS (SMBC §22.68.060)

1. The public health, safety and welfare is protected. The project's access road will be widened and improved, and a new private fire hydrant will be installed along the private driveway, thereby improving emergency access and fire protection to the existing residence as well as the proposed new residence. The new residence has been sited and designed to avoid any geologic or other public safety impacts, including avoidance of the high pressure gas line that runs through the property.
2. The grading and development are appropriate to the site, have been designed to avoid visible scarring, and will not significantly modify the natural topography of the site or the natural appearance of any ridgeline or hillside.
3. The project will, to the maximum extent feasible, preserve and protect all native or mature trees with a minimum trunk diameter of four inches (4") measured four feet (4') from the base of the trunk. The one oak tree with a diameter of four inches (4") or more at four feet (4') above natural grade that is proposed to be removed, will be replaced on a one-to-one basis, at a minimum. Designated Specimen, Historic and Landmark trees will not be removed.
4. The development is consistent with the scenic character of the City and will enhance the appearance of the neighborhood. The proposed home has been designed to blend in with the natural hillside and will not block public views or change the overall character of the neighborhood.
5. The development is compatible with the neighborhood, and its size, bulk, and scale are appropriate to the site and neighborhood. The project site is significantly larger than the majority of the adjacent neighborhood's lots; however, the house has been designed to blend in with the hillside and appear as a primarily one-story residence, since a majority of the square footage is below grade.
6. The development will preserve significant public scenic views of and from the hillside. Given the site's topography, it is difficult to see from any public vantage point. The house design maintains a low profile on the hillside, and will not block any significant public views.

E. The Tentative Map (SBMC §27.07.100)

The Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara. The site is physically suitable for the proposed development, the project is consistent with the variable density provisions of the

Municipal Code and the General Plan, and the proposed use is consistent with the vision for this neighborhood of the General Plan. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems.

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 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 Limitation.** No recreational vehicles, boats or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Architectural Board of Review (ABR).
3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan 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. **Development Rights Restrictions.** The Owner shall not make any use of the restricted portion of the Real Property as designated on the approved Tentative Subdivision Map 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 restricted areas shall be shown on the Final Map.) 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.
5. **Approved Development.** The development of the Real Property approved by the Planning Commission on January 11, 2007 is limited to 2 lots, the existing single-family residence, a new approximately 4,370 square foot single-family residence with 1,232 square feet of garage space, 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. Additional

accessory buildings are prohibited on Parcel 1. Parcel 1's building envelope shall be reduced to the smallest area possible that still allows construction of the approved house.

6. **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 access way, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the lots.
 - b. **Trash and Recycling.** Adequate space shall be provided and maintained for trash and recycling purposes.
 7. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance and most currently adopted Energy Code. No floodlights shall be allowed. Exterior lighting shall be shielded and directed toward the ground.
 8. **Oak Tree Protection.** The existing oak trees shown on the Tentative Subdivision Map and Landscape Plan shall be preserved, protected and maintained, with the exception of the oak tree designated for removal. During construction, protection measures shall be provided, including but not limited to fencing of the area surrounding the tree(s). The following provisions shall apply to any oak trees to remain on the property:
 - a. No irrigation systems shall be installed within the drip line of any oak tree.
 - b. The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.
 9. **Storm Water Pollution Control Systems Maintenance.** The Owner(s) shall maintain the 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 Building Official and/or the Public Works Director.
- B. **Design Review.** The following is subject to the review and approval of the Architectural Board of Review (ABR):
1. **Oak Tree Removal and Replacement.** The oak tree proposed for removal, shall be replaced on-site at a two-to-one basis with 48-inch box sized nursery oak trees. Consideration shall be given to use of more smaller oaks.
 2. **Tree Protection Measures.** The landscape plan and grading plan shall include the following tree protection measures:

- a. **Arborist's Report.** Include a note on the plans that recommendations/conditions contained in the arborist's report prepared by Dan Condon, dated October 31, 2003, shall be implemented.
 - b. **Oak Tree Protection Measures.** The following provisions shall apply to existing oak trees on site:
 - (1) During construction, fencing or protective barriers shall be placed around the dripline of all oak trees located within 25 feet of development.
 - (2) No grading shall occur under any oak tree dripline, except as indicated on the drainage and grading plan. Grading within the dripline of any oak tree(s) shall be minimized and shall be done with light (one ton or less) rubber-tired equipment or by hand. If use of larger equipment is necessary within the dripline of any oak, it shall only be operated under the supervision and direction of a qualified Arborist.
 - (3) Any oak tree roots encountered during grading or excavation shall be cleanly cut and sealed with a tree-seal compound. Any thinning or root pruning and trimming shall be done under the direction of a qualified Arborist.
 - (4) No storage of heavy equipment or materials, or parking shall take place within five (5) feet of the dripline of any oak tree.
 - (5) Landscaping provided under the oak tree(s) shall be compatible with preservation of the trees as determined by the Architectural Board of Review (ABR). No irrigation system shall be installed under the dripline of any oak tree.
 - (6) Oak trees greater than four inches (4") in diameter at four feet (4') above grade not identified for removal that are damaged or removed as a result of the project shall be replaced at a three to one (3:1) ratio, at a minimum five (5) gallon size, from South Coastal Santa Barbara County Stock.
 - (7) Oak seedlings and saplings less than four inches (4") at four feet (4') above the ground that are removed during construction shall be transplanted where feasible. If transplantation is not feasible, replacement trees shall be planted at a minimum one to one (1:1) ratio. Replacement trees shall be a minimum of one (1) gallon size derived from South Coastal Santa Barbara County stock.
3. **Existing Tree Preservation.** The existing trees shown on the approved Site Plan to be saved shall be preserved and protected during construction.

4. **Pedestrian Pathway.** A separate pedestrian pathway shall be provided along the driveway from the sidewalk through the use of a different paving material or design. The pedestrian pathway shall also connect to the new residence.
 5. **Minimize Visual Effect of Paving.** Textured or colored pavement shall be used in paved areas of the project, where feasible, to minimize the visual effect of the expanse of paving, create a pedestrian environment, and provide access for all users.
 6. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Exterior lighting shall be shielded and directed toward the ground.
 7. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.
 8. **Landscape Plan.** Prior to preliminary approval of the house on Parcel 1, the landscape plan shall be revised to include the oak woodland and provide screening from the neighbors, and the plan shall be reviewed and approved by a qualified biologist acceptable to the City.
- C. **Public Works Submittal Prior to Parcel Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Parcel Map for the project:
1. **Parcel Map.** The Owner shall submit to the Public Works Department for approval, 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. **Water Rights Assignment Agreement.** 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.
 3. **Required Private Covenants.** The Owner shall submit a copy of the recorded private covenants, reciprocal easement agreement, or similar private agreements required for the project.
 4. **Drainage Calculations.** The Owner shall submit drainage calculations justifying that the existing on-site and proposed on-site drainage system adequately conveys a minimum of a 25-year storm event.
 5. **Off-Site Public Street Improvement Plans.** The Owner shall submit building plans for construction of improvements along the property frontage on W. Valerio Street. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards,

the following: sidewalk, driveway apron modified to meet Title 24 requirements, underground service utilities, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations and/or hydrology report for installation of drainage pipe, curb drain outlets, slot/trench drain, drop inlet, detention, erosion protection (provide off-site storm water BMP plan), etc., preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs. Existing private sewer lateral serving the existing structure on the property shall be repaired before new dwelling is occupied. Any existing sewer lateral identified to be abandoned, shall be disconnected at the sewer mainline connection. A licensed plumber shall verify if the property requires a backwater valve. If existing lateral already has a backwater valve, then it shall be inspected. The building plans, drainage calculations and hydrology report shall be prepared by a registered civil engineer or licensed architect. Any work in the public right of way requires a public works permit.

6. **Removal or Relocation of Public Facilities.** Removal or relocation of any public utilities or structures must be performed by the Owner or by the person or persons having ownership or control thereof.
 7. **Maintenance Agreement Required.** The Owner shall submit an Executed Agreement for Maintenance of the proposed private driveway, subject to the review and approval of the Public Works Director and City Attorney.
- D. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.
1. **Recordation of Parcel Map and Agreement.** After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department.
 2. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building permit.
- E. **Community Development Requirements 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 and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person(s) who compiled the mailing list shall be submitted to the Planning Division.

2. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions and Conditions of Approval. Submit a copy of the notice to the Planning Division.
 3. **Arborist's Monitoring.** Submit to the Planning Division a contract with a qualified arborist for monitoring of all work within the dripline of all oak trees during construction. The contract shall include a schedule for the arborist's presence during grading and construction activities, and is subject to the review and approval of the Planning Division.
 4. **Soils Report.** Submit to the Building and Safety Division a soils report.
- F. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.
1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Architectural Board of Review, outlined in Section B above.
 2. **Technical Reports.** All recommendations of the geology and soils reports, approved by the Building and Safety Division, shall be incorporated into the construction plans.
 3. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers shall be provided on the Real Property and screened from view from surrounding properties and the street.
 4. **Guest Parking.** One guest parking space shall be provided on the new lot in addition to the two (2) covered parking spaces required by the Zoning Ordinance.
 5. **Water-Conserving Fixtures.** All plumbing fixtures shall be water-conserving devices in new construction, subject to the approval of the Water Resources Management Staff.
 6. **Conditions on Plans/Signatures.** The final Planning Commission Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). 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.

G. Construction Implementation Requirements. All of these construction requirements shall be carried out in the field for the duration of the project construction.

- 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 Public Works Director.
- 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 1st*
Martin Luther King's Birthday.....	3rd Monday in January
Presidents' Day.....	3rd Monday in February
Memorial Day.....	Last Monday in May
Independence Day	July 4th*
Labor Day.....	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day.....	Friday following Thanksgiving Day
Christmas Day	December 25th*

*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 outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §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.

3. **Construction Parking/Storage.** Construction parking and storage shall be provided as follows:
 - a. 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 Public Works Director.
 - b. Storage or staging of construction materials and equipment within the public right-of-way is prohibited.
4. **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.
5. **Covered Truck Loads.** Trucks transporting fill material to and from the site shall be covered from the point of origin.
6. **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, as directed by the Building Inspector.
7. **Gravel Pads.** Gravel pads shall be installed at the access point to the project site to prevent tracking of mud on to public roads.
8. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
9. **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), contractor(s) telephone number, work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.

10. **Tree Protection.** All trees not indicated for removal on the site plan shall be preserved, protected and maintained, in accordance with the Conditions of Approval.
11. **Tree Protection.** Notes on the grading plan that specify the following:
 - a. A qualified Arborist shall be present during any excavation adjacent to or beneath the dripline of the tree(s) which are required to be protected.
 - b. All excavation within the dripline of the oak tree(s) shall be done with hand tools.
 - c. Any roots encountered shall be cleanly cut and sealed with a tree-seal compound.
 - d. No heavy equipment, storage of materials or parking shall take place under the dripline of the tree(s).
 - e. Any root pruning and trimming shall be done under the direction of a qualified Arborist.
12. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
13. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.
14. **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.

H. **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, and as conditioned herein.
3. **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.

I. **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.

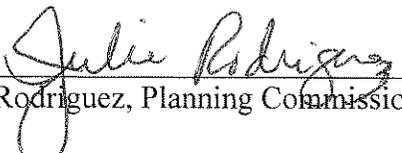
NOTICE OF TENTATIVE SUBDIVISION MAP (INCLUDING NEW CONDOMINIUMS AND CONDOMINIUM CONVERSIONS) TIME LIMITS:

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 §27.07.110 or the provisions of the California Subdivision Map Act.

This motion was passed and adopted on the 8th day of February, 2007 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

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.



Julie Rodriguez, Planning Commission Secretary



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.