



City of Santa Barbara

Planning Division

PLANNING COMMISSION MINUTES

July 12, 2007

CALL TO ORDER:

Chair Charmaine Jacobs called the meeting to order at 1:05 P.M.

ROLL CALL:

Present:

Chair Charmaine Jacobs

Vice-Chair George C. Myers

Commissioners Bruce Bartlett, John Jostes, Stella Larson, Addison S. Thompson and Harwood A. White, Jr.

Absent:

Commissioner George C. Myers

STAFF PRESENT:

Bettie Weiss, Staff Hearing Officer

Jan Hubbell, Senior Planner

N. Scott Vincent, Assistant City Attorney

Steve Foley, Supervising Transportation Planner

Debra Andaloro, Environmental Analyst

Michael Berman, Environmental Analyst

Marisela Salinas, Associate Planner

Roxanne Milazzo, Associate Planner

Kathleen Kennedy, Associate Planner

Pat Kelly, City Engineer

Julie F. Rodriguez, Planning Commission Secretary

I. PRELIMINARY MATTERS:

- A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

None.

B. Announcements and appeals.

Ms. Hubbell made the following announcements:

1. The 561 W. Mountain Drive appeal will be heard before the City Council on July 24, 2007.
2. On July 18 2007, there will be a joint meeting with City Council, Planning Commission, Architectural Board of Review, and the Historic Landmarks Commission to consider building heights and neighborhood compatibility.

C. Comments from members of the public pertaining to items not on this agenda.

Chair Jacobs opened the public hearing at 1:06 P.M. and, with no one wishing to speak, closed the hearing.

II. **STAFF HEARING OFFICER APPEAL:**

ACTUAL TIME: 1:06 P.M.

APPEAL BY CHURCH OF SCIENTOLOGY OF A STAFF HEARING OFFICER APPROVAL OF THE APPLICATION OF CEARNAL ANDRULAITIS LLP, ARCHITECT FOR CRAVIOTTO ENTERPRISES, 518 STATE STREET, APN 037-173-046, C-M, COMMERCIAL MANUFACTURING ZONE, GENERAL PLAN DESIGNATION: GENERAL COMMERCE (MST2005-00477)

The project consists of a proposal to construct a new two-story mixed-use building with 2,487 square feet of commercial space on the first floor and two apartments (one studio unit and one (1) one-bedroom unit) on the second floor on a 3,544 square foot parcel. The existing 302 square feet (net) of non-residential space would be demolished.

The discretionary applications required for this project are:

1. Modification to allow no onsite parking for the residential units instead of two required parking spaces, one for each of the residential units (SBMC§28.90.100); and
2. Development Plan approval for 2,185 square feet of additional non-residential development (SBMC§28.87.300).

On May 9, 2007, a public hearing was held and the Staff Hearing Officer made the required findings and approved the project. This is an appeal of that decision.

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15303 (New construction of small structures).

Case Planner: Kathleen Kennedy, Associate Planner
Email: KKennedy@SantaBarbaraCA.gov

Kathleen Kennedy, Associate Planner, and Steve Foley, Supervising Transportation Planner, gave the Staff presentation. Ms. Kennedy noted for the record that one letter had been received for public comment from the neighboring Hotel Santa Barbara.

Chris Hansen, Building and Safety Supervisor, was available for answering questions.

Bettie Weiss, Staff Hearing Officer, recapped the decision made for approval of the project including the added condition of approval regarding vehicle ownership reports.

Rev. Lee Holzinger, Church of Scientology, gave the appellant presentation.

Brian Cearnell, Architect, gave the applicant presentation.

Ms. Hubbell and Mr. Foley answered Planning Commission questions stating that motorcycles can park for free in a designated area, that vehicular access rights to the parking lot were removed; stated the City parking lot kiosk hours of operation; that there has been no discussion regarding view easements.

Mr. Hansen replied to the Commission's question about making the adjacent property's windows bordering the property line inoperable. Scott Vincent, Assistant City Attorney, responded to the Commission's question regarding whether a condition could be stipulated to have the applicant underwrite the cost of any needed changes to the adjacent property's windows for compliance with City regulations. Although Mr. Vincent could not find any case law, he stated that each property is responsible for its own costs.

Ms. Weiss responded to the Planning Commission's question about monitoring resident parking and stated that the vehicle ownership reports are to be used for informational purposes only.

Chair Jacobs opened the public hearing at 1:44 P.M.

Jim Craviotto, Property Owner, spoke of the historic use of the property and the need for development to mitigate transient and public urination issues onsite. He added that any request for a total redesign of the project would be unreasonable and costly and requested that the Commission uphold the Staff Hearing Officer's approval of the project.

The following people spoke in support of the appeal:

1. Patricia Hiles would like to see parking for the proposed residential units.
2. Trevor Martinson was concerned with soil contamination, parking, inclusive of motorcycles and bicycles, and number of residential units.

With no one else wishing to speak, the public hearing was closed at 1:53 P.M.

Staff responded to the Planning Commission's questions regarding soil contamination reaffirming that the issue has been adequately addressed by a report reviewed by Staff.

Mr. Craviotto stated that any underground tank would have been under neighboring properties, presently occupied by Holdrens and Pierre Lafond, where a gas station had once existed and not under his property.

Commissioner's comments:

1. One Commissioner favored the project noting that more commercial development could occur without need for parking spaces. If the need for residential parking surfaced, it could be resolved with parking availability at the applicant's other properties.
2. In reference to the elimination of residential parking, one Commissioner referenced a study which showed that people are not giving up their cars, just storing them when not in use.
3. The parking modification granted is in line with the guidance and consistency the Commission has provided for recent projects and therefore cannot uphold the appeal.
4. Two Commissioners referenced the property owner's right to build something larger and choosing not to exercise that right, opting to build apartments for the community. Supports no parking on the property location.
5. Two Commissioners supported the blockage of the windows for the site, and looked for a mitigation fee, similar to one given to the Sojourner property, to offset the loss of residential parking.
6. Commissioners were supportive of the project. One Commissioner would like to see a condition made that the rental units remain as rental units and not converted to ownership units over time.
7. One Commissioner reflected on the owner's historical concessions made to improve pedestrian circulation and eliminate curb cuts, and felt that the parking modification request is a reasonable request. Window issues can be resolved between the parties.
8. Use of a modification is necessary because of the uniqueness of Santa Barbara. A modification is usually linked to a public benefit and this project provides a public benefit to connect to the public parking lot and provide rental units.
9. The majority of Commissioners could not support the appeal, especially when considering the larger-scale options that could have been build on the property.

Mr. Vincent stated that a condition requiring the rental units to remain as rentals would be contrary to the Ellis Act; however, there are sufficient inherent impediments that would impact any future condominium conversion application at the site.

MOTION: White/Larson

Assigned Resolution No. 027-07

Deny the appeal and uphold the Staff Hearing Officer's decision to approve a Modification to allow no onsite parking for the residential units instead of the required one space for each residential unit and a Development Plan for 2,185 square feet of additional non-residential

development for the mixed-use development proposed at 518 State Street with the conditions of approval as listed in Staff Hearing Officer Resolution No. 038-07.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Myers)

Chair Jacobs announced the ten calendar day appeal period.

III. NEW ITEMS:

ACTUAL TIME: 2:12 P.M.

To avoid any perceived conflict of interest, Commissioners Jacobs and Bartlett stepped down from hearing the following item. Commissioner Jacobs assumed the Chair.

A. APPLICATION OF MARK LLOYD, AGENT FOR SANTA FE COURT LLC, PROPERTY OWNER, 1400 ROGERS COURT, APN: 035-180-070, E-1, SINGLE FAMILY RESIDENTIAL ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 3 UNITS PER ACRE AND 5 UNITS PER ACRE (MST2006-00736). RESCHEDULED FROM JUNE 21, 2007

The project consists of a request to initiate a Zone Change and a General Plan Amendment for an existing lot at 1400 Rogers Court (formerly known as 1418 Cliff Drive) from E-1, Single Family Residential, Zone to R-2, Two-Family Residential, Zone and from a General Plan Designation of Residential - 3 Units per Acre and Residential - 5 Units per Acre to Residential - 12 Units per Acre. The project site is a 16% slope lot, 44,600 square feet in size, and located in the Alta Mesa Neighborhood of the City, accessed from Santa Fe Place.

If the initiation request goes forward, the proposed project, which involves a 12-unit, one-lot subdivision would include eight units proposed at market rate and four units proposed at affordable rates. This would require a Tentative Subdivision Map, Modifications, and a Public Street Frontage Waiver. Final approval of the rezone and General Plan Amendment would subject to City Council review.

The discretionary applications required for this project are:

1. Initiation of a Zone Change from E-1 (One-Family Residence Zone) to R-2 (Two-Family Residence Zone); and
2. Initiation of a General Plan Amendment from Residential – 3 Units per Acre and Residential - 5 Units per Acre to Residential – 12 Units per Acre.

The Planning Commission will not take any action on the proposed project nor make any determination regarding environmental review of the proposed project.

Case Planner: Marisela G. Salinas, Associate Planner
Email: MSalinas@santabarbaraca.gov

Marisela G. Salinas, Associate Planner, gave the Staff presentation.

Mark Lloyd, Agent, gave the applicant presentation.

Ms. Hubbell commented on Mr. Lloyd's presentation citing the history of properties on the Mesa as related to affordability.

Staff answered Planning Commission's questions regarding access to parcels excluded from the project, and the basis for designating the project site as one single family residential unit.

Mr. Lloyd responded to the Planning Commission's question about a proposed private road.

Chair Jostes opened the public hearing at 2:42 P.M.

The following people spoke in support of the project:

Andy Chapman, neighbor, was supportive of the project as long as he could maintain the ingress/egress he has had to his property that is needed for maintenance and that would be of mutual benefit.

The following people spoke in opposition of the project or with concerns:

1. Kathy Sheffield: Affordable housing already offered by SHIFCO, Impact on neighbor's rights and neighborhood character.
2. Rosie Conaway: Increased traffic and safety issues. Suggested City reduce Cliff Drive to one lane in each direction.
3. Dan Hankey: preservation of wildlife nesting in trees on site.
4. Angela Bell: would like to see units build for Habitat for Humanity. Urged safety consideration be given to Santa Fe Place and for neighboring seniors.
5. Mary Norton: concerned with over development on Mesa; increased traffic, dust, and noise.
6. Kathy Carmel: increase in population density for area.
7. Cathie McCammon: La Mesa Neighborhood Association: incompatibility with neighborhood, amendment would be precedent setting. Concerned with increased traffic and erosion of views.
8. Mike Jordan, Creeks Advisory Committee: No watershed; collected water is not filtered and goes directly into the ocean.

9. Barbara Silverander: impact to environmental resources and wildlife endangerment; density.
10. Anthony Purpero, adjacent land owner: concerned with the elimination of necessary easements to neighboring properties.

With no one else wishing to speak, the public hearing was closed at 3:06 P.M.

Commissioner's Comments:

1. Two Commissioners felt that it was premature to initiate a General Plan Amendment and Zoning change when the City is in the process of updating the General Plan and should be part of the general plan process.
2. One Commissioner was supportive of the development but felt it lacked sufficient affordable housing.
3. One Commissioner felt that without knowing surrounding neighbors future plans, granting the zone change and general plan amendment would not be in the best interest to Santa Barbara, and would increase density in the neighborhood.

MOTION: Thompson/Larson

Assigned Resolution No. 028-07

Deny initiation of the Zone Change and General Plan Amendment for the reason that it should be a part of the current General Plan Update process.

This motion carried by the following vote:

Ayes: 4 Noes: 0 Abstain: 0 Absent: 3 (Myers, Jacobs, Bartlett)

Chair Jostes announced the ten calendar day appeal period.

Chair Jostes called for a recess at 3:15 P.M.

During the break, Commissioner Jostes left for the remainder of the meeting. Commissioners Jacobs and Bartlett returned to the dais.

Chair Jacobs reconvened the meeting at 3:40 P.M.

ACTUAL TIME: 3:40 P.M.

- B. **APPLICATION OF HAL HILL, AGENT FOR CITY OF SANTA BARBARA, PUBLIC WORKS DEPARTMENT, CITY OF SANTA BARBARA, 00 EAST CABRILLO BOULEVARD, 033-111-011 AND 033-120-015, P-R/S-D-3 and HRC-2/S-D-3 ZONES, GENERAL PLAN DESIGNATION: OPEN SPACE (MST2004-00878)/CDP2007-00001)**

The project would replace the existing structurally deficient Cabrillo Boulevard Bridge over Mission Creek and improve the hydraulic conveyance of Mission Creek from State Street to the Pacific Ocean. The banks of Mission Creek from Cabrillo Boulevard to State Street would be rebuilt in compliance with the approved Lower Mission Creek Flood Control Project. The discretionary application required for this project is a Coastal Development Permit in the appealable jurisdiction of the coastal zone and a recommendation to the California Coastal Commission (SBMC § 28.45.009).

The Planning Commission will consider adoption of the Negative Declaration prepared for the project (MST2004-00878) pursuant to the California Environmental Quality Act Guidelines Section 15074. The MND contains mitigation measures that reduce potentially significant avoidable impacts to a less than significant level.

Case Planner: Michael Berman, Project Planner/Environmental Analyst
Email: MBerman@SantaBarbaraCA.gov

Michael Berman, Project Planner/Environmental Analyst, gave the Staff presentation, joined by Pat Kelly, City Engineer.

Staff answered Planning Commission questions on impacts to the creek wall and neighboring restaurant; cooperation between property owners and the City; timing of restoration with Coastal Development Permit; any consideration made for value of right-of-way by not buying Rusty's; and the absence of a landscape plan. Additional questions were answered about any option for approval of an alternative; any cost of delay in construction; consideration for the Arts and Crafts Show; consideration of construction impact on Fiesta; and inclusion of an educational public awareness sign.

Mr. Vincent noted that eight to ten artisans are impacted. The Arts and Crafts Show is self-governed by an artisan's committee and the committee will come up with a resolution based on knowing what remaining area will be available for showing.

Chair Jacobs opened the public hearing at 4:24 P.M.

The following people spoke in support of the project:

Virginia Castagnola Hunter was supportive of the project, but concerned with the long construction period and the economic impact on local businesses; would like to see the Rusty's patio grandfathered in place.

With no one else wishing to speak, the public hearing was closed at 4:28 P.M.

Staff answered additional Planning Commission's questions on considerations made for impacts by the length of the construction timeline; Commissioners ability to

review landscape plan at a later time; and factors behind the timing of the bridge closure.

Commissioner's comments:

1. The Consensus among Commissioners was that this project is critically needed for our region and we need to get on board with the construction of this bridge.
2. Commissioners were appreciative of a very thorough Mitigated Negative Declaration that covered many complex issues and the attention to detail.
3. Two Commissioners felt that we need to keep sight of the alternative that makes the bridge look more like a bridge and less of a culvert under a bridge.

MOTION: White/Bartlett

Assigned Resolution No. 029-07

Adopt the Final Mitigated Negative Declaration, and approve the Coastal Development Permit making the findings in the Staff Report, and recommend that the California Coastal Commission approve the portion of the project in their jurisdiction with revised conditions to include adding: 1) No construction during Old Spanish Days Fiesta; 2) Educational signage solicited through the Sea Center, Maritime Museum or Watershed Center that explains the lagoon's annual cycle and how construction is planned to respond to it; and 3) A report back to the Planning Commission in 9 months to review the impact on the Arts & Crafts Show, the landscape plan, and feasibility of an alternate design involving straightening the creek by Bengal Engineering.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 0 Absent: 2 (Myers, Jostes)

Chair Jacobs announced the ten calendar day appeal period.

IV. ENVIRONMENTAL IMPACT REPORT SCOPING HEARING:

ACTUAL TIME: 4:45 P.M.

APPLICATION BY PEIKERT GROUP ARCHITECTS, AGENT FOR BERMANT HOMES AND THE HOUSING AUTHORITY OF THE CITY OF SANTA BARBARA, 535 E. MONTECITO STREET, APN 031-350-010; M-1 LIGHT MANUFACTURING, ZONE; GENERAL PLAN DESIGNATION: INDUSTRIAL; MST 2004-00235

The proposed project consists of 48 residential condominium units (24 two-bedroom and 24 three-bedroom units) in six, three-story buildings. The total development is 90,966 square

feet (net). Each building is 15,161 square feet (net) and includes eight units (4 two-bedroom units and 4 three-bedroom units) and eight two-car garages in a tandem configuration. Two additional parking spaces would be provided onsite for guests, for a total of 98 parking spaces. Vehicular access to and from the site is provided by two driveways along Calle Caesar Chavez and one driveway on E. Montecito Street. All units are to be sold at below-market prices, with prices to be determined by the total costs to develop the units.

The purpose of the hearing is to receive comments on the proposed EIR scope of analysis. Written comments on the EIR scope of analysis identified in the Initial Study should be sent at the earliest possible date, but received not later than Thursday, August 2, 2007 at 4:30 p.m. Please send your written comments to the attention of Kathleen Kennedy, Associate Planner, at the City Planning Division.

Case Planner: Kathleen Kennedy, Associate Planner
Email: kkennedy@SantaBarbaraCA.gov

Kathleen Kennedy, Associate Planner, gave the Staff presentation joined by Debra Andaloro, Environmental Analyst.

Lisa Plowman, Peikert Group Architects, gave the applicant presentation, joined by Scott Schell, Associated Transportation Engineers.

Staff answered Planning Commission's questions on perceived nuisance odors from the recycling plant stating that no odors have been identified, nor complaints received.

Chair Jacobs opened the public hearing at 4:58 P.M.

The following people spoke:

1. Allen Williams, Owner of ServiceMaster of Santa Barbara, spoke to the dangers of current and increased traffic at Olive Street and Gutierrez Street; suggested a traffic light. Does not feel that there is any off-street parking available to support additional development. ServiceMaster is presently looking at leaving Santa Barbara when their lease ends in one year due to lack of available daytime parking. He stated that the odor does not come from the recycling plant, but from the Garden and Yanonali Streets composting site. Mr. Williams responded to one Commissioner's question stating that the daytime is the time of day that parking is the biggest problem.
2. Judy Orias submitted a letter and spoke about needed consideration for children and private and common open space; requiring green building standards; public safety; parking requirements; use of existing available water and safety services; and landfill capacity.
3. Jeffrey Sipress, Owner of Machine Arts, confirmed that the odors come from the compost site on Yanonali Street. He is not in favor or opposed to the project, but

feels that the area is historically an industry and manufacturing area and cannot envision residential development. Concerned with dust and noise that would come with future development and the impact on neighboring businesses. The Garden and Gutierrez signal light only lasts 12 seconds. Spoke about the existing traffic hazards brought on by delivery trucks that have no place to park and impact traffic. Concerned with lack of parking for proposed development. 48 units added to the area will add to traffic and parking. Project needs more on-site guest parking.

With no one else wishing to speak, the public hearing was closed at 5:15 P.M.

Commissioner's Comments:

1. Found public comments useful. Concerned with loss of ServiceMaster to community.
2. One Commissioner questioned the analysis of residential traffic impacts. Inquired about the historical industrial use of the property and any trip banking.
3. Approves of the size, bulk and scale, but would like to see a higher unit count with smaller size units. Would like to have options presented.
4. One Commissioner would like to see guest parking addressed as part of the parking with an option in the EIR that shows the guest parking requirement met.
5. One Commissioner could not support a subdivision until health and safety issues were addressed, including safe routes to schools for children.
6. One Commissioner stated that the main issues to consider are the traffic and parking. Open space needs further consideration since closest park is Ortega Park.
7. Residential changes will impact traffic and parking; the coloring of curbs and parking enforcement would need to be considered in the EIR, along with mitigations. Perhaps residential parking permits would need to be restricted. Would like to see more alternatives presented for parking in the neighborhood. Would like study to include consideration of separate purchase of parking spaces from residential units. Perhaps increased schedules in the Cross-town Shuttle could be considered.
8. Suggested looking at a signal for the Olive and Gutierrez Streets intersection.
9. Would like to see consideration for skyline tree with the loss of the concrete.

Staff answered additional Planning Commission questions regarding traffic analysis impacts stating that residential and commercial impacts are treated differently. Commercial traffic impacts cannot be overridden.

Ms. Plowman and John Campanella, Bermant Development, answered the Commission's questions on the size of the units.

Ms. Andalero reiterated the Planning Commission's concerns stating that dust and noise mitigation and biodiesel are already covered in the Initial Study; more consideration for

open space and on-site recreational facilities will be included in the Initial Study and Staff Report; an alternative that includes more units that would result in more impacts would not typically be included in an EIR; a good alternative would be to have all guest parking onsite; and consideration for solar access and green standards would be included in the Initial Study.

V. ADMINISTRATIVE AGENDA

A. Committee and Liaison Reports.

Commissioner Jacobs reported on the new Single Family Design Board. The first meeting will be on Monday, July 16, 2007, at 3 P.M. in the David Gebhard Public Meeting Room. Planning Commission liaisons are Stella Larson and George Myers.

B. Review of the decisions of the Staff Hearing Officer in accordance with SBMC §28.92.026.

Commissioner White will report at the next meeting.

VII. ADJOURNMENT

Chair Jacobs adjourned the meeting at 5:42 P.M.

Submitted by,

Julie Rodriguez, Planning Commission Secretary



City of Santa Barbara California

DRAFT

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 027-07

518 STATE STREET

APPEAL OF STAFF HEARING OFFICER APPROVAL

JULY 12, 2007

APPEAL BY CHURCH OF SCIENTOLOGY OF A STAFF HEARING OFFICER APPROVAL OF THE APPLICATION OF CEARNAL ANDRULAITIS LLP, ARCHITECT FOR CRAVIOTTO ENTERPRISES, 518 STATE STREET, APN 037-173-046, C-M, COMMERCIAL MANUFACTURING ZONE, GENERAL PLAN DESIGNATION: GENERAL COMMERCE (MST2005-00477)

The project consists of a proposal to construct a new two-story mixed-use building with 2,487 square feet of commercial space on the first floor and two apartments (one studio unit and one (1) one-bedroom unit) on the second floor on a 3,544 square foot parcel. The existing 302 square feet (net) of non-residential space would be demolished.

The discretionary applications required for this project are:

1. Modification to allow no onsite parking for the residential units instead of two required parking spaces, one for each of the residential units (SBMC§28.90.100); and
2. Development Plan approval for 2,185 square feet of additional non-residential development (SBMC§28.87.300).

On May 9, 2007, a public hearing was held and the Staff Hearing Officer made the required findings and approved the project. This is an appeal of that decision.

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15303 (New construction of small structures).

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Appellant and Applicant were present.

WHEREAS, 2 people appeared to speak in favor of the appeal, and 1 person appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, July 5, 2007
2. Site Plans
3. Correspondence received in support of the appeal:
 - a. Tamara Erickson, General Manager, Hotel Santa Barbara, via email

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

Denied the appeal of the Church of Scientology and upheld the Staff Hearing Officer's decision to approve a Modification to allow no onsite parking for the residential units instead of the required one space for each residential unit and a Development Plan for 2,185 square feet of additional non-residential development for the mixed-use development proposed at 518 State Street with the conditions of approval as listed in Staff Hearing Officer Resolution No. 038-07.

This motion was passed and adopted on the 12 day of July, 2007 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

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.



City of Santa Barbara

Planning Division

PLANNING COMMISSION MINUTES

July 19, 2007

CALL TO ORDER:

Chair Charmaine Jacobs called the meeting to order at 1:15 P.M.

ROLL CALL:

Present:

Chair Charmaine Jacobs

Vice-Chair George C. Myers

Commissioners Bruce Bartlett, John Jostes, Stella Larson, George C. Myers, Addison S. Thompson, and Harwood A. White, Jr.

STAFF PRESENT:

Jan Hubbell, Senior Planner

N. Scott Vincent, Assistant City Attorney

Rob Dayton, Principal Transportation Planner

Steve Foley, Supervising Transportation Planner

Peter Lawson, Associate Planner

Julie Rodriguez, Planning Commission Secretary

I. PRELIMINARY MATTERS:

- A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

None.

- B. Announcements and appeals.

Ms. Hubbell made the following announcements:

1. Dan Gullett was introduced as the new Associate Planner in Community Development.
2. Tony Nisich is retiring as the Director of Public Works.
3. Tim Downey has been hired as the new Urban Forest Superintendent.
4. Mark Morando, Assistant Planner, is leaving the City.

5. The 561 W. Mountain Drive appeal will be heard by City Council next Tuesday. Commissioners Bartlett and Jostes will represent the Commission.
6. The 1829 State Street appeal will be heard by City Council on August 14, 2007.

C. Comments from members of the public pertaining to items not on this agenda.

Chair Jacobs opened the public hearing at 1:17 P.M. and, with no one wishing to speak, the hearing was closed.

II. NEW ITEMS:

ACTUAL TIME: 1:18 P.M.

To avoid any appearance of a conflict of interest, Commissioner Jostes stepped down from the hearing the following item.

A. APPLICATION OF CONCEPTUAL MOTION, ARCHITECT/AGENT FOR DBN YANONALI LLC, 116 E YANONALI, 033-083-018, OC/S-D-3 OCEAN-ORIENTED COMMERCIAL ZONE/COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: HOTEL AND RELATED COMMERCIAL (MST2006-00231)

The project consists of demolishing an existing 7,343 square foot commercial building and construct a 19,935 s.f. (gross) mixed use, three story, 42 foot tall building. Six commercial units totaling 4,456 s.f. (gross) and six residential dwellings, totaling 9,446 s.f. (gross) are proposed. Three residential units are proposed as one bedroom units, two units would be two bedroom units and one unit is proposed as a studio. The ground level would consist of commercial usage and a 17 space, 6,033 s.f. (gross) covered parking area. Additionally, 2 uncovered parking spaces are proposed, for a total of 19 on site parking spaces. The second level would be a mix of commercial and residential use and the top level would include two residential units, each with a roof deck. The applicant is requesting a modification to the parking requirements to reduce the number of spaces by eleven.

The discretionary applications required for this project are:

1. A Modification to reduce the required number of parking spaces from 30 spaces to 19 spaces (SBMC §28.90.100.G.3);
2. A Coastal Development Permit to allow development in the non-appealable jurisdiction of the Coastal Zone (SBMC §28.45.6); and
3. A Tentative Subdivision Map for a one-lot subdivision with six condominium units (SBMC §27.07).

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

Case Planner: Peter Lawson, Associate Planner
Email: plawson@santabarbaraca.gov

Peter Lawson, Associate Planner, gave the Staff presentation, joined by Steve Foley, Supervising Transportation Planner, and announced changes in numbering to the Staff Report.

Steve Yates, Conceptual Motion, gave the applicant presentation, joined by Gerhard Mayer, Project Architect.

Staff answered Planning Commission's questions on the rationale behind the modification for parking; changes to the conditions of approval regarding use limitations; and the inclusion in the conditions for potential of a future parking district.

Mr. Yates and Mr. Mayer answered Planning Commission's questions on the clarification of "open for business" in the Covenants, Conditions, and Restrictions (CC&R)'s inclusion of the commercial space hours of operation. Other questions answered included tree landscaping and inclusion of canopy trees; explanation of the increased height of floor levels; any use of solar components on the roof; a landscape plan near the stairwell; explanation of the increased appearance of sloped roofs over stairwells; and the feasibility of underground parking.

Steve Delson, Owner and Developer, responded to the Commission regarding the net gain of one space by changes in the parking configuration.

Chair Jacobs opened the public hearing at 2:11 P.M. and, with no one wishing to speak, closed the hearing.

Commissioner's comments:

1. One Commissioner appreciated the use of light in the project, but was challenged by: 1) the size of the units relative to the number of bedrooms, and 2) the parking modifications not including a public benefit, such as affordable housing units, or increased open space. Would like to see more feedback from Staff on the live/work projects that are currently in place.
2. The Commission expressed appreciation of the applicant's response to comments made at the concept review.
3. One Commissioner was satisfied with the size, bulk, and scale changes made; however, wanted to see smaller units. The live/work relationship

- is still an issue; would like to see stronger language in the CC&R's stating that commercial space is to be used for commercial use only and not become residential use. Would like to see the landscaping plan revisited; softening of building with canopy trees.
4. Many Commissioners would like to see the inclusion of solar photovoltaics in project.
 5. Consensus of Commissioners approved of the live/work concept.
 6. Two Commissioners liked the project, but would like to see the height reduced by 1'. Concerned with the precedent of leasing and monitoring uses in this facility. Suggested offsite mitigation for use of the five commercial parking spaces.
 7. Landscape plan does not match up with architectural plans. Would like to condition that the landscape plan go back to Architectural Board of Review (ABR).
 8. One Commissioner was concerned with lack of affordable housing offered by the project.
 9. Appreciated inclusion of gardens and outdoor fire pit. Remained frustrated with parking modification request and inability of Commission to support parking restraint in the Funk Zone. Concern expressed over lack of public benefit.

Ms. Hubbell reminded the Commission that the findings for the parking modification do not include or result in a public benefit. A public benefit can be tied to the Tentative Map or the General Plan, but not parking modification.

Mr. Yates answered additional Planning Commission questions about consideration for photovoltaics on the roof.

MOTION: Thompson/Barlett

Assigned Resolution No. 030-07

Approved the Parking Modification, Coastal Development Permit, and Tentative Subdivision Map making the findings in the Staff Report with added conditions of approval to include: 1) Amending Condition #7 Use Limitations to include prohibition of high intensity uses that include fast food, small stores selling liquor and/or groceries, and no catering without further environmental and /or Planning Commission review and approval. Also, no residential use of commercial spaces; 2) One garage parking space shall be assigned to each residential unit; all other spaces shall remain available to all site users; 3) A landscape plan to add a canopy tree and other landscaping on Gray Avenue to soften the architecture and be in sync with the architectural presentation, subject to review by ABR, 4) Photovoltaics in project design; 5) Reduction of height by 1' of the Yanonali Street elevation.

This motion carried by the following vote:

Ayes: 5 Noes: 1 (White) Abstain: 0 Absent: 1 (Jostes)

Chair Jacobs announced the ten calendar day appeal period.

ACTUAL TIME: 2:39 P.M.

Commissioner Jostes returned to the dais.

To avoid any appearance of a conflict of interest, Commissioner White stepped down from the hearing the following item.

B. **APPLICATION OF JYL RATKEVICH, ARCHITECT/AGENT FOR PROPERTY OWNER, 2519 ORELLA STREET, 025-021-007, R-3 ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL (12 UNITS/ACRE) (MST2007-00038)**

The proposed project involves a proposal to convert six (6) existing one-bedroom units and one (1) studio unit to seven (7) condominium units. The proposal includes small additions to each of the seven units of approximately 50 to 60 square feet, new paving and landscaping, and conversion of an existing garage to storage space. Seven parking spaces currently exist on site and one additional parking space for guest parking is proposed for a total of eight parking spaces. A modification is requested for a change of use of an existing building from a garage (partially located in the interior yard setback) to storage areas for each of the units and two new door openings on the storage space located within the interior yard setback. Exceptions to the physical standards for condominium conversions have been requested for one of the units to be less than the required unit size, the location of the storage space and for having less than the required number of parking spaces per unit.

The discretionary applications required for this project are:

1. A Modification of the required interior yard setback to allow the conversion of an existing non-conforming garage to storage space located within the required interior yard setback (SBMC §28.92.110.A);
2. A Tentative Subdivision Map for a one-lot subdivision to create seven (7) residential condominium units (SBMC 27.07 and 27.13); and
3. A Condominium Conversion Permit to convert seven (7) existing residential units to seven (7) condominium units, including an exception to reduce the required parking for each unit from 1.5 to 1.0 space per unit, the unit size requirements for Unit 2519 C and an exception of the storage space location requirement (SBMC 28.88).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15301.

Case Planner: Peter Lawson, Associate Planner
Email: plawson@santabarbaraca.gov

Peter Lawson, Associate Planner, gave the Staff presentation.

John Holehouse, Owner, gave the applicant presentation.

Staff answered Planning Commission's questions on studio size considerations for storage; the oak tree drip line variances shown on the plan sheets; clarification of non-conformity with condominium conversion ordinance; and unit sizes per the condominium conversion ordinance.

Mr. Holehouse agreed to take additional storage for the studio units into consideration and answered the Commission's questions about the projected market rate which is in the \$500K range, and considerations made for lack of covered parking.

Chair Jacobs opened the public hearing at 3:00 P.M.

Richard Drosehdahl spoke in opposition to the project stating that it would reduce the rental housing market by seven units. He also stated that there is not enough off-street parking. Listed alternatives for use of the property that included upgrading the existing site; a tear down with replacement by a new development; maintaining existing property use; or selling off the property.

With no one else wishing to speak, the public hearing was closed at 3:04 P.M.

Commissioner's comments and questions:

1. One Commissioner listed the pros and cons of the public benefit; could not find that approval of this project would contribute to good public policy.
2. Most Commissioners could not make the findings for any of the requested exceptions.
3. Lower cost units for sale to public were appreciated, but were not sufficient to offset requested modifications.
4. One Commissioner could not support the incorporation of laundry space in bedroom; took away from living space.
5. Suggested the applicant look at revising plans.
6. Request for exemption should be for unit sizes rather than adding square footage.

Staff stated that the rental units do not meet affordability criteria and therefore affordability is not a requirement. The change in use of the garage to utility structure is compliant. Parking exception and parking requirements were explained; the one space parking demand per unit is clear with the units less than 750 square feet.

Mr. Holehouse addressed the Commission by stating that the garage structure would remain the same; it would be the use that would change. The open space being provided is greater than what is required by the Condominium Conversion Ordinance. This project presents an opportunity for the sale of smaller size Santa Barbara condominiums.

MOTION: Thompson/Myers

Continued the project for applicant revision and Commission review prior to October 10, 2007.

Commissioner's recapped the positive and made suggestions to the applicant:

1. Delete the studio.
2. Consolidate the storage/laundry area.
3. Consider keeping the garage for parking units.
4. Like that the applicant is returning the bungalow court with its lush landscaping.
5. Consider offering a reduced price to existing tenants.
6. Keep units sizes at existing square footage – helps affordability and protects the oak tree dripline.
7. Remove laundry from units and provide a shared laundry area.
8. Would like to see some public benefit to offset loss of rental housing.

Ms. Hubbell reiterated the condominium conversion ordinance.

STRAW VOTE:

Favor applicant returning with exception of all the unit sizes.

Ayes: 4 Noes: 2 (Jostes, Larson) Abstain: 0 Absent: 1 (White)

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (White)

Chair Jacobs called a recess at 3:37 P.M. and reconvened the meeting at 3:55 P.M.

III. CONCEPT REVIEW ITEM:

ACTUAL TIME: 3:55 P.M.

Commissioner White returned to the dais.

To avoid any appearance of a conflict of interest, Commissioner Bartlett stepped down from the hearing the following item.

**APPLICATION OF RICK FOGG, AGENT FOR AMERICAN TRADITION,
103 S. CALLE CÉSAR CHÁVEZ, 017-113-020 ,OM-1/SD-3 ZONES, GENERAL
PLAN DESIGNATION: OCEAN ORIENTED INDUSTRIAL (MST2004-00791)**

The proposed project is the construction of a 106 stall parking lot with a 100 square foot unenclosed kiosk on a vacant lot. The parking lot would provide part of the required parking for the approved Waterfront Hotel located to the south of the site at the corner of Calle César Chávez and Cabrillo Boulevard. As part of the project, a habitat restoration of the portion of the El Estero Drain located on the project site is proposed. This would include removal of non-native vegetation, an approximate ten to twenty foot separation between the top of bank and the parking lot and detention basin to capture runoff from the parking lot. Access to the site would be directly from Calle César Chávez.

The purpose of this concept review is to allow the Planning Commission and the public an opportunity to review the proposed project design at a conceptual level and provide the Applicant and Staff with feedback and direction regarding the proposed land use and design. No formal action on the development proposal will be taken at the concept review, nor will any determination be made regarding environmental review of the proposed project.

Upon review and formal action on the application for the development proposal, the proposed project will require the following discretionary applications:

4. Coastal Development Permit to allow development in the non-appealable jurisdiction of the Coastal Zone (SBMC §28.44.060); and
5. Conditional Use Permit to allow development other than that specifically expressed in the Ocean-Oriented Light Manufacturing Zone (SBMC §28.73.030.B);

Case Planner: Peter Lawson, Associate Planner
Email: plawson@santabarbaraca.gov

Peter Lawson, Associate Planner, gave the Staff presentation, joined by Steve Foley, Supervising Transportation Planner.

Rick Fogg, Counsel for the American Tradition, gave the applicant presentation.

Staff answered Planning Commission questions on whether the proposed parking spaces meet the parking requirement for the approved Waterfront hotel; City ownership of neighboring property; pedestrian access and language in the Pedestrian Master Plan for use of the Union Pacific right-of-way; clarification of prior parking plan for Waterfront hotel and hotel parking requirements to meet demand; sensitivity to Shore Acres in excavation; and underground parking; Other questions answered included impacts by valet traffic crossing Calle Cesar Chavez; use of stacked parking at site; and comparison of parking lot stacking with City parking lot standards.

Chair Jacobs opened the public hearing at 4:28 P.M.

Mike Jordon, Chair of the Creeks Advisory Committee, spoke in support of the project, citing that the original Waterfront Hotel plan did not encompass this site and did not place conditions on this site. There is still an opportunity to address drainage improvements on this site. Called for a formal restoration plan to be implemented. Recommended fencing the area off. Asked for consideration of native plantings in the bioswale and restoration area.

Mr. Lawson noted that a restoration plan had been submitted.

With no one else wishing to speak, the public hearing was closed at 4:32 P.M.

Commission's comments:

1. Providing public access adjacent to the railroad right-of-way should be considered.
2. Some Commissioners expressed interest in seeing the inclusion of photovoltaics, perhaps a photovoltaic farm to provide energy to the hotel. One suggestion was photovoltaics over the cars.
3. Suggested a grass roof over the lot to reduce the asphalt span.
4. Expressed concern for pedestrian crossing and safety. Pedestrian right of way should be more defined, either with crosswalks, or differentiated pavement.
5. Approve of Creek restoration.
7. One Commissioner supports the EIR addendum, and supports the first CUP finding. Felt the second finding needed more data.
8. Valet concept is OK, but expressed concern over kiosk location, operations, and security.
9. Does not support chain link fencing facing along the street. Would like to see more substantial fencing and landscaping.
10. Drainage improvements to El Estero drain are a plus.
11. Emphasized the detention basin replaced with bioswale and suggested the restoration plan be reviewed by the Creeks Division.
12. Use of the land is acceptable, but not optimal.
13. Some Commissioners expressed preference for a parking structure, as opposed to a black asphalt lot. Suggestions were made for including amenities for employees by adding a second floor.
14. Requested that more information be included on lighting and landscaping and reviewed by Architectural Board of Review (ABR).

Staff added that consideration is being given to changing Calle Cesar Chavez to one lane in each direction and allowing street parking.

Mr. Fogg stated that it was the City that approached the Parker family to construct a park in 1995, thus the development agreement was adopted. The proposed parking lot is laid out oddly due to the protected wetland habitat areas. Consideration was given to a parking structure and solar farm. However, intensive use would create more issues with Fish and Game and the Army Corps with close proximity to the habitat and increased intensive use. Timing was also an issue with the impending expiration of permit approvals. The Specific Plan area does not encompass the proposed property in review due to City Council Ordinance 4920. Physical limitations imposed by the habitat limit the options of what can be done with this property and impact the CUP considerations.

Ms. Hubbell added that because the property has not been used, the homeless population has made use of it. A public benefit from this project will be the increased security and restored drainage.

Mr. Fogg was commended for his articulation of the findings for the CUP in his letter.

IV. ADMINISTRATIVE AGENDA

A. Committee and Liaison Reports.

1. Commissioner Thompson reported on the Airport Terminal Design Subcommittee and the construction schedule. Construction will start in 2008.
2. Commissioner Larson reported on the first Single Family Design Board (SFDB) meeting and the Single Family Design guidelines. Bill Mahan is the new Chair of the SFDB.
3. Commissioner Jostes reported that he and Paul Casey, Community Development Director, recently met with the Allied Improvement Association regarding the General Plan Update and a survey done by their members is available for viewing on their website, www.allied-sb.org.
4. Commissioner Jacobs stated that the www.YouplanSB.org site is working very well. She reported on the Joint meeting of the City Council, Planning Commission, Architectural Board of Review and Historic Landmarks Commission held on July 18th and commented that the meeting will be available for viewing on the site.
5. Commissioner Myers recognized the value of the web links and asked that they be made available to the public.

B. Review of the decisions of the Staff Hearing Officer in accordance with SBMC §28.92.026.

None were requested.

- C. Action on the review and consideration of the draft minutes of June 21, 2007.

MOTION: Larson/Myers Approve the minutes as corrected.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 2 (White, Jostes) Absent: 0

DRAFT

VII. ADJOURNMENT

MOTION: Jostes/Thompson Adjourn the meeting of July 19, 2007

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

Chair Jacobs adjourned the meeting at 5:15 P.M.

Submitted by,

Julie Rodriguez, Planning Commission Secretary

DRAFT



City of Santa Barbara California

DRAFT

**CITY OF SANTA BARBARA PLANNING COMMISSION
RESOLUTION NO. 030-07
116 E. YANONALI STREET
COASTAL DEVELOPMENT PERMIT AND PARKING MODIFICATION
JULY 19, 2007**

APPLICATION OF CONCEPTUAL MOTION, ARCHITECT/AGENT FOR DBN YANONALI LLC, 116 E YANONALI, 033-083-018, OC/S-D-3 OCEAN-ORIENTED COMMERCIAL ZONE/COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: HOTEL AND RELATED COMMERCIAL (MST2006-00231)

The project consists of demolishing an existing 7,343 square foot commercial building and construct a 19,935 s.f. (gross) mixed use, three story, 42 foot tall building. Six commercial units totaling 4,456 s.f. (gross) and six residential dwellings, totaling 9,446 s.f. (gross) are proposed. Three residential units are proposed as one bedroom units, two units would be two bedroom units and one unit is proposed as a studio. The ground level would consist of commercial usage and a 17 space, 6,033 s.f. (gross) covered parking area. Additionally, 2 uncovered parking spaces are proposed, for a total of 19 on site parking spaces. The second level would be a mix of commercial and residential use and the top level would include two residential units, each with a roof deck. The applicant is requesting a modification to the parking requirements to reduce the number of spaces by eleven.

The discretionary applications required for this project are:

1. A Modification to reduce the required number of parking spaces from 30 spaces to 19 spaces (SBMC §28.90.100.G.3);
2. A Coastal Development Permit to allow development in the non-appealable jurisdiction of the Coastal Zone (SBMC §28.45.6); and
3. A Tentative Subdivision Map for a one-lot subdivision with six condominium units (SBMC §27.07).

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

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 no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, July 12, 2007
2. Site Plans

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

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

A. Modification (SBMC §28.92.110)

The Planning Commission may permit a modification or waiver of the parking or loading requirements where, in the particular instance, the modification will not be inconsistent with the purposes and intent of this Title and will not cause an increase in the demand for parking space or loading space in the immediate area. Based on the analysis in the Parking Demand Study dated April 3, 2007, and accepted by the Transportation Planning staff, the Planning Commission can find the project consistent with this finding.

B. The Tentative Map (SBMC §27.07.100)

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

C. The New Condominium Development (SBMC §27.13.080)

1. There is compliance with all provisions of the City's Condominium Ordinance.
2. The project complies with density requirements. Each unit includes laundry facilities, separate utility metering, adequate unit size and storage space, and the required private outdoor living space.
3. The proposed development is consistent with the General Plan and Local Coastal Plan (LCP) of the City of Santa Barbara.
4. The project can be found consistent with policies of the City's General Plan and Local Coastal Plan, including the Housing Element, Conservation Element, and Land Use Element. The project will provide infill development that is compatible with the surrounding neighborhood.
5. The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources.
6. The project is an infill residential project proposed in an area where residential development is a permitted use. The project is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts. The design has been reviewed by the City's design review board, which found the architecture and site design appropriate.

D. Coastal Development Permit (SBMC §28.45.009)

1. The project is consistent with the policies of the California Coastal Act.
2. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code.
3. The project is consistent with the Chapter 3 (commencing with Section 30200) Policies of the Coastal Act regarding public access and public recreation.
4. The project can be found consistent with the Coastal Act. Adequate parking will be provided on the project site. The project will not have adverse impacts on coastal views, nor will it impact access to the coastline or public recreation.

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 watercourses, conduits and any access road, as appropriate.
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 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. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.
4. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) in a functioning state (and in accordance with the Operations and Maintenance Procedure Plan approved by the Building Official). Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary,

prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Coastal Development Permit is required to authorize such work. 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.

5. **Approved Development.** The development of the Real Property approved by the Planning Commission on July 19, 2007 is limited to approximately 19,935 square feet (gross) of building area that includes six (6) condominiums, each comprised of a dwelling unit and a commercial unit, along with 19 on-site parking spaces, 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.
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 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 units.
 - 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. **Garage Parking Assignments.** One parking space shall be assigned to each residential condominium. The remainder of the parking spaces shall remain unassigned and available to all users of the site.
 - 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. **Trash and Recycling.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the landscaping or be hauled off site by the landscaping maintenance company. If no green waste containers are provided for common interest

developments, include an item in the CC&Rs stating that the green waste will be hauled off site.

- fe. **Gates.** Any gates that have the potential to block access to any designated commercial space shall be locked in the open position during business hours at a minimum of between the hours of 8 a.m. and 7 p.m.
 - gf. **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.
 - g. _____
7. **Use Limitations.** Due to potential parking impacts, bars, restaurants, high intensity uses including fast food, catering, and small stores selling liquor and/or groceries 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. Use of designated commercial space shall be limited to commercial use only, and shall not be used for residential purposes and shall be shown on a site plan recorded with the subdivision agreement.
8. **BMP Training.** Employee training shall be provided on the implementation of Best Management Practices (BMPs) in order to prevent or reduce the discharge of pollutants to storm water from buildings and ground maintenance. The training shall include using good housekeeping practices, preventive maintenance and spill prevention and control at outdoor loading/unloading areas in order to keep debris from entering the storm water collection system.
- B. **Public Works Submittal Prior to Final 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 Final Map and prior to the issuance of any permits for the project:
- 1. **Final Map.** The Owner shall submit to the Public Works Department for approval, a Final Map prepared by a licensed land surveyor or registered Civil Engineer. The Final Map shall conform to the requirements of the City Survey Control Ordinance.
 - 2. **Dedication.** Easement as shown on the approved Tentative Subdivision Map, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:
 - a. All street purposes along Gray Avenue in order to establish a two (2)-foot wide public right-of-way for purposes of a sidewalk.
 - 3. **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 in an "Agreement Assigning Water Extraction Rights." Engineering Division Staff will prepare said agreement for the Owner's signature.

4. **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. If the private covenants required pursuant to Section A.6 above have not yet been approved by the Department of Real Estate, a draft of such covenants shall be submitted.
5. **Drainage Calculations.** The Owner shall submit drainage calculations prepared by a registered civil engineer or licensed architect demonstrating that the new development will not increase runoff amounts above existing conditions for a 25-year storm event. Any increase in runoff shall be retained on-site.
6. **Drainage and Water Quality.** Project drainage shall be designed, installed, and maintained such that stormwater runoff from the first inch of rain from any storm event shall be retained and treated onsite in accordance with the City's NPDES Storm Water Management Permit. Runoff should be directed into a passive water treatment method such as a bioswale, landscape feature (planter beds and/or lawns), infiltration trench, etc. Project plans for grading, drainage, stormwater treatment methods, and project development, shall be subject to review and approval by City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants, or groundwater pollutants would result from the project. The Owner shall maintain the drainage system and storm water pollution control methods in a functioning state.
7. **Yanonali Street and Gray Avenue Public Improvement Plans.** The Owner shall submit C-1 public improvement for construction of improvements along the property frontage on Yanonali Street and Gray Avenue. The C-1 plans shall be submitted separately from plans submitted for a Building Permit. 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, curbs, gutters, access ramp, asphalt concrete, concrete pavement on aggregate base, crack seal and slurry seal the street along entire subject property frontage and a minimum of 20 feet beyond the limit of all trenching, underground service utilities, 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.), supply and install two residential standard street light(s), style to be determined by the Public Works Department and the Architectural Review Board, preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs, storm drain stenciling, new street trees, one new street tree on Yanonali Street, and tree grates per

approval of the City Arborist and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

8. **Land Development Agreement.** The Owner shall submit an executed "Agreement for Land Development Improvements," prepared by the Engineering Division, an Engineer's Estimate, signed, and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement.
 9. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way (easement).
 10. **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.
 11. **Maintenance Agreement Required.** The Owner shall submit an Executed Agreement for Maintenance of the proposed driveway, subject to the review and approval of the Public Works Director and City Attorney.
- C. **Design Review.** The following items are subject to the review and approval of the Architectural Board of Review (ABR). ABR shall not grant preliminary approval of the project until the following conditions have been satisfied.
1. **Minimize Visual Effect of Paving.** Textured or colored pavement shall be used in paved areas, such as the common open space, of the project to minimize the visual effect of the expanse of paving, create a pedestrian environment, and provide access for all users.
 2. **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.
 3. **Permeable Paving.** Incorporate a permeable paving system for the walkways and parking areas that will allow a portion of the paved area runoff to percolate into the ground, except as necessary to meet Fire Department weight requirements. Materials in driveways and parking areas must be approved by the Transportation Manager.
 4. **Building Height.** Height to be reduced by 1' on Yonanal Street elevation.
 5. **Landscape Plan.** Owner to add canopy trees on Gray Avenue to soften the architecture and be in sync with the architectural presentation, and be reviewed by the Architectural Board of Review.
- 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 Agreements.** 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 300 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. **Traffic Control Plan.** A traffic control plan shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines. Traffic Control Plans are subject to approval by the Transportation Manager.
 4. **Geology Report.** Submit to the Building and Safety Division a geology report prepared by a licensed engineer or geologist and implement the recommendations outlined in the report.
 5. **Soils Report.** Submit to the Building and Safety Division a soils report and implement the recommendations outlined in the report.
 6. **Structural Engineering Report.** Submit to the Building and Safety Division a structural engineering report, prepared by a structural engineer, as required by the Building Official and implement the recommendations outlined in the report.
 7. **Prepare a Structural Crack Survey and Video Reconnaissance.** At least twenty (20) days prior to the issuance of a demolition permit, Owner shall notify owners and occupants of structures within 100 feet of the project site property lines of the opportunity to participate in a structural crack survey and video reconnaissance of their property. Prior to the issuance of a demolition permit, Owner shall prepare a structural crack survey and video reconnaissance of the

property of those owners or occupants who express a desire to participate in the survey. The purpose of the survey shall be to document the existing condition of neighboring structures within 100 feet of the project site property line and more than 50 years old. After each major phase of project development (demolition, grading, and construction), a follow-up structural crack survey and video reconnaissance of the property of those owners and occupants who have elected to participate in the survey. Prior to issuance of a certificate of occupancy, Owner shall meet with the owners and occupants who have elected to participate in the survey to determine whether any structural damage has occurred due to demolition, grading or construction at the project site. Owner shall be responsible for the cost of repairing any structural damage caused by project demolition, grading, or construction on properties that have elected to participate in the survey.

8. **Green Building Techniques Required.** Owner shall design the project to meet Santa Barbara Built Green Two-Star Standards and strive to meet the Three-Star Standards.
 9. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment that states that, prior to disturbing any part of the project site for any reason and after the Building permit has been issued, the General Contractor shall schedule a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, the assigned Building Inspector, the Planning Division, the Property Owner, the Architect, the Project Engineer, and the Contractor and each subcontractor.
 10. **Photo-voltaics.** The owner shall design the project to include highly efficient, aesthetically well-integrated photo-voltaics, consistent with the City Solar Design Guidelines.
- 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 D above.
 2. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, 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, Project Engineer, Contractor and each Subcontractor.

3. **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.

4. **Post-Construction Erosion Control and Water Quality Plan.** Provide an engineered drainage plan that addresses the existing drainage patterns and leads towards improvement of the quality and rate of water run-off conditions from the site by capturing, infiltrating, and/or treating drainage and preventing erosion. The Owner shall passive water quality methods, such as bioswales, catch basins, or storm drain on the Real Property, or other measures specified in the Erosion Control Plan, to intercept all sediment and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) from the parking lot areas and other improved, hard-surfaced areas prior to discharge into the public storm drain system, including any creeks. All proposed methods shall be reviewed and approved by the Public Works Department and the Building and Safety Division. Maintenance of these facilities shall be provided by the Owner, as outlined in Condition B-6, above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.

5. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.

Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.
6. **Commercial Dumpsters.** Commercial dumpsters shall be provided, including, at a minimum, an equal area for recycling containers. Dumpsters shall not be placed within five feet (5') of combustible walls, openings, or combustible roof eaves lines unless sprinkler coverage is provided.
7. **Utilities.** Provide individual water, electricity, and gas meters, and sewer lateral for each residential unit. Service lines for each unit shall be separate until a point five feet (5') outside the building.
8. **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 by the Owner and/or Contractor for the duration of the project construction. (Community Development Department staff shall review the plans and specifications to assure that they are incorporated into the bid documents, such that potential contractors will be aware of the following requirements prior to submitting a bid for the contract.)

1. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met.
2. **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.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.
3. **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 Public Works Director
4. **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.
5. **Traffic Control Plan.** All elements of the approved Traffic Control Plan shall be carried out by the Contractor.
6. **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.

7. **Construction Parking/Storage/Staging.** 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. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.
 - b. Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits *without extensions* may be issued for the life of the project.
 - c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager
8. **Water Sprinkling During Grading.** During site grading and transportation of fill materials, regular water sprinkling shall occur on-site, 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 on-site 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 on-site 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.
9. **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.
10. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.

11. **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.
12. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
13. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) and telephone number(s), work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height.
14. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
15. **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.
16. **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 the applicant shall retain an archaeologist from the most current City Qualified Archaeologists List. 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, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. 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, including utility service undergrounding and installation of street trees.
3. **Record Drawings.** Submit Record Drawings identifying "as-built" conditions of public improvements to the Public Works Inspector for verification and approval.
4. **Fire Hydrant Replacement.** Replace existing nonconforming type fire hydrant(s) with commercial-type hydrant described in Standard Detail 6-003.1 Paragraph 2 of the Public Works Department Standard Details.
5. **Manholes.** Raise all sewer and water manholes on easement to final finished grade.
6. **Noise Measurements.** Submit a final report from a licensed acoustical engineer, verifying that interior and exterior living area noise levels are within acceptable levels as specified in the Noise Element. In the event the noise is not mitigated to acceptable levels, additional mitigation measures shall be recommended by the noise specialist and implemented subject to the review and approval of the Building and Safety Division and the Architectural Board of Review (ABR).
7. **Existing Street Trees.** Submit a letter from a qualified arborist, verifying that the existing street tree(s) have been properly pruned and trimmed.
8. **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.

9. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section A have been recorded.
- 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 COASTAL DEVELOPMENT PERMIT TIME LIMITS:

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

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

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.

This motion was passed and adopted on the 19th day of July, 2007 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 1 (White) ABSTAIN: 0 ABSENT: 1 (Jostes)

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.