



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 026-08

101 E. VICTORIA STREET

MODIFICATION, TENTATIVE SUBDIVISION MAP, DEVELOPMENT PLAN APPROVAL  
AND PRELIMINARY ECONOMIC DEVELOPMENT DESIGNATION

JULY 10, 2008

**APPLICATION OF CEARNAL ANDRULAITIS LLP, ARCHITECT FOR SCHAAR HOMES,  
101 E. VICTORIA STREET, APN 029-071-013, C-2, COMMERCIAL ZONE, GENERAL  
PLAN DESIGNATION: OFFICE AND MAJOR PUBLIC/INSTITUTIONAL (MST2006-00758)**

The project consists of a proposal to demolish an existing two-story 11,900 square foot commercial office building and construct a new three-story 17,607 square foot commercial building comprised of 50 condominium office units on a 19,725 square foot parcel. A total of forty-five parking spaces would be provided in an underground garage, with eight reserved for the adjacent parcel located at 109 E. Victoria Street.

The discretionary applications required for this project are:

1. Modification of the parking requirements to allow less than the number of required parking spaces (SBMC§28.90);
2. Tentative Subdivision Map to create a one-lot subdivision for 50 commercial condominium units (SBMC§27.07);
3. Development Plan approval to allow 5,707 square feet of additional non-residential development (SBMC§28.87.300); and
4. Preliminary Economic Development Determination (SBMC28.87.300).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15332 (In-fill Development Project).

**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, 3 people appeared to speak in opposition, or with concerns, and 2 people appeared to speak with general comments thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, July 3, 2008
2. Site Plans
3. Correspondence received in opposition to the project:
  - a. Paula Westbury, Santa Barbara

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

I. Approved the project making the following findings:

**A. Parking Modification (SBMC§28.90.100)**

The modification to allow less than the required number of parking spaces will not be inconsistent with the purposes and intent of the Zoning Ordinance and will not cause an increase in the demand for parking space or loading space in the immediate area because the project meets the estimated parking demand.

**B. The Tentative Map (SBMC§27.07.100)**

With the approval of the parking modification, the Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara. The site is physically suitable for the proposed development and the proposed commercial use is consistent with the vision for this neighborhood of the General Plan. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems.

**C. Development Plan Approval (SBMC§28.87.300)**

1. The proposed development complies with all of provisions of the Zoning Ordinance. *With the approval of the parking modification, the proposed project would comply with all requirements of the C-2, Commercial zone including number of stories and building height.*
2. The proposed development is consistent with the principles of sound community planning. *The project is an infill commercial project proposed in an area where commercial developments are allowed.*
3. The proposed development will not have a significant adverse impact upon the neighborhood's aesthetics/character in that the size, bulk and scale of the development are compatible with the neighborhood. *The proposed design has been reviewed by the City's design review board, which found the architecture and site design appropriate.*
4. The proposed development will not have a significant unmitigated adverse impact upon the City and South Coast affordable housing stock. *As a commercial project, it is not expected to have an adverse affect on the affordable housing stock.*
5. The proposed development will not have a significant unmitigated adverse impact on the City's water resources. *All required utilities and public services are available to adequately serve the project.*
6. The proposed development will not have a significant unmitigated adverse impact on the City's traffic. *A traffic trip generation analysis was prepared for the proposed project and it was determined that that the proposed project would approximately generate an additional 15 AM peak hour trips, 15 PM peak hour trips and 112 average daily trips over the existing development. When the*

*vehicle trips generated by this project are distributed to the adjacent street network, it is not expected to exceed the City's standard threshold that would result in traffic impacts to the nearby intersections.*

7. Resources are available and any applicable traffic improvements will be in place at the time of project occupancy. *No traffic improvements are required for the proposed project.*

**D. Economic Development Designation (SBMC§28.87.300)**

The proposed development qualifies as an Economic Development Project because it will enhance the standard of living\* for City and South Coast residents and strengthen the local or regional economy by either creating new permanent employment opportunities or enhancing the City's revenue base. It will also accomplish one or more of the following: support diversity and balance in the local or regional economy by establishing or expanding businesses or industries in sectors which currently do not exist on the South Coast or are present only in a limited manner; provide new recreational, educational, or cultural opportunities for City residents and visitors; or provide products or services which are currently not available or are in limited supply either locally or regionally.

\*Standard of living is defined as wages, employment, environment, resources, public safety, housing, schools, parks and recreation, social and human services, and cultural arts.

- II. Recommended that the City Council approve the Final Economic Development Designation; and;

- III. 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. **Approved Development.** The development of the Real Property approved by the Planning Commission on July 10, 2008 is limited to fifty (50) commercial condominium units (17,607 square feet (net) of non-residential floor area) and the improvements shown on the Tentative Subdivision Map and project plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
2. **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.
3. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.

4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Historic Landmarks Commission (HLC). Such plan shall not be modified unless prior written approval is obtained from the HLC. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the HLC, the owner is responsible for its immediate replacement.
5. **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 Building 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.
6. **Use Limitations.** Due to potential traffic and parking impacts, uses other than general office (such as medical/dental office, restaurant, bar/night club, or retail uses) 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.
7. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:
  - a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium units.
  - b. **Garage Parking.** A covenant that includes a requirement that all parking spaces be kept open and available for the parking of vehicles in

the manner for which the parking spaces were designed and permitted. No more than eight parking spaces shall be assigned to 109 E. Victoria Street (APN 029-071-012). The remainder of the parking spaces shall remain unassigned and available to all users of the site. A sign shall be installed near the parking lot entrance that indicates when the lot is full.

- c. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
  - d. **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.
  - e. **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.
  - f. **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. **Bus Passes.** All Owners and/or employers shall purchase Metropolitan Transit District (MTD) bus passes or the equivalent for their employees. These passes shall be provided free of charge to employees who request them for travel to and from work. Notice of the free passes shall be provided to new employees when they are hired.
  - h. **Contact Information.** The Condominium Association shall provide contact information to the surrounding neighbors upon request. The contact person shall have authority to address neighbor complaints regarding the operation of the project and its occupants.
8. **Parking Monitoring.** Parking usage shall be monitored by an independent monitoring service for two years following issuance of the Certificate of Occupancy. Said monitoring reports shall be submitted to the Community Development and Public Works Departments annually. The monitoring shall include the effective use of the parking lifts. If monitoring reveals insufficient parking to meet demand, Owners shall take action to resolve the problem through payment for off-site parking or other means, in consultation with the above-named departments. Monitoring shall continue until the parking demand imbalance is resolved, even if it requires more than the two-year initial monitoring period to reach resolution.

- 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(s).** Easements as shown on the approved Tentative Subdivision Map and described as follows, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:
    - a. An Easement for All Street Purposes at the intersection of Victoria and Anacapa Streets in order to establish a minimum of a four-foot wide public right-of-way clearance at the back of proposed access ramp.
  3. **Private Easements.** The Owner shall submit copies of the executed easement documents (Parking and Access Easements; Light, Air and Landscaping Easements; and Trash Area and Access Easements). The executed easement documents shall be recorded at the same time as the Final Map or prior to the issuance of any building or grading permit.
  4. **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.
  5. **Anacapa Street Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Anacapa Street. As determined by the Public Works Department, the improvements shall include new driveway apron modified to meet Title 24 requirements, curb and gutter where damaged, dual directional access ramps at intersection of Anacapa and Victoria Streets, slurry seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limits of all trenching, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations for installation of drainage pipe, two drop inlets appropriately sized by a licensed civil engineer to replace existing grated inlets, storm drain stenciling, preserve and/or reset survey monuments, supply and install directional/regulatory traffic control signs per 2006 MUTCD with CA supplements, supply and install new street trees 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. The owner shall submit building plans for construction of a bulb-out at the intersection of Victoria and Anacapa Streets unless the City Traffic Engineer determines a bulb-out is not suitable due to the lack of need, overall safety

issues, or design impracticalities. The City shall consider providing loading spaces and other parking spaces south of the Anacapa Street driveway.

6. **Victoria Street Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Victoria Street. As determined by the Public Works Department, the improvements shall include new curb and gutter where damaged, slurry seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limit of all trenching, public drainage improvements with supporting drainage calculations for installation of 10 inch drainage pipe, preserve and/or reset survey monuments, supply and install directional/regulatory traffic control signs per 2006 MUTCD with CA supplements, supply and install new street trees 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. The owner shall submit building plans for construction of a bulb-out at the intersection of Victoria and Anacapa Streets unless the City Traffic Engineer determines a bulb-out is not suitable due to the lack of need, overall safety issues, or design impracticalities. The City shall consider providing loading spaces and other parking spaces south of the Anacapa Street driveway.
  7. **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.
  8. **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).
  9. **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.
- C. **Design Review.** The following items are subject to the review and approval of the Historic Landmarks Commission (HLC). HLC shall not grant preliminary approval of the project until the following conditions have been satisfied.
1. **Relocation of Units.** HLC shall consider alternate location of Units 44 and 45 to increase private view opportunities for the adjacent residences.
  2. **Landscaping.** HLC shall work with the applicant to consider ways to increase the number of large trees on site, such as additional tree wells that reach native soil.
  3. **Storage.** HLC shall work with the applicant to consider ways to increase on-site storage for tenants.

- 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 Final Map and 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.
  - 3. Traffic Control Plan.** A traffic control plan shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines and the MUTCD with CA supplements. Traffic Control Plans are subject to approval by the Transportation Manager.
- 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. Completion of Corrective Action Plan.** Written evidence of completion of a Corrective Action Plan by the Santa Barbara County Fire Department shall be provided prior to issuance of any building permits other than those permits necessary to complete the Corrective Action Plan.
  - 2. 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.
  - 3. 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.
  - 4. 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 Contractor and each subcontractor.

**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 Historic Landmarks Commission.
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, Contractor and each Subcontractor.
3. **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.

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. **Sandstone Curb Recycling.** If any existing sandstone curb in the public right-of-way is removed and not reused, it shall be salvaged and carefully transported to the City Corporation Annex Yard.
3. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.
4. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the 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. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.
  
10. **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.
  
11. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
  
12. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number(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.

13. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
14. **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.
15. **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 *caused by construction* (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 building plans, including utility service undergrounding and installation of street trees.
  3. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.
  4. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section A have been recorded.
  5. **Parking Monitoring Contract.** Evidence shall be provided of a signed and executed contract to monitor parking as outlined in condition A.8 above.
- 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 DEVELOPMENT PLAN TIME LIMITS:**

The development plan approved, per Santa Barbara Municipal Code §28.87.350, shall expire four (4) years from the date of approval unless:

1. A building or grading permit for the work authorized by the development plan is issued prior to the expiration date of the approval.

2. A time extension is granted by the Staff Hearing Officer for one (1) year prior to the expiration date of the approval, only if it is found that there is due diligence to implement and complete the proposed project. No more than one (1) time extension may be granted.

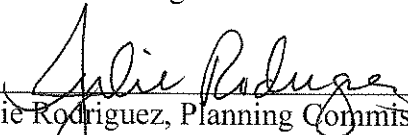
**NOTICE OF MODIFICATION AND TENTATIVE SUBDIVISION MAP APPROVAL TIME LIMITS:**

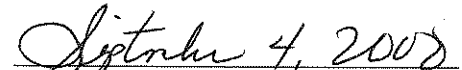
By operation of Municipal Code Section 28.87.370 and Government Code Section 66452.6(a) (1), the Planning Commission's action approving the Tentative Map shall expire three (3) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110, in no case may the total length of time (including all extensions) exceed the five year limit specified in Government Code Section 66452.6(e).

This motion was passed and adopted on the 10th day of July, 2008 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

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.