



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 018-10

1816 STATE STREET

CONDITIONAL USE PERMIT, MODIFICATION

DECEMBER 2, 2010

**APPLICATION OF BRYAN MURPHY, ARCHITECT, FOR ALAMAR II, LLC,
1816 STATE STREET, APN 027-032-021 , C-2 COMMERCIAL AND R-1 ONE FAMILY
RESIDENTIAL ZONES, GENERAL PLAN DESIGNATION: GENERAL COMMERCE/OFFICES
(MST2009-00281)**

The project consists of a proposed facelift to an existing hotel (Fiesta Inn and Suites) that includes a new tower, a lobby addition, the enclosure of part of the 3rd floor roof deck to create storage space, the demolition of the as-built water heater closet, the enlargement and relocation of the trash enclosure, and the permitting of an as-built patio area. The project results in an increase of approximately 332 net square feet.

The subject parcel is split-zoned, with the front of the property (to approximately the rear of the existing building) zoned C-2 (Commercial) and the rear of the property zoned R-1 (One Family Residential). A Conditional Use Permit (CUP) is requested to legalize the "as-built" encroachment of parking spaces into the R-1 zone, and to permit a trash enclosure and deck/patio in the R-1-zoned portion of the property. Modifications are requested to allow parking to encroach into the required interior setback and to allow the proposed trash enclosure to encroach into the interior (rear) setback.

This project is also intended to abate the violations identified in ENF2008-01335, which are:

- Raised deck, block walls and stairs at rear of property being built without permit. Deck to be used as a spa area. Associated mechanical room being built onto rear of motel structure with new electrical sub panel.
- Covered balcony area on 3rd floor of motel has been enclosed without approvals or permit.
- Zero clearance gas heaters and associated exterior vents have been installed in each guest room without permit. Some venting is not installed correctly with walls left open to weather around and under vent collars.
- Improperly installed water heater at rear of building.
- Hazardous electrical existing in lower floor laundry room. Hazardous electrical on exterior of front of building. Open electrical conduit.
- Brick retaining wall on right front of driveway is failing.
- Portion of deck & trellis built within the 5' side yard setbacks. Debris stored in side yard setbacks and around property.
- Dilapidation on property. Decorative columns deteriorating. Missing and torn window screens. Missing window box on front of building.

The discretionary applications required for this project are:

1. A Modification to allow to parking to encroach into the interior setback (SBMC §28.92.110.A.2);
2. A Modification to allow to the trash enclosure to encroach into the interior setback (SBMC §28.92.110.A.2); and

3. A Conditional Use Permit to allow to allow a driveway and nonresidential parking in a residential zone and to allow a nonresidential trash enclosure and deck/patio area in the portion of the property zoned R-1 (SBMC §28.94.030).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Sections 15301 and 15303.

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

WHEREAS, 3 people 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, November 18, 2010.
2. Site Plans

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

- I. Approved the setback modification for the parking area and the Conditional Use Permit for parking in the R-1 zone, and denied the Conditional Use Permit requests to locate the trash enclosure and deck/patio area in the R-1 Zone and the Modification request for the trash enclosure, making the following findings and determinations:

A. INTERIOR SETBACK MODIFICATION (SBMC §28.92.110.A.2)

The Modification to allow nonresidential parking to be located less than 10 feet from the interior lot line is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. Although the parcel has split zoning, the approved use is as a motel. The originally approved layout for the parking lot does not comply with the City's current parking lot standards, and allowing parking in the rear of the lot (zoned R-1) to maintain the development pattern from the front of the lot (zoned C-2) is appropriate. While the parking is for a nonresidential use, it will have minimal impact on adjacent development, which also includes commercial development or uses. Additionally, a twenty-foot wide shared private driveway provides separation between the proposed parking and the single-family residences to the east.

B. CONDITIONAL USE PERMIT (SBMC §28.94.020)

In granting a Conditional Use Permit for nonresidential parking in a residential zone (SBMC §28.94.030.I), the Planning Commission finds that:

1. Any such use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan. Locating a small portion of the parking lot in the R-1 zoned portion of the property is essential in order for this development to provide adequate on-site parking, due to the approved and as-built configuration of the building and lot. The use is in harmony with the General Plan as it does not negatively impact adjacent uses, as described in Section VI.A.2.a of the staff report.
2. The nonresidential parking will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the

neighborhood because similar uses surround the project site and there is a driveway that buffers the site from adjacent residential uses, as described in Section VI.A.2.a of the Staff Report.

3. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided. The new parking includes a small landscape buffer adjacent to the commercial use to the south, and there is an existing 20-foot wide private driveway that buffers the nonresidential parking from the residential uses to the east, as described in Section VI.A of the Staff Report.
4. Adequate access and off-street parking is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time. The intent of allowing a portion of the nonresidential parking in the R-1 zoned portion of the property is to allow for a more code-compliance parking configuration to better accommodate the parking associated with the existing uses.
5. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area. Allowing some nonresidential parking spaces to be located in the R-1 zoned portion of the property allows for better-functioning parking than was originally permitted and allows for a van accessible parking stall to be provided without losing any of the originally approved 25 parking spaces, while maintaining adequate area for open space and landscaping for the development.
6. Conditions of approval are required to ensure the development is consistent with the General Plan. These are shown in Exhibit A of the staff report.

II. Said approval is subject to the following conditions:

A. **Design Review.** The project is subject to the review and approval of the Historic Landmarks Commission (HLC). HLC shall not grant preliminary approval of the project until the following Planning Commission land use conditions have been satisfied.

1. **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.
2. **Permeable Paving.** Incorporate a permeable paving system for the driveway and parking area(s) 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 Public Works Director/Transportation Manager.
3. **Site Plan.** The Planning Commission prefers the site plan identified as Alternate B, with flexibility on the location of the trash enclosure within the C-2 zoned portion of the property.
4. **Trash Enclosure.** The trash enclosure shall be covered.

5. **Materials and Construction.** The project shall include the use of high quality materials and good construction methods.
 6. **Landscaping.** Landscaping shall be included in the patio area at the rear of the property.
 7. **Grading.** Grade of earth in the northeast corner of the property shall not be higher than adjacent grades.
- B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute a written instrument, 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 December 2, 2010 is limited to approximately 332 square feet of commercial development, commercial parking in the R-1 zone and located within the interior setback, and the improvements shown and described on the Site Plan signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara. Said approval specifically excludes the location of the trash enclosure in the R-1 zoned portion of the property and/or within any required setbacks and excludes the new deck in the R-1 zoned portion of the property.
 2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water onto 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 prepared in accordance with the Storm Water Management Plan BMP Guidance Manual). Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, 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. **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.
- C. **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. **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.
 2. **Drainage Calculations.** The Owner shall submit drainage calculations prepared by a registered civil engineer or licensed architect demonstrating that the new development complies with the City's Storm Water Management Plan.
 3. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water Management Plan. 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.
 4. **State Street Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on State Street. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: saw-cut and replace all cracked and/or uplifted sidewalk, reduce driveway apron width to a maximum of 24 feet wide modified to meet Title 24 requirements, curbs, gutters, crack 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 (if any), public drainage improvements with supporting drainage calculations for installation of curb drain outlets, supply and install directional/regulatory traffic control signs per the CA MUTCD during construction, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

5. **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.
 6. **Temporary Traffic Control Plan.** A temporary traffic control plan (TTC) shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines. Traffic Control Plans are subject to approval by the Public Works Director/Transportation Manager. Construction and storage in the public right-of-way is prohibited during Fiesta in the affected areas (around McKenzie Park, Downtown and Waterfront) and during the Holiday Shopping Season (between Thanksgiving Day and New Years Day) in all commercial shopping areas, including but not limited to Upper State Street, the Mesa shopping area, Downtown and Coast Village Road.
- D. **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, outlined in Section A above.
 2. **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.
 3. **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.

4. **Stop Bar.** A painted "STOP" bar and legend shall be installed at the driveway exit.
5. **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., Archaeologist contract submitted to Community Development 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.

E. **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. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be salvaged and sent to the City Corporation Annex Yard.
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. **Haul Routes.** The haul route(s) for all construction-related trucks with a gross vehicle weight rating (GVWR) of three tons or more, entering or exiting the site, shall be approved by the Transportation Manager.
4. **Traffic Control Plan.** All elements of the approved Traffic Control Plan shall be carried out by the Contractor.
5. **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: (look at longer or shorter hours and Saturday construction, depending on project location)

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Cesar Chavez Day	March 31 st *
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 that is answered by a person, not a machine.

6. **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.

7. **Water Sprinkling During Grading.** The following dust control measures shall be required, and shall be accomplished using recycled water whenever the Public Works Director determines that it is reasonably available:
 - a. Site grading and transportation of fill materials.
 - b. Regular water sprinkling; during clearing, grading, earth moving or excavation.

- c. 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.
 - d. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.
 - e. 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.
8. **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.
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 construction contact phone number shall include an option to contact a person instead of a machine in case of emergency. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
13. **Tree Protection.** All trees not indicated for removal on the site plan shall be preserved, protected, and maintained as follows.
 - a. **Grading Notes.** Notes on the grading plan that specify the following:
 - (1) No grading shall occur within three feet of the driplines of the existing tree(s).
 - (2) Any roots encountered shall be cleanly cut and sealed with a tree-seal compound.
 - (3) No heavy equipment, storage of materials or parking shall take place under the dripline of the tree(s).
 - b. **Oak Tree Protection Measures.** The following provisions shall apply to the existing 24" oak tree identified on the Site Plan:

- (1) During construction, fencing or protective barriers shall be placed three feet outside of the dripline of all oak trees located within 25 feet of development.
- (2) No grading shall occur under any oak tree dripline.
- (3) If grading within the dripline of the oak is required, it shall be minimized and done by hand. A qualified Arborist shall be present during any grading or excavation adjacent to or beneath the dripline of any oak tree. Any roots encountered shall be cleanly cut and sealed with a tree-seal compound. Any thinning or root pruning and trimming shall be done under the direction of a qualified Arborist.
- (4) No storage of heavy equipment or materials, or parking shall take place within five (5) feet of the dripline of any oak tree.

14. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and 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.

- F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, 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. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
 4. **Manholes.** Raise all sewer and water manholes on easement to final finished grade.
- G. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

NOTICE OF APPROVAL TIME LIMITS:

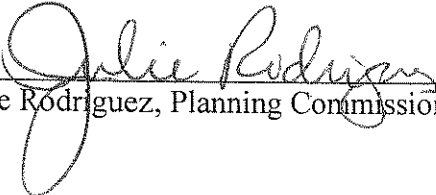
The Planning Commission's action approving the Conditional Use Permit and Modification shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued within and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
3. The approval has not been discontinued, abandoned or unused for a period of six months following the earlier of (a) an Issuance of a Certificate of Occupancy for the use, or (b) two (2) years from granting the approval.

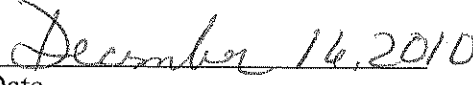
This motion was passed and adopted on the 2nd day of December, 2010 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 7 NOES: 0 ABSTAIN: 0 ABSENT: 0

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 Rodríguez, Planning Commission Secretary



Date

PLEASE BE ADVISED:

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) CALENDAR DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.