



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 019-10

1032 E. MASON STREET

CONDITIONAL USE PERMIT AND MODIFICATIONS

DECEMBER 16, 2010

REVISED JANUARY 11, 2012

APPLICATION OF LISA PLOWMAN, PEIKERT GROUP ARCHITECTS, LLP, AGENT FOR SECOND BAPTIST CHURCH, 1032 E. MASON ST., APN 017-133-005, R-2 ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 12 DWELLING UNITS PER ACRE (MST2009-00332)

The proposed project includes a new two-story, six-unit affordable senior apartment building in the existing Second Baptist Church parking lot. Each new unit would have one-bedroom and 540 square feet of floor area. The lot is currently developed with a 2,265 square foot church and an existing two-story 2,319 square foot residential duplex. The project includes converting the 1,599 square foot ground floor duplex unit to church use. The existing 720 square foot second floor "care taker's unit" would remain. The seven resulting rental dwelling units would be price restricted for low income seniors. The project would result in 3,864 square feet of non-residential use and 3,960 square feet of residential use on the 24,872 square foot lot. Twenty (20) automobile parking spaces and four bicycle spaces would be provided. State Density Bonus concessions and incentives were requested to allow a six-unit building in the R-2 Zone, outdoor living space consistent with the R-3/R-4 Zone requirements, and parking in the front setback.

The discretionary applications required for this project are:

1. Parking Modification to allow a reduction in the required parking (SBMC §28.92.110);
2. Front Setback Modification to allow encroachment of bicycle parking in the front setback (SBMC §28.92.110);
3. Conditional Use Permit to allow church use in the R-2 Zone (SBMC §28.94.030); and
4. Development Plan for the conversion of 1,599 sf of residential space to non-residential use (SBMC §28.87.300).

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

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

WHEREAS, no one appeared to speak in favor of the application, and 2 people appeared to speak in opposition thereto or with concerns, and the following exhibits were presented for the record:

1. Staff Report with Attachments, December 9, 2010.
2. Site Plans
3. Correspondence received in opposition to the project:
 - a. James G. Forner, via email

- b. Paula Westbury, Santa Barbara
- c. Carolina Uribe Cardona, Santa Barbara
- d. Ruben & Holly Gil, via email

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

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

A. Parking Modification (SBMC 28.92.110.A.1)

The modification to provide 20 automobile parking spaces rather than the 25 required under the Zoning Ordinance is consistent with the purposes and intent of the Zoning Ordinance to provide sufficient parking for the uses on the project site. As discussed in Section VII of the Staff Report, the parking modification will not cause an increase in the demand for parking space in the immediate area, because the project's parking demand will be met on-site.

B. Mason Street Front Setback Modification (SBMC 28.92.110.A.2)

As discussed in Section VII of the Staff Report, modification of front setback on Mason Street to provide structures associated with bicycle parking within the 30-foot non-residential setback is minor due to the size of the structures and would result in no aesthetic impact. In addition, the location of the bicycle parking is appropriate since it is accessible and identifiable and allowing for ready access to the church buildings and to maximize open space and use of hardscape and landscape areas. The modification is therefore consistent with the purposes and intent of the Zoning Ordinance to provide appropriate building and structural relief along the street frontage and the modification is necessary for the project, which is an appropriate improvement.

C. Conditional Use Permit (SBMC §28.94.020)

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.

The use of the property as a church is desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan as identified in Section IX of the Staff Report. The General Plan recognizes that churches are appropriate in all parts of the City.

2. Such uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved.

The use of the property will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved. The expansion of the church and addition of residential units is appropriate at this location. The number of church users would not significantly change with the church addition, since no additional sanctuary seats are included. The residential density allowed by the addition of five net new units is allowed in the R-2 Zone.

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 building is sufficiently set back from E. Mason and Voluntario Streets and observes a six foot setback from the nearest interior property line consistent with the standards of the R-2 Zone. With 37% lot coverage for landscaping, walks and patios, 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.

4. Adequate access and off-street parking including parking for guests 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 parking configuration complies with the City's parking design standards. As indicated in Section VII of the Staff Report, adequate access and off-street parking are 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.

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. The Planning Commission shall have the authority to approve the design of open space. Design shall mean size, shape, location and usability for proposed private, public, or quasi-public purposes and development. Approval of such open spaces may be expressly conditioned upon an offer of conveyance by the owner to the City of Santa Barbara of the development rights, the right to prohibit the construction of additional buildings, or other property rights, necessary to achieve the purpose set forth in this title.

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. The proposed structures, landscaping, and hardscape were conceptually reviewed by ABR and the found to be compatible with the character and appropriate with the neighborhood, as described in Section VIII of the Staff Report.

D. Development Plan Approval (SBMC 28.87.300)

1. The proposed development complies with all provisions of the Zoning Ordinance.

With the requested Conditional Use Permit and Modifications, the proposed development, including the conversion of the 1,599 square feet residential unit to non-residential use, complies with all applicable provisions of the Zoning Ordinance, as identified in Section VII of the Staff Report.

2. The proposed development is consistent with the principles of sound community planning.

As described in Section IX of the Staff Report, the project is an infill mixed-use project proposed in an area where residential development and church uses are appropriate. The project is adequately served by public streets, public transportation and utilities.

3. The proposed development will not have a significant adverse impact upon the neighborhood's aesthetics/character in that the size, bulk or scale of the development will be compatible with the neighborhood.

As described in Section VIII of the Staff Report, the design has been reviewed by the City's Architectural Board of Review, which found the architecture and site design appropriate and compatible with the neighborhood.

Final review of the project, including architectural details, outdoor lighting, and landscaping will be provided by the Architectural Board of Review.

4. The proposed development will not have a significant unmitigated adverse impact upon City and South Coast affordable housing stock.

The proposed development will result in a beneficial impact to the City's affordable housing stock since the project adds seven 540 square feet dwelling units affordable to low-income households to the City's affordable housing stock and only 1,599 square feet of net new church use.

5. The proposed development will not have a significant unmitigated adverse impact on the City's water resources.

As described in Section VI.C.5. of the Staff Report, adequate City services, including water, are currently available to the project site. Water resource impacts are not anticipated as a result of the construction of 5 additional rental units and a net increase of 1,599 square feet of non-residential floor area.

6. The proposed development will not have a significant unmitigated adverse impact on the City's traffic.

The proposed development will not have a significant unmitigated adverse impact on the City's traffic, as discussed in Section X of the Staff Report.

7. Resources will be available and traffic improvements will be in place at the time of project occupancy.

No traffic improvements are required due to less than significant traffic impacts resulting from the project as discussed in Section X 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 Architectural Board of Review (ABR). ABR shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.
 1. **Landscape Screening.** Landscaping with low water use plants and/or a solid screen wall or fence shall be provided to screen the bicycle parking from E. Mason Street.
 2. **Specimen Tree.** A specimen tree shall be included in the landscape plan in the area formerly designated as parking space #1, adjacent to Voluntario Street.

3. **Pedestrian Pathway.** A separate pedestrian pathway shall be provided to the new residential units from the Voluntario Street sidewalk using a differentiated paving to enhance pedestrian friendliness.
 4. **Minimize Visual Effects of Paving.** Textured or colored pavement shall be used in paved areas of the project to minimize the visual effect of the expanse of paving, create an enhanced pedestrian environment, and provide access for all users.
 5. **Permeable Paving.** The inclusion of permeable paving is encouraged in the parking lot, as appropriate.
 6. **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.
- 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 16, 2010 is limited to a new two-story, six-unit affordable senior apartment building, each of the six new units would have one-bedroom and 540 square feet of floor area, the existing 2,265 square foot church and an existing two-story 2,319 square foot residential duplex building would remain; the project includes converting the 1,599 square foot ground floor duplex unit to church use; the seven resulting rental dwelling units (including the existing 720 square foot second floor care taker's unit) would be price restricted for low-income seniors; twenty (20) automobile parking spaces and four bicycle spaces would be provided. The development also includes the improvements shown on the plans signed by the chair 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 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 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.
 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.

7. **Rental Housing Restrictions.** For all of the dwelling units, the rent shall not exceed the rent limit specified in the City's Affordable Housing Policies and Procedures (AHP&P) for low-income units targeted to sixty percent (60%) of Area Median Income (AMI). However, any unit that receives a "project-based" Section 8 voucher may be rented to a low-income household at rents allowed by and according to the requirements of the Section 8 program.
 6. **Senior Housing Restrictions.** Occupation of the seven residential units on the Real Property shall be limited to elderly or senior persons sixty-two (62) years of age or older (herein sometimes referred to as "senior housing").
 7. **Required Redesign if Senior Housing Not Used.** In the event that residential units on the Real Property are not or cannot be used solely for senior housing, the project shall return to the Planning Commission for further consideration as necessary and the following changes are required to achieve compliance with the City's parking requirements then in effect:
 - a. The structure(s) shall be redesigned and possibly reconstructed and the number of dwelling units shall be reduced; and/or
 - b. The seating capacity of the church shall be reduced
 8. **Residential Permit Parking Program.** Residents shall not participate in the Residential Permit Parking Program.
- 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. **Dedication.** A Street Easement Deed is required and described as follows, subject to approval of the easement scope and location by the Public Works Department for a minimum of a 4-foot wide landing at the back of the existing pedestrian access ramp at

the corner of Mason and Voluntario Streets to meet ADA requirements, and to be constructed by the City.

3. **E. Mason Street and Voluntario Street Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on E. Mason and Voluntario Streets. 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, one 17-foot-wide driveway apron and one 16-foot-wide driveway apron modified to meet Title 24 requirements, saw-cut and replace all damaged existing curb & gutter, 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, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations for installation of curb drain outlets, preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs per the CA MUTCD during construction, install new street trees and tree grates, size, species and placement 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.
 4. **Agreement to Construct and Install Improvements.** The Owner shall submit an executed *Agreement to Construct and Install Improvements (Not a Subdivision)*, 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.
 5. **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.
 6. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans shown on the building plans, a Public Works permit shall be issued concurrently with a Building permit.
 7. **Traffic Control Plan.** A traffic control plan shall be submitted to the Public Works counter prior to issuance of any permits, as specified in the CAMUTCD and 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. **Community Development Requirements with Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit and finalized prior to Building or Public Works Permit issuance:
1. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Stormwater Management Plan (treatment, rate and volume). The Owner shall submit

final drainage calculations prepared by a registered civil engineer or licensed architect demonstrating that the new development will comply with the City's Storm Water Management Plan. Project plans for grading, drainage, stormwater facilities and treatment methods, and project development, shall be subject to review and approval by the City Building & Safety 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 (including but not limited to trash, hydrocarbons, fertilizers, bacteria, etc.), or groundwater pollutants would result from the project.

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. **Park Commission Tree Removal Approval.** Submit to the Planning Division verification of approval from the Park Commission for the removal of all trees with a trunk diameter greater than four (4) inches at a point twenty-four (24) inches above the ground in the required front setbacks.
 4. **Recorded Affordability Covenant.** Submit to the Planning Division a copy of an affordability control covenant that has been approved as to form and content by the City Attorney and Community Development Director, and recorded in the Office of the County Recorder, which includes the following:
 - a. **Affordability Conditions.** Owner shall sign and cause to be recorded against the Property an affordability control covenant, in a form approved by the City Attorney, which requires compliance with the requirements for low income rental units as specified in the City's Affordable Housing Policies and Procedures, with rents targeted as follows:
 - (1) For all seven residential units, the target income percentage shall be sixty percent (60%). However, any unit that receives a "project-based" Section 8 voucher may be rented to a low-income household at rents allowed by and according to the requirements of the Section 8 program.
 - (2) The covenant shall include an assignment of rents whereby the owner assigns to the City all rents collected in violation of the covenant. The covenant shall also require the owner to make periodic reports to the City to verify compliance with the covenant.
 5. **Tenant Displacement Assistance Ordinance Compliance.** Submit evidence of compliance with the Tenant Displacement Assistance Ordinance (SBMC Chapter 28.89).
- E. **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 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. **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 employ 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 Community Development Department. Maintenance of these facilities shall be provided by the Owner, as outlined in Condition B.5, above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.
4. **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.

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.

- F. **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.** 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.
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. **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 31st*
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 Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
 13. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.
 14. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and 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.

- G. **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 directly adjacent to the subject property (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. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist when a backflow device, pool, spa or solar panels are installed, or a 3 or more story building is constructed.
 4. **Rental Affordability Provisions Approval.** Obtain from the Community Development Director, or Director's designee in the City's Housing Programs Division, written approval of the of the following: (a) the recorded affordability covenant as approved by the City Attorney, (b) the process for selecting the initial residents of the affordable rental units, (c) the eligibility of the initial residents, and (d) the form of the rental agreement used. For projects with senior occupancy requirements or restrictions on the number of motor vehicles per resident, obtain from the Community Development Director, or Director's designee in the City's Housing Programs Division, written approval of the recorded implementing document, which assures compliance with the senior housing restriction and/or the restrictions on the number of motor vehicles owned, used, possessed or stored by residents.
 5. **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.
- H. **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.

A. NOTICE OF APPROVAL TIME LIMITS:

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

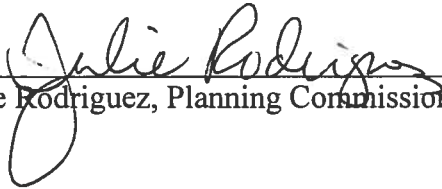
1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued within and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate 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.

If multiple discretionary applications are approved for the same project, the expiration date of all discretionary approvals shall correspond with the longest expiration date specified by any of the discretionary applications, unless such extension would conflict with state or federal law. The expiration date of all approvals shall be measured from date of the final action of the City on the application, unless otherwise specified by state or federal law.

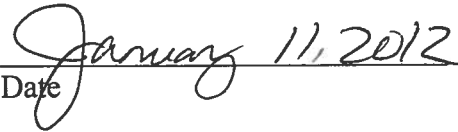
This motion was passed and adopted on the 16th day of December, 2010 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 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

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.

