



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 010-11

2550 TREASURE DRIVE, SAMARKAND RETIREMENT COMMUNITY

CONDITIONAL USE PERMIT AMENDMENT

APRIL 21, 2011

**APPLICATION OF SUSAN BASHAM, AGENT FOR THE SAMARKAND, A COVENANT
RETIREMENT COMMUNITY, 2550 TREASURE DRIVE, APN 051-330-003, E-3/ S-D-2: ONE-
FAMILY RESIDENCE AND UPPER STATE ST. AREA OVERLAY ZONES, GENERAL PLAN
DESIGNATION: RESIDENTIAL, FIVE UNITS/ACRE (MST2008-00469)**

The project consists of a proposal for a new LifeCenter facility at the Samarkand Retirement Community. It includes the demolition of an existing one-story, 1,872 square foot (net) maintenance building and four uncovered parking spaces, and the construction of a 9,218 square foot, two-story LifeCenter facility with an aerobics/multi-purpose room, computer room, committee office, TV studio, gallery, Nu-2-U (campus exchange shop), mechanical room, electrical room, storage and bathrooms on the first floor and a café, juice bar, fitness area, office, wellness suite, storage, and bathrooms on the second floor.

The proposal would also result in changes to other areas onsite. Building D (Fitness Building) currently includes a fitness area, wellness suite, poolside café, spa and gift shop. The fitness area, wellness suite, and poolside café would be relocated to the LifeCenter facility. The spa and gift shop would remain and the rest of the building would be remodeled to include new spa locker rooms, a resident work center, a prayer and gathering room and a mini-mart. The Nu-2-U exchange shop, currently located in the basement of the Chapel, would be moved to the LifeCenter and the basement area would be returned to storage use. The TV studio, currently located in the maintenance building, would be incorporated into the LifeCenter facility. The four uncovered parking spaces to be demolished have already been relocated to the Northview parking garage under a separate permit.

The discretionary application required for this project is a Conditional Use Permit Amendment to allow a new LifeCenter facility to support the existing retirement community (SBMC §28.94.030.R).

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

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

WHEREAS, one person 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, April 14, 2011
2. Site Plans

3. Correspondence received in support of the project:

- a. John DeVore, President, Samarkand Neighborhood Association, Santa Barbara, CA

4. Correspondence received in opposition to the project:

- a. Paula Westbury, Santa Barbara, CA

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

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

CONDITIONAL USE PERMIT (SBMC §28.94.020 AND §28.94.030)

The Planning Commission may permit, by issuance of a conditional use permit, a State-licensed residential care facility for the elderly, upon a finding 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. *The existing senior residential care facility has been in operation since the 1950s and the first Conditional Use Permit was issued in 1983. The proposal to create a LifeCenter facility and to remodel Building D would provide updated amenities for the existing retirement community, would not increase the maximum allowed number of residential units or residents, and would be consistent with the existing development on the site. In addition, the proposal is consistent with the General Plan, as described in Section VI.B of the staff report.*
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 existing senior residential care facility has been in operation since the 1950s. The proposal to create a LifeCenter facility and to remodel Building D would be consistent with the existing development on the site.*
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 proposed LifeCenter facility would be located in the interior of the site and would not impact surrounding properties.*
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. *Adequate access and off-street parking is provided onsite. The proposed project would not result in a need to change the access or a need for additional parking spaces because the number of residential units does not increase.*
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 proposed LifeCenter facility and remodel of Building D was reviewed by the Architectural Board of Review Board and found to be compatible with the existing development on the site, as described in Section VIII of the staff report.*

6. Compliance with any additional specific requirements for a conditional use permit. (see below)

For existing State-licensed residential care facilities for the elderly requesting an alteration or modification, the Planning Commission must find upon a showing of adequate information that:

7. The proposal has been reviewed and approved by the City Fire Marshall and the City Building Official. *The proposed project was reviewed by the Fire Department and the Building and Safety Division as part of the application process. The project will be further reviewed for consistency with all applicable codes at the time of building permit application.*
8. The facility will generate a demand for resources such as water, traffic and parking capacity, and other public services equivalent to no more than that which would be demanded by development of the property in accordance with the underlying zone, or if existing resource use exceeds the underlying zone, then resource use shall be equivalent to no more than that of the existing use. *The proposal to construct the LifeCenter facility and to remodel Building D will not generate an increase in demand for water, traffic or parking because the number of residential units or Skilled Nursing Facility beds would not increase.*
9. The intensity of use in terms of the number of people, hours of operation, hours of major activities and other operational aspects of the proposed facility is compatible with any neighboring residential use. *The proposal to construct the LifeCenter facility and to remodel Building D will not result in any changes to the intensity of use on the site; therefore, the retirement community will continue to be compatible with the neighborhood.*

II. Said approval is subject to the following conditions:

- A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:
 1. Obtain all required design review approvals.
 2. Pay Land Development Team Recovery Fee at the time of submittal for either a Building or Public Works permits.

3. Make application and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform rough grading. Comply with condition E "Construction Implementation Requirements."
4. Record any required documents (see Recorded Conditions Agreement section).
5. Permits.
 - a. Make application and obtain a Building Permit (BLD) for construction of approved development.
 - b. Make application and obtain a Public Works Permit (PBW) for all required public improvements.

Details on implementation of these steps are provided throughout the conditions of approval.

B. Recorded Conditions Agreement. The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, 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, as a State-licensed residential care facility for the elderly, approved by the Planning Commission on April 21, 2011, as shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara is limited to the following:

Demolition of an existing one-story, 1,872 square foot (net) maintenance building and four uncovered parking spaces, and the construction of a 9,218 square foot (net), two-story LifeCenter facility with an aerobics/multi-purpose room, computer room, committee office, TV studio, gallery (for Samarkand historical artifacts and resident art), Nu-2-U (campus exchange shop), mechanical room, electrical room, storage and bathrooms on the first floor and a café, juice bar, fitness area, office, wellness suite, storage, and bathrooms on the second floor.

The maintenance functions associated with the building and the four uncovered parking spaces have already been relocated to the Northview parking garage under a previous permit. The maintenance building is currently being used for maintenance-related storage only. The TV studio, still located in the maintenance building, would be incorporated into the LifeCenter facility.

The proposal would also result in changes to other areas onsite. Building D, also known as the Fitness Building, currently includes a fitness area, wellness suite, poolside café, spa and gift shop. The fitness area, wellness suite, and poolside café would be relocated to the LifeCenter facility. The spa and gift shop would remain and the rest of the building would be remodeled to include new spa locker rooms, a resident work center, a prayer and gathering room and a mini-mart. The Nu-2-U exchange shop, currently located in the basement of the Chapel, would be moved to the LifeCenter facility and the basement area would be returned to storage use.

The existing development on the site to remain consists of the following:

- a. Residential Units: 277 residential units (224 independent units, 53 assisted living units)
 - Studio & alcove units: 56
 - One-bedroom units: 93
 - Two-bedroom units: 120
 - Custom units: 8
 - 277 Residential Units
- (1) Brandel Hall. 2-story, 37 assisted living units (29,405 sq. ft.)
- (2) Heritage Court. 1-story, 16 assisted living units (8,000 sq. ft.)
- (3) Cottages. (8) 1- and 2- story buildings with 25 independent units (31,516 sq. ft.)
- (4) Eastview. 2-story, 19 independent units (16,704 sq. ft.)
- (5) Magnolia East. 2-story, 28 independent units (30,900 sq. ft.)
- (6) Magnolia North. 2-story with below grade garage, 26 independent units, 42 parking spaces (47,890 sq. ft.)
- (7) Magnolia West. 2-story, 30 independent units (30,900 sq. ft.)
- (8) Northview. 2-story with below grade garage, maintenance area, 28 independent units, 36 parking spaces, (47,862 sq. ft.)
- (9) Southview & Southview Villas. 2-story with below grade garage, (5) 1-story buildings, 33 independent units, 42 parking spaces (41,247 sq. ft.)
- (10) Westview. 2-story with below grade garage, 35 independent units, 34 parking spaces (59,852 sq. ft.)
- b. Skilled Nursing Facility. 1-story with garage, 63 beds, 62 parking spaces (53,420 sq. ft.)
- c. Administration Building. 2-story (8,522 sq. ft.)
- d. Building D (Fitness Building). 1-story (3,664 sq. ft.)
- e. Chapel. 2-story (2,765 sq. ft.)
- f. Creative Arts Building. 1-story (3,498 sq. ft.)
- g. Commons (Library, Dining Hall). 2-story (20,070 sq. ft.)
- h. Parking. There are 216 garage parking spaces, 20 carport parking spaces and 78 surface parking spaces for a total of 314 parking spaces.
- i. Other onsite amenities include, but are not limited to, a swimming pool, koi pond and fountains.

2. **Employee/Resident Parking.** All Samarkand residents and employees shall park on the Samarkand campus property.
3. **Facility Use.** No outside agencies or organizations may use the facilities unless directly sponsored by The Samarkand, residents, guests, or families.
4. **Maximum Occupancy and Units.** The maximum occupancy and units on the campus property is limited to 305 residential units (with no more than 2 persons per unit) and 63 persons occupying 63 Skilled Nursing Facility beds.
5. **Areas Available for Parking.** All parking areas and access thereto shall be kept open and available in the manner in which it was designed and permitted. Based on the current number of residential units (277) and Skilled Nursing Facility beds (63), a minimum of 309 parking spaces shall be provided onsite.
6. **Required Parking.** The required parking of one space per residential unit and one-half space per Skilled Nursing Facility bed shall be met onsite at all times. As the number of units increases to the maximum allowed, the parking shall be increased accordingly.
7. **Uninterrupted Water Flow.** The Owner shall provide for the continuation of any historic uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
8. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
9. **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, including any tree protection measures. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.
10. **Oak Tree Protection.** The existing oak trees shown on the Tree Protection Plan and Landscape Plan shall be preserved, protected, and maintained in accordance with the recommendations contained in the Tree Assessment and Protection Plan Report prepared by Bill Spiewak, dated February 2, 2011, except that the oak tree mitigation ratio shall be 5:1. A copy of this report shall be attached to the recorded conditions as an exhibit.
11. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state. 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 Owner 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.

12. **Transportation Demand Management.** Owner shall comply with the provisions of the approved Transportation Demand Management (TDM) Plan.
 13. **Recyclable Material Use and Collection for Restaurants.** Restaurant operators shall encourage guests to recycle by using recyclable materials, and providing sufficient and appropriate receptacles, such as recycling containers. Recyclable material (and green waste) collection and pick-up areas shall be provided on-site for the restaurant operations. A minimum of 50 percent of the area devoted to holding trash for the project shall be used for recycling purposes.
 14. **BMP Training.** Training on the implementation of Best Management Practices (BMPs) shall be provided to every employee by the property owner/management in order to prevent or reduce the discharge of pollutants to storm water from buildings and ground maintenance. The training shall include using good housekeeping practices, preventive maintenance and spill prevention and control at outdoor loading/ unloading areas in order to keep debris from entering the storm water collection system.
 15. **Connection to City's Recycled Water System.** The Samarkand shall connect to the City's Recycled Water System. Private Covenants, Conditions and Restrictions (CC&R's) shall be prepared that will commit the Owner to the use of recycled water for irrigation. The CC&R's shall include language regarding the phasing of the conversion and shall be reviewed and approved as to content by the City Water Resources Division and approved as to form by the City Attorney.
- C. **Design Review.** The project, including public improvements, is subject to the review and approval of the Architectural Board of Review (ABR). The ABR shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.
1. **Tree Protection Measures.** The landscape plan (and grading plan) shall include the following tree protection measures:
 - a. **Tree Assessment and Protection Plan.** The recommendations contained in the Tree Assessment and Protection Plan prepared by Bill Spiewak, dated February 2, 2011 shall be implemented, except that the oak tree mitigation shall be 5:1.
 - b. **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s), as determined by the ABR.

- c. **Oak Trees.** The following additional provisions shall apply to existing oak trees on site:
 - (1) No irrigation system shall be installed within three feet of the dripline of any oak tree.
 - (2) The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.
 - (3) No storage of heavy equipment or materials, or parking shall take place within five (5) feet of the dripline of any oak tree.
 - 2. **Screened Backflow Device.** The backflow devices for fire sprinklers, pools, spas, solar panels and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building, as approved by the ABR.
 - 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. **Roof Tile.** Only two-piece terra cotta (Mission) C-tile shall be used on the roof.
 - 5. **Sign Program.** The onsite sign program shall be reviewed and updated as necessary.
- D. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Demolition or rough grading permits may be issued prior to completion of all the listed requirements, at the discretion of the department listed, with the understanding that building permits shall not be issued before the listed requirements are satisfied. Please note that these conditions are in addition to the standard submittal requirements for each department.
- 1. **Public Works Department.**
 - a. **Approved Public Improvement Plans.** Public Improvement Plans as identified in condition D.1.d. "Treasure Drive and Tallant Road Public Improvements" shall be submitted to the Public Works Department for review and approval. Upon acceptance of completed public improvement plans, a Building permit may be issued if the Owner has bonded for public improvements and executed the *Agreement to Construct and Install Improvements (Not a Subdivision)*.
 - b. **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 prepares said agreement for the Owner's signature.

- c. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water Management Plan (treatment, rate and volume). The Owner shall submit 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 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.
- d. **Treasure Drive and Tallant Road Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Treasure Drive, Tallant Road, any other public streets, and any City owned lands adjacent to the subject site, including the area of Mission Creek. As determined by the Public Works Department, and to the extent necessary for conversion of the campus to use of reclaimed water for irrigation, the improvements shall include the installation of up to three new Recycled Water Meters connected to the City's Recycled Water System along Tallant Road. The new Recycled Water Meters may, but need not, result in the abandonment of one or more existing potable water irrigation meters. The schedule for installation of the new Recycled Water Meters, and the specifications for installation of the reclaimed water system, shall be included in a written instrument to be recorded against the Real Property, to be reviewed and approved as to content by the Water Resources Division and as to form by the City Attorney. The new LifeCenter structure shall be connected to on-site private water, sewer and storm drain systems, which are connected to City systems at points illustrated on Owner's plans. All work in the public rights-of-way requires a Public Works Permit.
- e. **Haul Routes Require Separate Permit.** Apply for a Public Works permit to establish the haul route(s) for all construction-related trucks with a gross vehicle weight rating of three tons or more entering or exiting the site. The Haul Routes shall be approved by the Transportation Manager.
- f. **Construction-Related Truck Trips.** Construction-related truck trips for trucks with a gross vehicle weight rating of three tons or more 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.) in order to help reduce truck traffic on adjacent streets and roadways.

2. **Community Development Department.**

- a. **Recordation of Agreements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in condition B “Recorded Conditions Agreement” to the Community Development Department prior to issuance of any building permits.
- b. **Arborist’s Monitoring.** Submit to the Planning Division an executed contract with a qualified arborist for monitoring of all work within the dripline of all oak trees during construction. The contract shall include a schedule for the arborist’s presence during grading and construction activities, and is subject to the review and approval of the Planning Division.
- c. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the appropriate design review board and as outlined in Section C “Design Review,” and all elements/specifications shall be implemented on-site.
- d. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are 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, including demolition and grading.

- 1. **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), construction 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. 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 six square feet if in a single family zone.

2. **Construction Hours.** Construction (including preparation for construction work) shall only be permitted Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m. and Saturdays between the hours of 9:00 a.m. and 4:00 p.m., excluding the following holidays:

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 said construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

3. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Transportation Manager with a Public Works permit.
4. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: 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. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner 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.

A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

- 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 public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction 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 public building plans, including utility service undergrounding.
- G. **General Conditions.**
1. **Prior Conditions.** These conditions shall supersede the conditions identified in all previously approved Planning Commission Resolutions and Substantial Conformity Determinations.
 2. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.

3. **Approval Limitations.**

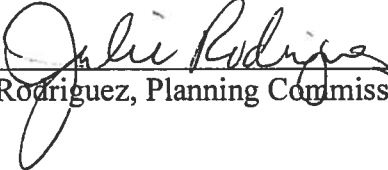
- a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
- b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission.
- c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

4. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application.

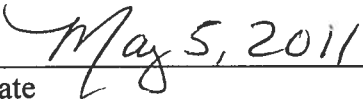
5. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party 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 being notified of a lawsuit regarding 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.

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.