

DRAFT



## City of Santa Barbara Planning Division

### PLANNING COMMISSION MINUTES

February 9, 2012

#### **CALL TO ORDER:**

Chair Lodge called the meeting to order at 1:00 P.M.

#### **I. ROLL CALL**

Chair Sheila Lodge, Vice Chair Mike Jordan, Commissioners Bruce Bartlett, John P. Campanella, Deborah L. Schwartz, and Addison Thompson.

**Absent: Stella Larson**

#### **STAFF PRESENT:**

Bettie Weis, City Planner  
Danny Kato, Senior Planner  
N. Scott Vincent, Assistant City Attorney  
Stacey Wilson, Associate Transportation Planner  
Kelly Brodison, Assistant Planner  
Suzanne Riegle, Assistant Planner  
Julie Rodriguez, Planning Commission Secretary

#### **II. PRELIMINARY MATTERS:**

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

None.

B. Announcements and appeals.

None.

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

Chair Lodge opened the public hearing at 1:01 P.M. and, with no one wishing to speak, closed the hearing.

III. **NEW ITEMS:**

**ACTUAL TIME: 1:01 P.M.**

A. **APPLICATION OF ROY HARTHORN, AGENT FOR MIKE WALKER, 2 OLIVER ROAD, APN 045-100-085 , E-3/SD-3 ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL 5 UNITS PER ACRE (MST2011-00327)**

The project consists of a proposal for a new 115 linear foot chain link fence varying in height from 3 feet, 6-inches to 6-feet tall located on a 26,677 square foot parcel developed with an existing single-family residence. The proposed fence is located along the westerly property line within 50 feet of the coastal bluff in the appealable jurisdiction of the Coastal Zone

The discretionary application required for this project is a Coastal Development Permit (CDP20011-00016) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.45.009).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15303 allows for construction of new small structures including accessory structures such as fences.

Case Planner: Kelly Brodison, Assistant Planner  
Email: KBrodison@SantaBarbaraCA.gov Phone: 805-564-5470, ext. 4531

**MOTION: Jordan/Thompson**

Waive the Staff Report

This motion carried by the following vote:

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

Kelly Brodison, Assistant Planner, responded to Planning Commission questions.

Roy Harthorn, Agent for the Applicant, responded to Planning Commission questions.

Chair Lodge opened the public hearing at 1:13 P.M., and with no one wishing to speak, the public hearing was closed.

**MOTION: Jordan/Schwartz**

**Assigned Resolution No. 004-12**

Approved the project, making the findings for the Coastal Development Permit outlined in the Staff Report, dated February 2, 2012, subject to the Conditions of Approval in Exhibit A of the Staff Report.

This motion carried by the following vote:

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

Chair Lodge announced the ten calendar day appeal period.

**ACTUAL TIME: 1:16 P.M.**

**B. APPLICATION OF BRIAN CEARNAL ARCHITECT FOR BLACK VALNER, LLC, 1255 COAST VILLAGE ROAD, APN 009-291-018, C-1 ZONES, GENERAL PLAN DESIGNATION: COMMERCIAL/ MEDIUM HIGH RESIDENTIAL (MST2011-00220)**

The project consists of a proposal to demolish existing plant nursery structures, and construct a mixed-use building totaling 11,921 square feet (sf). The building consists of two stories above a 12,865 sf partially subterranean parking garage that will provide a total of 40 non-residential parking spaces. The first floor above the garage is at the same level as the existing sidewalk on Coast Village Road. The project includes two, two-story residential condominium units totaling 3,268 s.f., and two stories of non-residential condominium development totaling 8,047 s.f.. Each of the residential units will have a single car garage on the first floor level for a combined total of 606 s.f., and a private roof deck accessed through a covered staircase. The building height as measured from the finished grade of garage to the ridge of the second floor is 37 feet (ft). The tallest architectural element will be 28 ft above the level of Coast Village Road. Public improvements will include a dedication of land for public sidewalk, installation of five street trees. An existing mature *Podocarpus gracilior* (Fern Pine) tree located at the westerly property line will be removed and a large tree will be installed on-site. The City's Street Tree Advisory Committee approved the removal of a *Magnolia grandiflora* (Southern Magnolia) located in the public right-of-way that will be removed and replaced.

The discretionary applications required for this project are:

- A. Design Review by the Architectural Board of Review of a new mixed-use development (SBMC §22.68.040(A.))
- B. A Modification to allow structures to be located within the front setbacks along both the Coast Village Road and Coast Village Circle frontages (SBMC §28.63.060.A & §28.92.110.1).
- C. A Transfer of Existing Development Rights totaling 2,900 s.f. (SBMC §28.95).
- D. A Development Plan for 5,947 s.f. of additional commercial development (SBMC §28.87.300.A.). A final determination will be made based upon updated statistics.
- E. A Tentative Subdivision Map for the development of two residential and seven non-residential condominium units (SBMC §27.03 & §27.13).

- F. A Coastal Development Plan for the new development and subdivision located in the non-appealable jurisdiction of the Coastal Zone (SBMC §28.44.060).

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 Exemption).

Case Planner: Suzanne Riegler, Assistant Planner

Email: [SRiegler@SantaBarbaraCA.gov](mailto:SRiegler@SantaBarbaraCA.gov)

Phone: 805-564-5470, ext. 2687

Suzanne Riegler, Assistant Planner, gave the Staff presentation.

Bettie Weiss, City Planner, briefed the Commission on the new Air Quality Policy.

Brian Cearnal, Architect, gave the applicant presentation and introduced his team: Alberto Valner, Owner; Ken Marshall, Dudek; Scott Schell, American Transportation Engineers; and Phil Suding, Landscape Architect.

Paul Zink, Vice Chair, Architectural Board of Review (ABR) provided a summary of the Committee's approval of the project; including the site planning, and underground parking. The ABR was not able to study the south elevation facing the freeway, the west elevation facing Jeanine's, and massing at that time.

Chair Lodge opened the public hearing at 1:51 P.M.

The following people spoke in support of the project:

1. Danny Copus, Coast Village Business Association and Montecito Inn.

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

1. Gordon Hardy, Jeannine's Restaurants, commented on the project's impacts to his neighboring business.
2. Alison Hardy, Jeannine's Restaurants, was concerned with the removal and replacement of the deck and the impact on the restaurant's business. Requested building conditions be added to include no Saturday construction, noise walls, and dust mitigation.
3. Eleanor Hardy, Jeannine's Restaurants, asked for the Commission's support in mitigating building concerns.
4. Luba Carleton, neighbor, expressed concern with existing traffic and any increase that project could bring. Would like to see Caltrans divert off ramp from Olive Springs to Mill Road.

With no one else wishing to speak, the public hearing was closed at 2:06 P.M.

Mr. Cearnal added additional clarification on the existing deck, and the assurance that construction mitigation would be offered.

**MOTION: Bartlett/Schwartz**

**Assigned Resolution No. 005-12**

Approved the project, making the findings for the Tentative Subdivision Map, Front Set Back Modification, Development Plan Approval, Transfer of Existing Development Rights, and Coastal Development Permit outlined in the Staff Report, dated February 2, 2012, subject to the Conditions of Approval in Exhibit A of the Staff Report and contingent on City Council's adoption of criteria for the implementation strategies for the implementation of ER7, with the following revisions to the Conditions of Approval:

1. Amend Condition F.1a. to include that contractor provides a schedule that elaborates on the noise generating activities of the construction.
2. Revise Condition F.5. to expand construction hours from 7a.m to 6 p.m. Monday through Friday, with a maximum of 10 consecutive hours on any day, mutually agreeable to the Applicant and the adjacent property occupants.
3. The Applicant will install a sound wall adjacent to the westerly property to protect adjacent business during construction hours.
4. Increase the bicycle parking requirement to look for opportunities to add redundant bicycle parking at street level, but no covered.
5. Work with ABR to add the largest reasonable replacement tree size for the *Podocarpus gracilior* (Fern Pine) tree being removed.
6. Change Condition E.2.b. from "the building plans should include the demolition of the deck and the area is to be landscaped." to "the demolition of the portion of deck area located on the 1255 Coast Village Road property and the area shown to be landscaped"

This motion carried by the following vote:

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

Chair Lodge announced the ten calendar day appeal period.

**IV. ADMINISTRATIVE AGENDA**

**ACTUAL TIME: 3:29 P.M.**

**D. Committee and Liaison Reports.**

1. Staff Hearing Officer Liaison Report

None was given.

2. Other Committee and Liaison Reports

None were given.

**V. ADJOURNMENT**

Chair Lodge adjourned the meeting at 3:30 P.M.

Submitted by,

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Julie Rodriguez, Planning Commission Secretary

DRAFT



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 004-12 2 OLIVER ROAD COASTAL DEVELOPMENT PERMIT FEBRUARY 9, 2012

#### APPLICATION OF ROY HARTHORN, AGENT FOR MIKE WALKER, 2 OLIVER ROAD, APN 045-100-085 , E-3/SD-3 ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL 5 UNITS PER ACRE (MST2011-00327)

The project consists of a proposal for a new 115 linear foot chain link fence varying in height from 3 feet, 6-inches to 6-feet tall located on a 26,677 square foot parcel developed with an existing single-family residence. The proposed fence is located along the westerly property line within 50 feet of the coastal bluff in the appealable jurisdiction of the Coastal Zone

The discretionary application required for this project is a Coastal Development Permit (CDP20011-00016) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.45.009).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15303 allows for construction of new small structures including accessory structures such as fences.

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

**WHEREAS**, no one appeared to speak in favor of the application, and no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

- |    |  |
|----|--|
| 1. | Staff Report with Attachments, February 2, 2012. |
| 2. | Site Plans                                       |
| 3. | Corr   |

1. espondence 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:

1. The project is consistent with the policies of the California Coastal Act because it does not result in any adverse affects related to coastal resources, including views, public access and hazards as described in Section V.C of the Staff Report.
2. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code because the additions are compatible with the existing neighborhood, are not visible from the beach, will not impact views from public view corridors, will not impact public access, will not contribute to safety or drainage hazards on the site, is not in an archaeological

sensitivity zone and will not disturb the coastal bluff or, as described in Section V.C of the Staff Report

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.
  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.
    - a. Make application and obtain a Building Permit (BLD) for construction of approved development.

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 approved by the Planning Commission on February 9, 2012 is limited to approximately 115 linear feet of black chain link fence ranging from 3 feet, 6-inches to 6-feet in height along the westerly property line and the improvements shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
  2. **Uninterrupted Water Flow.** The Owner shall provide for the 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.
  3. **Recreational Vehicle Storage Limitation.** No recreational vehicles, boats, or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
  4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. 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 SFDB, the owner is responsible for its immediate replacement.
  5. **Coastal Bluff Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from waves during storms and erosion, retreat,

settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.

6. **Geotechnical Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from landslides, erosion, retreat, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.
- C. **Design Review.** The project, including public improvements, is subject to the review and approval of the Single Family Design Board (SFDB). The SFDB shall not grant project design approval until the following Planning Commission / Staff Hearing Officer land use conditions have been satisfied.
1. **Tree Protection Measures.** The landscape plan shall include the following tree protection measures:
    - a. **Tree Protection.** All trees not indicated for removal on the approved site plan shall be preserved, protected, and maintained, in accordance with the Tree Protection Plan, if required, and/or any related Conditions of Approval.
  2. **Appropriate Plants on Bluff.** Special attention shall be paid to the appropriateness of the existing and proposed plant material on the bluff. All existing succulent plants that add weight to the bluff and/or contribute to erosion shall be removed in a manner that does not disturb the root system and replaced with appropriate plant material in a manner that does not increase the rate of erosion.
- 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. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.
1. **Public Works Department.**
    - a. **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.

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. **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.
- c. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the 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:

		Date
Property Owner		
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 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
  - 2. **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.
- G. **General Conditions.**
1. **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.
  2. **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 / Staff Hearing Officer.
- 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.
3. **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.
4. **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.

### III. NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:

The Planning Commission action approving the Coastal Development Permit shall expire two (2) years from the date of final action upon the application, per Santa Barbara Municipal Code §28.44.230, unless:

1. Otherwise explicitly modified by conditions of approval for the coastal development permit.
2. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.
3. The Community Development Director grants an extension of the coastal development permit approval. The Community Development Director may grant up to three (3) one-year extensions of the coastal development permit approval. Each extension may be granted upon the Director

finding that: (i) the development continues to conform to the Local Coastal Program, (ii) the applicant has demonstrated due diligence in completing the development, and (iii) there are no changed circumstances that affect the consistency of the development with the General Plan or any other applicable ordinances, resolutions, or other laws.

This motion was passed and adopted on the 9th day of February, 2012 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

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.

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Julie Rodriguez, Planning Commission Secretary

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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.**



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 005-12

### 1255 COAST VILLAGE ROAD

### TENTATIVE SUBDIVISION MAP, MODIFICATION, DEVELOPMENT PLAN, & TRANSFER OF EXISTING DEVELOPMENT RIGHTS, COASTAL DEVELOPMENT PERMIT FEBRUARY 9, 2012

### APPLICATION OF BRIAN CEARNAL, ARCHITECT FOR BLACK VALNER, LLC, 1255 COAST VILLAGE ROAD, APN 009-291-018, C-1 ZONES, GENERAL PLAN DESIGNATION: COMMERCIAL/ MEDIUM HIGH RESIDENTIAL (MST2011-00220)

The project consists of a proposal to demolish existing plant nursery structures, and construct a mixed-use building totaling 11,921 square feet (sf) . The building consists of two stories above a 12,865 sf partially subterranean parking garage that will provide a total of 40 non-residential parking spaces. The first floor above the garage is at the same level as the existing sidewalk on Coast Village Road. The project includes two, two-story residential condominium units totaling 3,268 s.f., and two stories of non-residential condominium development totaling 8,047 s.f.. Each of the residential units will have a single car garage on the first floor level for a combined total of 606 s.f., and a private roof deck accessed through a covered staircase. The building height as measured from the finished grade of garage to the ridge of the second floor is 37 feet (ft). The tallest architectural element will be 28 ft above the level of Coast Village Road. Public improvements will include a dedication of land for public sidewalk, installation of five street trees. An existing mature Podocarpus gracilior (Fern Pine) tree located at the westerly property line will be removed and a large tree will be installed on-site. The City's Street Tree Advisory Committee approved the removal of a Magnolia grandiflora (Southern Magnolia) located in the public right-of-way that will be removed and replaced.

The discretionary applications required for this project are:

- A. Design Review by the Architectural Board of Review of a new mixed-use development (SBMC §22.68.040(A.))
- B. A Modification to allow structures to be located within the front setbacks along both the Coast Village Road and Coast Village Circle frontages (SBMC §28.63.060.A & §28.92.110.1).
- C. A Transfer of Existing Development Rights totaling 2,900 s.f. (SBMC §28.95).
- D. A Development Plan for 5,947 s.f. of additional commercial development (SBMC §28.87.300.A.). A final determination will be made based upon updated statistics.
- E. A Tentative Subdivision Map for the development of two residential and seven non-residential condominium units (SBMC §27.03 & §27.13).
- F. A Coastal Development Plan for the new development and subdivision located in the non-appealable jurisdiction of the Coastal Zone (SBMC §28.44.060).

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 Exemption).

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

**WHEREAS**, 1 person appeared to speak in favor of the application, and 4 people appeared to speak in opposition thereto or with concerns, and the following exhibits were presented for the record:

1. Staff Report with Attachments, February 2, 2012.
2. Site Plans
3. Correspondence received in reference to the project:
  - a. Joshua Rabinowitz, Attorney for Towbes Group
  - b. Timothy D. Principe, Attorney for Albert Valner, Black Valner LLC
  - c. Steven A. Johnson, via email
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:

**A. FRONT SETBACK MODIFICATION (SBMC §28.92.110)**

As discussed in Section VI.A.1.a. of this staff report, the requested front setback modification for the accessible access ramp, as-built deck, and the commercial building is consistent with the purposes and intent of the Zoning Ordinance and is necessary to construct a mixed-use property that maintains the character of the neighborhood and addresses accessibility requirements while addressing the sloping topography of the existing site. The proposed setback request allows portions of the non-residential buildings to encroach into the 10-foot setback, allows the existing deck used by “Jeanine’s Bakery” to remain in its current location, and allows the accessible access ramp to be properly sloped to Coast Village Circle. The dedication of an easement for the purposes of creating a uniform sidewalk width and improvements along the Coast Village Road frontage has provided adequate setback to the public street and promotes a uniform improvement consistent with the setbacks of adjacent structures.

**B. TRANSFER OF EXISTING DEVELOPMENT RIGHTS (SBMC§28.95.060)**

1. The proposed development plans for both the sending and receiving sites are consistent with the goals and objectives of the General Plan of the City of Santa Barbara and the Municipal Code because the multiple family development on the sending site received approval by the Planning Commission on March 8, 2001, and was determined to be consistent with the goal and objectives of the General Plan and the requirements of the Zoning Ordinance. The required parking will be provided on site and the proposed mixed-use building complies with all of the requirements of the Municipal Code and the General Plan.
2. The proposed developments will not be detrimental to the site, neighborhood or surrounding areas. The sending site project was approved by the Planning Commission and the Architectural Board of Review, which found the project to be appropriate. The Historic Landmarks Commission has reviewed the proposed design for the additions at the receiving site and found them to be acceptable.

3. The floor area of proposed nonresidential development on the receiving site does not exceed the sum of the amount of Existing Development Rights transferred when added to the amount of Existing Development Rights on the receiving site, and does not exceed the maximum development allowed by the applicable zoning of the receiving site. The proposed total new floor area for the project (5,315 sq. ft.) does not exceed the sum of the transferred square footage (2,315 sq. ft.) and the Small and Minor Additions of Measure E square footage (3,000 sq. ft.), and does not exceed the zoning limitations.
4. Each of the proposed nonresidential developments on the respective sending site(s) and receiving site(s) will meet all standards for review as set forth in Section 28.87.300.E of the Municipal Code and all provisions of this Chapter, and will comply with any additional specific conditions for a transfer approval. The sending site received approval by the Planning Commission on March 8, 2001, and met all standards for review. With the approval of the front setback modification, the receiving site shall comply with all standards for review in Section 28.87.300 and as stated in the findings C.1 through C.7 below.
5. Development remaining, or to be built, on a sending site is appropriate in size, scale, use, and configuration for the neighborhood and is beneficial to the community. The sending site was previously developed with over 33,317 net commercial sf, which was demolished to create a multi-family residential project. That project was approved by the Planning Commission on March 8, 2001, and has been constructed. The development was also approved by the Architectural Board of Review which found it to appropriate in size, scale, use, and configuration for the neighborhood and is beneficial to the community. The proposed additions on the receiving site have been reviewed by the Architectural Board of Review and were found to be acceptable for the surrounding neighborhood.

**C. DEVELOPMENT PLAN APPROVAL (SBMC §28.87.300)**

1. The proposed development complies with all of the provisions of the Zoning Ordinance. With the approval of the requested Modification, the project complies with the required setbacks for mixed-use development in the C-1 Zone;
2. The proposed development is consistent with the principles of sound community planning because the property will be a mixed-use building that is surrounded by a mix of commercial and residential uses, and conforms to the General Plan description of the neighborhood as described in Section VI.B. of this Staff Report. The location for the proposed office, retail, restaurant, and residential units is consistent with the surrounding uses in the Coast Village Road neighborhood.
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, because the project is compatible with the surrounding area's aesthetics and character and is consistent with other one and two story buildings in the immediate area, as described in Section VI. of the staff report. The ABR conceptually reviewed the project and found the architecture and site design to be appropriate with the surrounding neighborhood;

4. The proposed development will not have a significant unmitigated adverse impact upon the City and South Coast affordable housing stock, because the amount of nonresidential floor area is relatively small, and two new residential units are proposed as part of the project. No existing residential units are proposed to be eliminated as a part of this project.
5. The proposed development will not have a significant unmitigated adverse impact on the City's water resources because there is adequate water to meet the needs of the proposed development. The proposed project receives water service from the City Montecito Water District and is within the anticipated growth rate for the City. Therefore, the City's long-term water supply and existing water treatment and distribution facilities would adequately serve the proposed project.
6. The proposed development will not have a significant unmitigated adverse impact on the City's traffic because the project would not generate significant traffic to create an impact on the local streets and intersections based on the City's thresholds of significance. Transportation Staff has reviewed the project and determined that the project would not result in significant project or cumulative impacts to any impacted intersection;
7. Resources will be available and traffic improvements will be in place at the time of project occupancy. The project site is adequately served by existing public streets and utilities. No traffic improvements are required as part of the project.

**D. THE TENTATIVE MAP (SBMC §27.07.100)**

The Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara as discussed in Section VI of the Staff Report. The site is physically suitable for the proposed development, the project is consistent with the density provisions of the Municipal Code and the General Plan as described in VI, and the proposed use is consistent with the vision for this neighborhood of the General Plan, as described in VI.B.1. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems, because the proposal is for an addition to an existing commercial building in an urban environment.

**E. NEW CONDOMINIUM DEVELOPMENT (SBMC §27.13.080)**

1. The project complies with all provisions of the City's Condominium Ordinance, as described in Section VI.A.2.b of this Staff Report. The project complies with density requirements, and each unit includes laundry facilities, separate utility metering, adequate unit size and storage space, and the required private outdoor living space, as described in Section VI.A. of the Staff Report. The project is consistent with policies of the City's General Plan including the Land Use, Housing, and Environmental Resources Elements as discussed in Section VI. of this staff report dated February 2, 2012. The project will provide infill residential development that is compatible with the surrounding neighborhood.
2. The project can be found consistent with policies of the City's General Plan including the Land Use, Housing, and Environmental Resources Elements. The project will provide infill residential development that is compatible with the surrounding neighborhood, as described in Section VI.B. of the Staff Report. The proposed development is consistent

with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources, as described in Section VI.B. of the Staff Report.

3. The project is an infill residential project proposed in an area where residential development is a permitted use. The project is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts because once the peak hour project related trips are distributed to the City street network, no new impacts are expected at any intersections. The design has been reviewed by the City's design review board, which found the architecture and site design appropriate, as described in Sections IV. and VII. of the Staff Report..

**F. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)**

1. The project is consistent with the policies of the California Coastal Act as described in Section VI.C. of the Staff Report.
2. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code, as described in Section VI.C. of the Staff Report. The project does not propose to demolish any low cost housing, low cost visitor serving uses, or adversely impact coastal access. The project will provide additional visitor serving businesses and provide two additional housing units in a development that is compatible with the prevailing character of 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.
  3. Submit an application and obtain a Building Permit (BLD) to demolish any structures / improvements that would conflict with the Final Map. A BLD may also be obtained to demolish non-conflicting structures/improvements and/or perform rough grading. Comply with condition F "Construction Implementation Requirements."
  4. Submit an application and obtain City Council approval of the Final Map and Agreement(s) and record said documents.
  5. Permits following recordation of Final Map.
    - a. Submit an application to Montecito Water District for new water meters, fire sprinklers, & installation of new commercial fire hydrant. Reproduce features and Montecito permit approval on Building plans.
    - b. Submit an application and obtain a Building Permit (BLD) for construction of approved development.
    - c. Submit an application and obtain a Public Works Permit (PBW) for all required public improvements.

6. Pay Inclusionary House Ordinance In-Lieu Fee.

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

B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, except a demolition or other appropriate (as determined by City staff) building permit for work in anticipation of primary project improvements, the Owner shall execute an *Agreement Relating to Subdivision Map Conditions Imposed on Real Property*, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder concurrent with the Final Map review and Public Improvement plan review, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Planning Commission on February 9, 2012 is limited to two residential condominiums and up to 8,047 sf square feet of commercial development that may be subdivided into as many as seven (7) commercial condominium units and the improvements shown on the Tentative Subdivision Map signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
2. **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.
3. **Public Improvement Districts.** The property owner waives the right, through deed restriction, to protest the formation of public improvement districts.
4. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
5. **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.
6. **Storm Water Pollution Control and Drainage Systems Maintenance.** The underground parking structure walls shall be designed for 'un-drained' conditions unless the required Geotech/Soils Report indicates no significant or contaminated flows are expected.

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 and/or Coastal Development Permit are 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. **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.
8. **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.
9. **Required Private Covenants, Conditions and Restrictions (CC&Rs).** The Owners shall record in the official records of Santa Barbara County either private covenants, conditions and restrictions, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for the following:
  - a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways (including driveways), common utilities and other similar shared or common facilities or improvements of the development, including the proposed shrub/hedge screen at corner of Coast Village Circle which may encroach into the public rights-of-way and any landscaping planted in tree wells on both Coast Village Road and Coast Village Circle, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the commercial and residential condominium units. Maintenance of all features in the public Rights-of-Way are also included in the Encroachment Permit under C.9 of these Conditions of Approval.
  - b. **Residential Garages Available for Parking.** A covenant that includes a requirement that all residential garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
  - c. **Parking Space Assignment Prohibited.** All parking spaces, with the exception of the two residential garages, shall remain unassigned and shall be open and available to all users of the project site.
  - d. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan. Such plan shall not be modified unless prior written approval is obtained from the appropriate design review board. If said landscaping is removed for any reason without approval by the appropriate design review board, the owner is responsible for its immediate replacement.

- e. **Trash and Recycling.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the landscaping or be hauled off site by the landscaping maintenance company. If no green waste containers are provided for common interest developments, include an item in the CC&Rs stating that the green waste will be hauled off site.
  - f. **Gates.** Any gates that have the potential to block access to any designated commercial space shall be locked in the open position during business hours.
  - g. **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.
- C. **Public Works Submittal Prior to Final Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Final Map and prior to the issuance of any permits for the project except a demolition or other appropriate (as determined by City staff) permit for work in anticipation of primary project improvements
- 1. **Final Map.** The Owner shall submit to the Public Works Department for approval, a Final Map prepared by a licensed land surveyor or registered Civil Engineer. The Final Map shall conform to the requirements of the City Survey Control Ordinance.
  - 2. **Dedication(s).** Easements, as shown on the approved Tentative Subdivision Map and described as follows, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:
    - a. A variable width surface easement for Public Sidewalk Purposes along the portion of the Real Property fronting Coast Village Road. The width of the easement shall be sufficient to provide sidewalk improvements (curb, parkway, sidewalk, and frontage zone) of at least 15 feet of width measured from the roadway edge of the curb. Owner may reserve the right to develop the area beneath the surface for an underground parking garage or other sub-surface structures as long as such sub-surface structures do not interfere with the development and use of the surface easement for sidewalk purposes.
  - 3. **Required Private Covenants.** The Owner shall submit a copy of the draft private covenants, reciprocal easement agreement, or similar private agreements required for the project, concurrently with the Final Map.
  - 4. **Hydrology Report.** The Owner shall submit a final hydrology report prepared by a registered civil engineer demonstrating that the new development will not increase runoff amounts above existing conditions for a 25-year storm event. Any increase in runoff shall be retained on-site. Ground water from around the foundation of the proposed structures, and any polluted water from the underground garage, may not be discharged to the public right of way. Discharge from the underground parking structure containing hydrocarbons may potentially be discharged to the City sewer system after treatment, with a special permit from the El Estero Wastewater Treatment Facility. Contact Alex

Alonzo at 568-1026 with questions about the sewer permit. Please note that under no circumstances will groundwater be permitted to discharge to the sewer system, and contaminated groundwater will not be permitted to discharge to the storm drain system. Refer to Building and Safety in regards to the advantages of constructing the foundation for saturated conditions, in which case groundwater would not need to be pumped.

5. **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 and a hydrology report prepared by a registered civil engineer 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.

The Owner shall provide an Operations and Maintenance Procedure Plan (describing replacement schedules for pollution absorbing pillows, etc.) for the operation and use of the storm drain surface pollutant interceptors. The Plan shall be reviewed and approved consistent with the Storm Water Management Plan BMP Guidance Manual.

6. **Coast Village Road Public Improvements.** The Owner shall submit C-1 public improvement plans for construction of improvements along the property frontage on Coast Village Road. Public Works C-1 plans shall be submitted separately from plans submitted for a Building Permit, and shall be prepared by a licensed civil engineer registered in the State of California. As determined by the Public Works Department, the improvements shall include the following to City standards: Remove and replace (E) sidewalk with (N) 12 (eight ft. wide sidewalk and four foot wide parkway)-ft wide sidewalk and a minimum of four 4-ft wide x 5-ft long tree wells spaced evenly along entire property frontage behind curb, supply & install (5) five (N) street trees as determined by the Parks and Recreation Street Tree Advisory Committee, relocate the newspaper racks within the right of way to a location closer to the proposed building and out of the line of sight for drivers on Soast Village Circle, relocate the stop sign at the intersection of Coast Village Road and the on-street parking lane so that drivers on CVR are not able to see the sign, replace antiquated fire hydrant and install (N) commercial fire hydrant, remove (E) 16-ft wide driveway approach and replace with (N) sidewalk and curb & gutter, saw-cut and replace any damaged curb and gutter from joint to joint, provide public drainage improvements with supporting hydrology report for installation of drainage connector pipes to existing storm drain drop inlets, provide storm drain stenciling on (E) drop inlets, preserve and/or reset survey monuments (if any), protect and relocate existing contractor stamps (if any) to tree wells, slurry seal a minimum of 20-feet beyond the limits of all trenching, connection to Montecito Water and City sewer mains, 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.

7. **Coast Village Circle Public Improvements.** The Owner shall submit C-1 public improvement plans for construction of improvements along the property frontage on Coast Village Circle. Public Works C-1 plans shall be submitted separately from plans submitted for a Building Permit, and shall be prepared by a licensed civil engineer registered in the State of California. As determined by the Public Works Department, the improvements shall include the following to City standards: Remove and replace (E) sidewalk along entire property frontage with (N) 12-ft wide sidewalk, construct (2) two (N) commercial driveway aprons (one 12-ft wide and one 20-ft wide) modified to meet Title 24 requirements, slurry seal a minimum of 20 feet beyond the limits of all trenching, connection to Montecito Water mains and City sewer mains, public drainage improvements with supporting hydrology report for installation of drainage connector pipes to (E) drop inlets, provide storm drain stenciling on existing drop inlets, preserve and/or reset survey monuments (if any), protect and relocate existing contractor stamps (if any) to tree wells, supply and install directional/regulatory traffic control signs per the CA MUTCD during construction, supply and install (5) five (N) street trees as approved by the Parks and Recreation Commission Street Tree Advisory Committee at the back of sidewalk to avoid utility vaults, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.
  8. **Agreement to Secure Public Improvements.** The Owner shall submit an executed *Agreement for Land Development Improvements*, prepared by the Engineering Division. Owner shall submit an Engineer's Estimate, wet signed, and stamped by a civil engineer registered in the State of California, and shall submit securities for construction of improvements prior to execution of the Agreement.
  9. **Encroachment Permits.** Owner shall apply for a *Minor Encroachment Permit* from the City Public Works counter for the construction of improvements including landscaping, private storm drain connector pipes on both Coast Village Road and Coast Village Circle, and along Coast Village Circle for colored concrete driveway approach, decorative pavers, and trench-slot drain within the City's rights-of-way.
- D. **Design Review.** The project, including public improvements, 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. **Parks and Recreation Commission Tree Removal Approval.** Submit to the Planning Division verification of approval from the Parks and Recreation Commission for the removal/replacement of the Southern Magnolia from the parking planter on Coast Village Road.
  2. **Pedestrian Pathway.** To improve pedestrian safety and friendliness, a separate pedestrian pathway shall be provided along the upper driveway from the sidewalk using a different walkway material.
  3. **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.
  4. **Project Directory.** A project directory, (including map and parking directional signs) listing all units on-site shall be indicated on the project plans. This directory shall be lit

sufficiently for readability for site visitors and placed in a location or locations acceptable to the Fire Department, shall meet current accessibility requirements, and is subject to Design Review Approval.

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

Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.

6. **Bicycle Parking.** In addition to required bicycle parking in the subterranean garage, provide additional uncovered bicycle parking locations at the street level.
7. **Tree Replacement.** The Applicant will add the largest reasonable replacement tree size for the Podocarpus Fern Pine tree being removed
8. **Temporary Construction Sound Wall.** A sound wall must be installed in the north west corner of the property at the edge of the deck used by the adjacent commercial tenant space during construction.

- E. **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. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. 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.5 "*Coast Village Road Public Improvements*" and D.6 "*Coast Village Circle 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 for Land Development Improvements*.
- b. **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.
- c. **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.
- d. **Stop Sign.** A "STOP" sign shall be installed at the exit from the underground parking structure and shown on the approved building plans.

2. **Community Development Department.**

- a. **Recordation of Final Map and Agreements.** After City Council approval, the Owner shall provide evidence of recordation of the map and agreements to the Community Development Department prior to issuance of building permits for the new buildings.
- b. **Deck.** Submit evidence that an easement has been granted and a permit has been obtained for the permitting of the as-built deck in the northwesterly corner of the property. In the event the easement is not recorded and permits are not obtained for retention of the deck, the building plans should include the demolition of the portion of deck area located on the 1255 Coast Village Road property and the area shown to be landscaped.
- c. **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 draft copy of the notice to the Planning Division for review and approval.
- d. **Letter of Commitment for Neighborhood Notification Prior to Construction.** The Owner shall submit to the Planning Division a letter of commitment to provide the written notice specified in condition F.1 “Neighborhood Notification Prior to Construction” below. The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person(s) who compiled the mailing list shall be submitted to the Planning Division.
- e. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment to hold the Pre-Construction Conference identified in condition F.2 “Pre-Construction Conference” prior to disturbing any part of the project site for any reason.
- f. **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 E “Design Review,” and all elements/specifications shall be implemented on-site.
- g. **Emergency Evacuation Plan.** Provide an emergency evacuation plan subject to approval by the Fire Department.
- h. **Conditions on Plans/Signatures.** The final Planning Commission 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 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, including demolition and grading.

1. **Neighborhood Notification Prior to Construction.** At least twenty (20) days prior to commencement of construction, the contractor shall provide written notice to all property owners, businesses, and residents within 300 feet of the project area. The notice shall contain a description of the project, the construction schedule, including noise generating activities, days and hours of construction, the name and phone number of the Contractor(s), site rules and Conditions of Approval pertaining to construction activities, and any additional information that will assist the Building Inspectors, Police Officers and the public in addressing problems that may arise during construction.
2. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Community Development Department Building and Planning Divisions, the Property Owner, Architect, Landscape Architect, Contractor and each Subcontractor.
3. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number(s), work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is freestanding 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.
4. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be carefully salvaged and delivered to the City Corporation Annex Yard on Yanonali Street.
5. **Construction Hours.** Construction (including preparation for construction work) shall only be permitted Monday through Friday between the hours of 7:00 a.m. and 6:00 p.m. and Saturdays between the hours of 9:00 a.m. and 4:00 p.m., with a

maximum of 10 consecutive hours on any day, mutually agreeable to the owner and the adjacent property occupants, 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 Planning Staff 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.

- b. No construction work or construction staging is to take place within the City’s right of way in commercial areas during the holiday season, from the Monday prior to Thanksgiving through and including New Year’s Day.
  - (1) No new permits may be issued for work in these areas during this period, except for emergency reasons that are approved by the City Engineer.
  - (2) All Public Works projects in the specified areas, with an existing Public Works Permit, must be halted until AFTER the New Year.[
  - (3) No permits for dumpsters or other traffic obstructions may be issued for this period. Permitted construction staging must be removed from the City right of way during the holiday season.

COMPLIANCE IS MANDATORY. Please ensure that all appropriate employees are aware of this policy.

- 6. **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.
- 7. **Construction Parking.** During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Transportation Manager.

7.8. **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.

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 public improvements (curbs, gutters, sidewalks, roadways, etc.) on public property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60.090. .
2. **Complete Public Improvements.** Public improvements, as shown in the public improvement plans, removal of existing antique-like fire hydrant, installation of a new City standard Commercial Fire Hydrant, and installation of street trees, shall be completed.
3. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11” board and submitted to the Planning Division.

4. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided to the Community Development Department, Planning Division that the private CC&Rs required in Section B “Recorded Conditions Agreement” have been recorded.
5. **Inclusionary Housing Fee.** Owner shall submit evidence that the required inclusionary housing fee (calculated as \$15,500 at the time of project approval) has been paid to the Community Development Department.

H. **General Conditions.**

1. **Prior Conditions.** These conditions shall supersede all other conditions identified in the Planning File.
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 prior to issuance of any building permit or recordation of the Map, whichever comes first.
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.

### **III. NOTICE OF MODIFICATION APPROVAL TIME LIMITS:**

The Planning Commission action approving the 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 and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

### **NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:**

The Planning Commission / Staff Hearing Officer action approving the Coastal Development Permit shall expire two (2) years from the date of final action upon the application, per Santa Barbara Municipal Code §28.44.230, unless:

1. Otherwise explicitly modified by conditions of approval for the coastal development permit.
2. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.
3. The Community Development Director grants an extension of the coastal development permit approval. The Community Development Director may grant up to three (3) one-year extensions of the coastal development permit approval. Each extension may be granted upon the Director finding that: (i) the development continues to conform to the Local Coastal Program, (ii) the applicant has demonstrated due diligence in completing the development, and (iii) there are no changed circumstances that affect the consistency of the development with the General Plan or any other applicable ordinances, resolutions, or other laws.

### **NOTICE OF TENTATIVE SUBDIVISION MAP (INCLUDING NEW CONDOMINIUMS AND CONDOMINIUM CONVERSIONS) TIME LIMITS:**

The Planning Commission / Staff Hearing Officer action approving the Tentative Map shall expire two (2) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110.

### **NOTICE OF DEVELOPMENT PLAN TIME LIMITS:**

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

1. A building or grading permit for the work authorized by the development plan is issued prior to the expiration date of the approval.
2. The Community Development Director grants an extension of the development plan approval

upon finding that the applicant has demonstrated due diligence in implementing and completing the proposed project. The Community Development Director may grant one (1) one-year extension of the development plan approval.

**NOTICE OF TIME LIMITS FOR PROJECTS WITH MULTIPLE APPROVALS (S.B.M.C. § 28.87.370):**

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 land use 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 longest discretionary land use approval related to the application, unless otherwise specified by state or federal law.

This motion was passed and adopted on the 9th day of February, 2012 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

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.**