



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 006-12

### 1085 COAST VILLAGE ROAD

### MODIFICATIONS, CONDITIONAL USE PERMIT, AND COASTAL DEVELOPMENT PERMIT

MARCH 15, 2012

**APPLICATION OF KEVIN DUMAIN ARCHITECT FOR JANDA PARTNERS LP,  
1085 COAST VILLAGE RD, APN 009-281-003, C-1 LIMITED COMMERCIAL/SD-3 COASTAL  
OVERLAY ZONES, GENERAL PLAN DESIGNATION: COMMERCIAL/MEDIUM HIGH  
RESIDENTIAL (MST2010-00026)**

The project consists of alterations to an existing 2,317 sf automobile service station including: demolishing of 344 sf of retail floor area; constructing of a 607 sf addition of retail floor area; constructing of a 1,667 sf covered car wash; installing of two pay point kiosks; constructing of a 135 sf equipment enclosure; revising driveway entrances to improve pedestrian circulation; converting of an existing exploratory well to a non-potable production well; relocating the existing propane tank; constructing a shade trellis for car wash detailing operations; restriping parking for a total of 10 parking spaces on site; and remodeling the interior of the service station including the removal of service bays to be used as a mini-market. An existing Jacaranda tree will be relocated to allow and existing curb cut to be widened.

The discretionary applications required for this project are:

1. Design Review by the Architectural Board of Review of additions and alteration to a non-residential development (SBMC §22.68.040(A.));
2. A Modification to provide less than the 18 required parking spaces (SBMC §28.92.110.1);
3. A Modification to allow two pay point kiosks to be located within the required 10 foot front setback. (SBMC §28.92.110.1);
4. A Conditional Use Permit for the conversion of an existing automobile service station to automobile service station with mini-market (SBMC § 28.94.030.V.);
5. A Conditional Use Permit for the car wash in the C-1 Zone District (SBMC § 28.94.030.Q.); and
6. A Coastal Development Permit for development including an automobile service station with mini-market and car wash and a new well in 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 15303

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

**WHEREAS**, 4 people appeared to speak in favor of the application, and 0 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, March 8, 2012
2. Updated Findings dated March 14, 2012

3. Updated draft Conditions of Approval dated March 13, 2012
4. Site Plans
5. Correspondence received in opposition to the project or with concerns:
  - a. Paula Westbury, Santa Barbara, CA
  - b. Richard J. Nordlund, President, Montecito Association, via email

**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.A.2)**

As discussed in Section VI.1.a. of the staff report, the requested front setback modification for the two pay point kiosks to be located in the front setback off of Coast Village Circle is consistent with the purposes and intent of the Zoning Ordinance and is necessary to allow the driver to pay for the car wash without exiting the vehicle.

**B. PARKING MODIFICATION (SBMC §28.92.110.A.1)**

As discussed in Section VI.1.b. of the staff report, the requested parking modification to provide 10 rather than 18 parking spaces is consistent with the purposes and intent of the Zoning Ordinance and will not cause an increase in the demand for parking or loading space in the immediate area.

**C. 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. of the Staff Report.

**D. CONDITIONAL USE PERMIT (SBMC §28.94.020)**

The Planning Commission approves a Conditional Use Permit to allow a car wash and hand detailing operation at 1085 Coast Village Road, as provided in SBMC Section 28.94.030.Q., making the following findings:

1. The project 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 because it provides for desirable updated amenities of a mini-market and car wash to visitors (residents and tourists) at a service station that has existed in this location since 1948 and is consistent with the use outlined in the land use element of the General Plan, as described in Is VI.B. and VI.C. 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 proposed use has been operating as a service station for 64 years at the current location with the complaints received being focused on signage violations and not the land use impacts on adjacent neighbors.

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, because the development observes the required setbacks with the exception of the legally non-conforming air/water dispenser and the proposed pay point kiosks the project conforms to all required setbacks. The proposed use is in keeping with the pattern of development and the desire for neighborhood shopping areas described in Sections VI.B. and VI.C. of the staff report.
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 because the project provides sufficient access to the property for ingress and egress and the on-site parking meets the required parking demand for the use, as discussed in Sections VI.1.b. and VI.2.b.(7). of the staff report.
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 as determined by the ABR, as discussed in Section VIII. of the staff report.
6. The project complies with the noise restrictions of SBMC Chapter 28.60, as discussed in Section VI.2.a. of the staff report.

**E. CONDITIONAL USE PERMIT (SBMC §28.94.020)**

The Planning Commission approves a Conditional Use Permit to allow an automobile service station and mini-market at 1085 Coast Village Road, as provided in SBMC Section 28.94.030.V., making the following findings:

1. The project 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 because it provides for desirable updated amenities of a mini-market and car wash to visitors (residents and tourists) at a service station that has existed in this location since 1948 and is consistent with the use outlined in the land use element of the General Plan, as described in Is VI.B. and VI.C. 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 proposed use has been operating as a service station for 64 years at the current location with the complaints received being focused on signage violations and not the land use impacts on adjacent neighbors.
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, because the development observes the required setbacks with the exception of the legally non-conforming air/water dispenser and the proposed pay point kiosks the project conforms to all required setbacks. The proposed use is in keeping with the pattern of

development and the desire for neighborhood shopping areas described in Sections VI.B. and VI.C. of the staff report.

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 because the project provides sufficient access to the property for ingress and egress and the on-site parking meets the required parking demand for the use, as discussed in Sections VI.1.b. and VI.2.b.(7). of the staff report.
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 as determined by the ABR, as discussed in Section VIII. of the staff report.
6. The project meets the automobile service station/mini-market required conditions, standards and limitations identified in SBMC §28.94.030.V., as discussed in Section VI.2.b. 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 G "Construction Implementation Requirements."
4. Record any required documents (see Recorded Conditions Agreement section).
5. Permits.
  - a. Apply for and obtain a Building Permit (BLD) for construction of approved development.
  - b. Apply for and obtain a Public Works Permit (PBW) for all required public improvements.
  - c. Apply for and obtain a Public Works Permit (PBW) for the private water well.

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 March 15, 2012 is limited to a 2,580 square foot service station/mini market with attached 1,667 square foot car wash tunnel, and 135 square foot equipment storage enclosure 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. **Car Wash and Well Production.** In the event that the water well ceases to produce adequate water supply for the nonpotable water uses (e.g. car wash and landscaping), the owner will be required to provide evidence to the City that an alternate water source can be provided. If the necessary approvals and/or permits cannot be provided for an alternate water source the car wash and auto detailing operations must cease to operate.
3. **Exterior Displays.** All mini-market materials, products and merchandise shall be stored and displayed only within an enclosed building.
4. **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.
5. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
6. **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.
7. **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 and Coastal Development 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.
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. **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.

- 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 through appropriate inclusion on approved plans.
1. **Tree Replacement.** The existing Jacaranda tree shall be replaced within the public right-of-way and shall be fenced and protected during construction. Street Tree Advisory Committee and Park and Recreation Commission approval is required.
  2. **Tree Protection.**
    - a. **During Construction.**
      - (1) All trees within 25 feet of proposed construction activity shall be fenced three feet outside the dripline for protection.
      - (2) Any roots encountered shall be cleanly cut and sealed with a tree-seal compound.
      - (3) Any root pruning and trimming shall be done under the direction of a qualified Arborist.
      - (4) No heavy equipment, storage of materials or parking shall take place under the dripline of any tree(s).
  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. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.

Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.
  5. **Lighting.** Any perimeter flood lighting shall be hooded or shielded so that no direct beams fall upon adjacent residential property. Indirect soft lights and low garden lights shall be used wherever possible, and shall be required as necessary to assure compatibility with adjacent and surrounding properties.
- 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. **Approved Public Improvement Plans.** Public Improvement Plans as identified in condition D.1.e and f. "Coast Village Road and 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 an *Agreement to Construct and Install Improvements (Not a Subdivision)*, or has been issued a Public Works Permit concurrently with the Building plans.

- b. **Well Permit.** Applicant shall apply to the Public Works Counter to have the exploratory well converted to a production well under a new permit, subject to the requirements outlined in the August 6, 2010 letter prepared by the Water Resources Manger and payment of related sewer buy-in fee. The safety seal shall be placed at 83 feet below grade.
- c. **Dedication(s).** Dedicate Easements, as shown on the approved site plan and described as follows, subject to approval of the easement scope and location by the Public Works Department:
  - (1) An easement for all street purposes along Coast Village Road in order to establish an additional four-foot wide public right-of-way at the back of the existing westerly driveway as shown on the approved public improvement plans.
- d. **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 a hydrology report 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.

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. The proposed bio-filter shall be placed on private property for filtering runoff before it discharges to the public rights-of-way.
- e. **Coast Village Road Public Improvements.** The Owner shall submit public improvement plans for construction of improvements along the property frontage on Coast Village Road directly to the Public Works counter. As determined by the Public Works Department, the improvements shall include to City standards, the following: Relocate (E) MTD bus stop, construct (N) City standard bus pad for a 40-ft bus, construct one (N) commercial driveway apron modified to meet Title 24 requirements with a maximum width of 32-feet, construct +/- forty (40) LF sidewalk behind (N) commercial driveway, close (E) driveway and install (N)

curb and cutter, construct +/- forty-three (43) LF of sidewalk at the back of the most westerly (E) driveway approach to widen the (E) sidewalk, saw-cut and replace any damaged curb and gutter subject to determination by Public Works Inspector, slurry seal a minimum of 20 feet beyond the limits of all trenching (if any), protect and relocate existing contractor stamps to parkway (if any), relocate the newspaper racks adjacent to the planter and closer to the proposed building, relocate or adjust the existing stop sign at the exit of the on-street parking lane with Coast Village Road. Any work in the public right-of-way requires a Public Works Permit.

- f. **Coast Village Circle Public Improvements.** The Owner shall submit public improvement plans directly to the Public Works counter for construction of improvements along the property frontage on Coast Village Circle. As determined by the Public Works Department, the improvements shall include to City standards, the following: Construct one (N) commercial driveway apron modified to meet Title 24 requirements with a maximum width of 20-feet, construct +/- twenty-two (22) LF sidewalk behind (N) commercial driveway, close (E) driveway and install (N) curb and gutter, , and connect to on-site production well (to be permitted separately from public improvement permit) for car wash and irrigation only. Any work in the public right-of-way requires a Public Works Permit.
  - g. **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.
  - h. **Agreement to Construct and Install Improvements.** The Owner shall submit an executed *Agreement to Construct and Install Improvements*, prepared by the Engineering Division, an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the Agreement.
  - i. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way or easements shall be obtained by the Owner.
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. **Pump Flicks.** The Owner shall add a mute button for pump speakers to reduce sound of Pump Flicks, if feasible.
  - 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. 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:

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 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
- 2. **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.
- 3. **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.

4. **Construction Timing Restriction.** 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.
  - a. 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.
  - b. All Public Works projects in the specified areas, with an existing Public Works Permit, must be halted until AFTER the New Year.
  - c. 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.

5. **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.
6. **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 improvement plans and/or building plans, including utility service undergrounding per Municipal Code and installation of street trees, shall be completed.

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.
  - 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.

#### **NOTICE OF APPROVAL TIME LIMITS:**

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

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued 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 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 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 15th day of March, 2012 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 4 NOES: 0 ABSTAIN: 0 ABSENT: 3 (Bartlett, Jordan, Schwartz)

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.**

