



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 003-14

150 S. LA CUMBRE ROAD

CONDITIONAL USE PERMIT AMENDMENT

JANUARY 23, 2014

**APPLICATION OF MOLLER INVESTMENT GROUP, APPLICANT FOR MOLLER RETAIL, INC.,
150 S. LA CUMBRE ROAD, APN 051-032-002, COMMERCIAL ZONE (C-2) AND THE UPPER
STATE AREA (SD-2), GENERAL PLAN DESIGNATION: COMMERCIAL/HIGH RESIDENTIAL
(MST2011-00384)**

The proposal includes elimination of three automobile service bays at the existing service station and expansion of the mini-market within the existing building footprint. The project involves interior and exterior remodeling of the existing 1,600 square foot building, new accessible parking, entry and trash enclosures, and dedication of additional public right-of-way along La Cumbre Road. The project requires Planning Commission review of an amendment to the previous Conditional Use Permit approved on March 7, 1985.

The discretionary application required for this project is an Amendment to a Conditional Use Permit to eliminate the existing auto mechanic service bays and allow the expansion of the existing mini-market at the automobile service station/mini-market (SBMC 28.94.030.V).

The project activity is within the scope of the 2011 General Plan and the Program EIR analysis for the General Plan. No further environmental document is required for this project pursuant to the California Environmental Quality Act (Public Resources Code §21083.3 and Code of Regulations §15183). City Council environmental findings adopted for the 2011 General Plan, remain applicable for this project. The project requires an environmental finding pursuant to California Environmental Quality Act Guidelines Section 15183.

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, January 16, 2014.
2. Site Plans

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

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

A. **ENVIRONMENTAL FINDING**

The Planning Commission finds that the project qualifies for an exemption from further environmental review under CEQA Guidelines Section 15183, based on the City staff analysis and the CEQA certificate of determination on file for this project.

B. **CONDITIONAL USE PERMIT AMENDMENT (SBMC §28.94.020)**

1. The use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan.

The project includes eliminating three mechanical service bays and converting the area to expand the existing mini-mart on the site. This proposal complies with the applicable General Plan Policies and Commercial Land Use Designation.

2. The 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 proposal to expand the mini-mart will take place within the existing building and will not expand the existing footprint. The project site is in close proximity to Highway 101 and is within the La Cumbre Road and State Street commercial zones and is the proposal was found compatible with the surrounding neighborhood by the Architectural Board of Review.
3. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided. The project site is located in an urban area, adjacent to other commercial uses along La Cumbre Road with varying setbacks. The project site meets all physical requirements for a service station/mini-market.
4. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time. The amount of parking provided on-site is anticipated to meet the project demand and is consistent with the Zoning Ordinance requirement. Vehicular access to the site is adequate and will be maintained, and pedestrian access will be improved by widening the sidewalk on La Cumbre Road and making both driveway aprons on La Cumbre Road ADA compliant.
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.

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

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

- B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Approved Development.** The development of the Real Property approved by the Planning Commission on January 23, 2014 is limited to the elimination of three automobile service bays at the existing service station and expansion of the mini-market within the existing building footprint. The project involves interior and exterior remodeling of the existing 1,600 square foot building, new accessible parking, entry and trash enclosures, and dedication of additional public right-of-way along S. La Cumbre Road 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 allow for the continuation of any historic flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
 3. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
 4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan, 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.
 5. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.
 6. **Sign Regulation Compliance.** Owner shall maintain compliance with the City of Santa Barbara Sign Regulations.

C. **Design Review.** The project, including public improvements, is subject to the review and approval of the Architectural Board of Review (ABR). The ABR shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.

1. **Screened Backflow Device.** The backflow devices for fire sprinklers, pools, spas 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.
2. **Location of Dry Utilities.** Dry utilities (e.g. above-ground cabinets) shall be placed on private property unless deemed infeasible for engineering reasons. If dry utilities must be placed in the public right-of-way, they shall be painted "Malaga Green," and if feasible, they shall be screened as approved by ABR.
3. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.

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

4. **Outdoor Lighting Guidelines.** Project plans shall verify compliance with the City of Santa Barbara Outdoor Lighting Guidelines.
5. **Landscape Plan.** The landscape plan shall include the installation of trees in empty tree wells on the property frontage along La Cumbre Lane.

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 "S. La Cumbre Road" Public Improvements" shall be submitted to the Public Works Department for review and approval. Upon acceptance of completed public improvement plans, a Building permit may be issued if the Owner has bonded for public improvements and executed the *Agreement to Construct and Install Improvements (Not a Subdivision)*.
- b. **Dedication(s).** A two-foot wide access easement for pedestrians, as shown on the approved site plan, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division.
- c. **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.

- d. **Drainage and Water Quality.** The project is required to comply with Tier 3 Storm Water Management Requirements and shall comply with the Final Drainage Study prepared by Audra Torres/Pasquini Engineering dated November 12, 2013. Proposed drainage improvements shall consist of two Kristar FloGard LoPro Matrix catch basin filter inserts to address volume reduction and storm water quality. The storm water runoff will be treated by the catch basin inserts located in the southwest part of the site and/or in a proposed catch basin located at the northwest corner of the site.

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 Kristar FloGard LoPro Matrix filters shall be serviced and maintained as described in the manufacturer's specifications for maintenance. This includes servicing each catch basin at least three times a year and changing the filter media once per year. During each service the following shall be performed:

1. The catch basin grate(s) or cover shall be removed and set to one side.
2. The service shall commence with collection and removal of sediment and debris (litter, leaves, papers, cans, etc.).
3. The catch basin shall be visually inspected for defects and possible illegal dumping.
4. Using an industrial vacuum, the collected materials shall be removed from the filter liner and interior of the catch basin.
5. When all of the collected materials have been removed, the filter assembly shall be removed from the drainage inlet. The outer filter liner shall be removed from the filter assembly and filter medium pouches shall be removed by unsnapping the tether from the stainless steel hooded outlet cover and set to one side. The filter liner, PVC body and fittings shall be inspected for continued serviceability. Minor damage or defects found shall be corrected on the spot.
6. The filter liner and filter medium pouches shall be inspected for defects and continued serviceability and replaced as necessary and the pouch tethers re-attached to the stainless steel hooded outlet cover assembly.
7. The grate(s) or cover shall be replaced.

The Owner shall provide an Operations and Maintenance Procedure Plan for the operation and use of the proprietary catch basin filter systems. The Plan shall be reviewed and approved consistent with the Storm Water Management Plan BMP Guidance Manual.

- e. **S. La Cumbre Road Public Improvements.** The Owner shall submit Public Works plans for construction of improvements along the property frontage on **S. La Cumbre Road**. 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 new and/or remove and replace to City standards, the

following: two foot dedication at front of property for ADA accessibility, fifty linear feet of sidewalk, two commercial driveway aprons modified to meet Title 24 requirements with a maximum width of thirty-seven linear feet for the northern driveway and a maximum of thirty feet for the southern driveway, one "No Left Turn" sign at the northern driveway on La Cumbre Road, preserve and/or reset survey monuments, protect and relocate existing contractor stamps, two new street grates per approval of the Parks and Recreation Commission and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

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. 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) , contractor(s) name and 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.

2. **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.
3. **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. 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 or building plans, shall be completed.

G. General Conditions.

1. **Prior Conditions.** These conditions shall supersede the conditions identified in Planning Commission Resolution 18-85.
2. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
3. **Approval Limitations.**
 - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
 - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission.
 - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
4. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application.
5. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

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

III. NOTICE OF CONDITIONAL USE PERMIT APPROVAL TIME LIMITS:

The Planning Commission action approving the Conditional Use Permit, Modification, Performance Standard Permit, or Variance 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.

This motion was passed and adopted on the 23rd day of January, 2014 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Planning Commission at its meeting of the above date.



Julie 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.

