



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 024-14

3435 MARINA DRIVE

COASTAL DEVELOPMENT PERMIT

SEPTEMBER 18, 2014

AS AMENDED BY THE CITY COUNCIL ON NOVEMBER 18, 2014

APPLICATION OF PAUL ZINK, ARCHITECT FOR CHARLES RUDD, 3435 MARINA DRIVE, APN 047-022-005, A-1/SD-3 (ONE FAMILY RESIDENCE AND COASTAL OVERLAY) ZONES, GENERAL PLAN/LOCAL COASTAL PLAN DESIGNATION: RESIDENTIAL, 1 UNIT PER ACRE; (MST2013-00281)

The project consists of the construction of a new two-story single family residence totaling approximately 5,990 square feet, plus a 440 square foot attached garage, on a vacant 48,787 net square foot lot. The residence consists of a 1,220 square foot basement, a 3,960 square foot first floor and an 810 square foot second floor. Also proposed are associated improvements including, but not limited to, site walls and gates, a new septic system, removal of an existing concrete drainage ditch and replacement with a natural swale, a swimming pool with associated pool equipment, outside barbeque, patios and decks, and landscaping. The project would include approximately 1,081 cubic yards (cy) of cut and 1,069 cy of fill/recompaction; it is anticipated that there would be approximately 12 cy of export. The Planning Commission reviewed and continued a prior version of this project on July 10, 2014.

The discretionary application required for this project is a Coastal Development Permit (CDP2014-00002) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44.060).

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, at the hearing of July 10, 2014, no one appeared to speak in favor of the application, and 22 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, July 3, 2014.
2. Site Plans
3. Correspondence received in opposition to or with concerns of the project
 - a. Jon Kechejian, via email
 - b. Sandy Schoolfield, via email
 - c. Cornelius Passani, via email
 - d. Richard Handler, via email
 - e. Susan Strick, via email
 - f. Marc Whitten, via email

- g. Van Spaulding, via email
- h. Walter Babine, via email
- i. Beth Collins-Burgard, via email
- j. Ann Collins-Burgard, via email
- k. Teri Cooke, Santa Barbara, CA
- l. Joni Milchak, Santa Barbara, CA
- m. Gail & Doug Bowman, Santa Barbara, CA
- n. Cindy Gulbranson, Santa Barbara, Ca

WHEREAS, at the hearing on July 10, 2014, the Planning Commission continued the project indefinitely for additional review by the Single Family Design Board with the Commission's comments.

WHEREAS, at the continued hearing of September 18, 2014, five people appeared to speak in favor of the application, and two people appeared to speak in opposition thereto or with concerns, and the following exhibits were presented for the record:

- 1. Staff Report with Attachments, September 11, 2014.
- 2. Site Plans
- 3. Correspondence received in support of the project for the hearing of September 18, 2014
 - a. Sandy Schoolfield, via email
 - b. Jon Kechejian, via email
 - c. Marc Whitten, via email
 - d. Susan Strick, via email

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

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

A. ENVIRONMENTAL REVIEW

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. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)

- 1. The project is consistent with the policies of the California Coastal Act because it does not result in any adverse effects related to coastal resources, including views and public access, as described in Section VII 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 project will not increase hazards related to seacliff retreat or fire services, will not affect lateral access across the beach, will not significantly impact public views, and is compatible with the neighborhood, as described in Section VII 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 (30% of all planning fees, as calculated by staff) at time of building permit application.
3. Record any required documents (see Recorded Conditions Agreement section).
4. 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 September 18, 2014 is limited to the construction of a new, single family residence totaling approximately 5,990 square feet of building area plus a 440 square foot attached garage and associated improvements including, but not limited to, site walls and gates, a new septic system, a swimming pool with associated pool equipment, outside BBQ area, patios and decks, and landscaping, as shown on the plans signed by the chairperson of the Planning Commission on said date and on file at the City of Santa Barbara. The project includes a 30-foot wide view corridor along the western property line.
2. **View Corridor.** The Owner shall provide and maintain the 30-foot wide view corridor, measured perpendicularly from the western interior lot line, as shown on the approved plans. The landscaping plan for the project shall afford and maintain a clear view of the ocean to pedestrians along Marina Drive in a manner acceptable to the Single Family Design Board by selecting proper species and maintaining appropriate limits on the height of all approved landscaping. Structures, walls, and plants shall be installed and maintained consistent with the approved landscape plan within the view corridor. Trees are prohibited in the view corridor.
3. **Additional View Protection.** To protect public and oblique views on the Cliff Drive side of the house:
 - a. Owner shall not install any structures or grow any vegetation more than five (5) feet above existing grade (as shown on the site plan) seaward of the patio area.

This area is also shown with a line on the site plan. The only exceptions to this condition will be one (1) single trunk Phoenix Palm and one (1) triple trunk Phoenix Palm to be sited as shown on the site plan.

- b. Owner will plant vegetation to soften and screen the back and the front of the block wall along Cliff Drive.
4. **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.
5. **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).
6. **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.
7. **Cypress Tree Protection.** The two existing Cypress tree(s) shown on the Site Plan shall be preserved, protected, and maintained.
8. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state and in accordance with the Storm Water BMP Guidance Manual and Operations and Maintenance Procedure Plan approved by the Creeks Division. 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.
9. **Storm Water Improvements.** The property owner waives the right to object to the formation of an assessment district for the maintenance of storm water improvements and agrees to participate in the assessment district upon its formation.
10. **Sewer Connection Requirement.** Owner agrees to connect to the City sewer system when a sewer main is constructed in Cliff Drive at a point adjacent to Owner's Real Property, per Santa Barbara Municipal Code Chapter 14.44. Owner shall, at Owner's sole expense, connect to the City sewer system within one year of being advised in writing that the City sewer main is operable and available for such a connection. If connected to City sewer, a sewer discharge outlet shall be provided for drainage of any

swimming pool(s). In the event Owner fails to comply with this condition of approval, City may enter the Real Property and make such a sewer connection with the cost of the connection becoming a lien on the real property to be paid in connection with property taxes and assessments imposed on Owner's Real Property.

11. **Swimming Pool Discharge.** In the event the pool is completely or partially drained, the owner shall truck out any water discharged from the swimming pool and properly dispose of the water to the sanitary sewer system. No water from the pool shall be discharged into a City storm drain or to the private septic system on the real property, as identified in SBMC Chapter 16.15.
12. **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 Single Family Design Board (SFDB). The SFDB shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.

1. **View Corridor.** Within the 30-foot wide view corridor, the landscaping plan shall be reviewed with the intent of affording and maintaining a clear view of the ocean to pedestrians along Marina Drive in a manner acceptable to the SFDB by selecting appropriate species and maintaining appropriate limits on the height of all approved landscaping. As a guideline, landscaping with a maximum height of 3-4 feet from finished grade would be acceptable for the north half of the corridor, and landscaping with a maximum height of 5-6 feet from finished grade would be acceptable for the south portion. Structures, walls, and plants shall be installed and maintained consistent with the approved landscape plan within the view corridor. Trees are prohibited in the view corridor.
2. **Additional View Protection.** To protect public and oblique views on the Cliff Drive side of the house:
 - a. Owner shall not install any structures or grow any vegetation more than five (5) feet above existing grade (as shown on the site plan) seaward of the patio area. This area is also shown with a line on the site plan. The only exceptions to this condition will be one (1) single trunk Phoenix Palm and one (1) triple trunk Phoenix Palm to be sited as shown on the site plan.
 - b. Owner will plant vegetation to soften and screen the back and the front of the block wall along Cliff Drive.
3. **Pedestrian Path.** A pedestrian path at least four feet in width shall be provided south of the wall along the property frontage on Cliff Drive. The path shall comply with Chapter 8 of the Pedestrian Master Plan requirements for pathways. The pedestrian path shall align with the approved path along the adjacent property to the west and be constructed of decomposed granite or other similar material subject to approval by the SFDB and Public Works Department. Path construction and materials shall be done in such a way as to protect the existing Cypress trees. Protection of the trees shall take priority over the path in the event of any conflicts. Landscaping south of the path shall be consistent with City regulations for parkway plantings.

4. **Tree Protection Measures.** The landscape plan and grading plan shall include the following tree protection measures:
 - a. **Tree Protection.** All trees not indicated for removal on the approved site plan / landscape plan shall be preserved, protected, and maintained, in accordance with the Arborist's Report and/or any related Conditions of Approval.
 - b. **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s), as determined by the SFDB.
 - c. **Arborist's Report / Tree Protection Plan.** Include a note on the plans that the recommendations contained in the arborist's report prepared by Peter Winn of Westree, dated August 19, 2013, and Addendum dated April 15, 2014, shall be implemented.
 5. **Southern Perimeter Landscaping.** The use of native shrubs and plants to soften the appearance of the southern property line wall and blend with the natural setting to the south is encouraged. This landscaping will be highly visible from the Cliff Drive scenic vista immediately to the south, and therefore should be compatible in character with the natural landscape setting existing to the south of Cliff Drive, as determined by SFDB.
 6. **Landscaping Within Water Easement.** Trees shall not be planted within the existing 20-foot wide City utility easement located along the eastern property line. All vegetation/improvements within this easement are subject to review and approval by the City Public Works Department.
 7. **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 SFDB.
 8. **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 SFDB.
 9. **Green Building Techniques Required.** Owner shall design the project to meet Santa Barbara Built Green Three-Star level requirement or equivalent.
- 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.d "Marina Drive Public Improvements" shall be submitted to the Public Works Department for review and approval.
 - b. **Improvements Within Utility Easement.** Trees shall not be planted in any City Utility easement. All vegetation planted within the utility easement is subject to

review and approval by the Public Works Department. An entry gate, with a width of sixteen feet, shall be installed at the northern end of the utility easement for access to utilities.

- 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. **Marina Drive Public Improvements.** The Owner shall submit Public Works plans for construction of improvements along the property frontage on Marina Drive. Plans shall be submitted separately from plans submitted for a Building Permit. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: driveway apron modified to meet Title 24 requirements with a maximum width of 16 feet, Owner shall crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limits of all trenching, connection to City water mains and utilities, public drainage improvements with supporting drainage calculations and/or hydrology report for installation of drainage pipe or connection to existing City or County storm drain, preserve and/or reset survey monuments, protect and relocate existing contractor stamps to parkway, supply and install directional/regulatory traffic control signs per the CA MUTCD during construction. Any work in the public right-of-way requires a Public Works Permit.
- e. **Encroachment Permits.** Any encroachment or other permits from the City (e.g. Minor Encroachment Permits) 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. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water BMP Guidance Manual, pursuant to Santa Barbara Municipal Code Chapter 22.87 (treatment, rate and volume). The Owner shall submit drainage calculations or 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 BMP Guidance Manual. 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 unpermitted construction-related or long-term effects

from increased runoff, erosion and sedimentation, urban water pollutants, or groundwater pollutants would result from the project.

For any proprietary treatment devices that are proposed as part of the project's final Storm Water Management Plan, the Owner shall provide an Operations and Maintenance Procedure Plan consistent with the manufacturer's specifications (describing schedules and estimated annual maintenance costs for pollution absorbing filter media replacement, sediment removal, etc.). The Plan shall be reviewed and approved by the Creeks Division for consistency with the Storm Water BMP Guidance Manual and the manufacturer's specifications.

After certificate of occupancy is granted, any proprietary treatment devices installed will be subject to water quality testing by City Staff to ensure they are performing as designed and are operating in compliance with the City's Storm Water MS4 Permit.

- c. **Arborist's Monitoring.** Submit to the Planning Division an executed contract with a qualified arborist for monitoring of all work within the critical root zone of all Cypress trees during construction. The contract shall include a schedule for the arborist's presence during grading and construction activities, and is subject to the review and approval of the Planning Division.
- d. **Green Building Techniques Required.** Owner shall design the project to meet Santa Barbara Built Green Three-Star level requirement or equivalent.
- e. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the SFDB and as outlined in Section C "Design Review," and all elements/specifications shall be implemented on-site.
- f. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

_____		_____
Property Owner		Date
_____	_____	_____
Contractor	Date	License No.
_____	_____	_____
Architect	Date	License No.
_____	_____	_____
Engineer	Date	License No.

- E. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.
1. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number(s), construction work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed six square feet in a single family 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. **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.
 4. **Air Quality and Dust Control.** The following measures shall be shown on grading and building plans and shall be adhered to throughout grading, hauling, and construction activities:
 - a. During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used whenever possible. However, reclaimed water should not be used in or around crops for human consumption.
 - b. Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.
 - c. If importation, exportation and stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.
 - d. Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
 - e. After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
 - f. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods

when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading of the structure.

- g. All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.
 - h. Fleet owners of mobile construction equipment are subject to the California Air Resource Board (CARB) Regulation for In-use Off-road Diesel Vehicles (Title 13 California Code of Regulations, Chapter 9, § 2449), the purpose of which is to reduce diesel particulate matter (PM) and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles. For more information, please refer to the CARB website at www.arb.ca.gov/msprog/ordiesel/ordiesel.htm.
 - i. All commercial diesel vehicles are subject to Title 13, § 2485 of the California Code of Regulations, limiting engine idling time. Idling of heavy-duty diesel construction equipment and trucks during loading and unloading shall be limited to five minutes; electric auxiliary power units should be used whenever possible.
 - j. The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time.
5. **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.
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.

G. **General Conditions.**

1. **Prior Conditions.** These conditions are in addition to the conditions identified in Planning Commission Resolution 010-93.
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. **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:

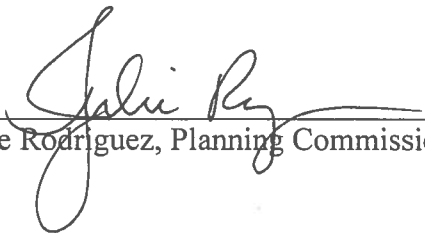
The Planning Commission action approving the Coastal Development Permit shall expire two (2) years from the date of final action upon the application, per Santa Barbara Municipal Code §28.44.230, unless:

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.

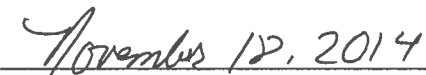
This motion was passed and adopted on the 18th day of September, 2014 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

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

