



City of Santa Barbara Planning Division

PLANNING COMMISSION MINUTES

June 2, 2016

CALL TO ORDER:

Chair Campanella called the meeting to order at 1:02 P.M.

I. ROLL CALL

Chair John P. Campanella, Vice-Chair June Pujo, Commissioners Jay D. Higgins, Mike Jordan, Sheila Lodge, and Deborah L. Schwartz.

Absent: Commissioner Addison Thompson

STAFF PRESENT:

Beatriz Gularte, Senior Planner
N. Scott Vincent, Assistant City Attorney
Kelly Brodison, Assistant Planner
Daniel Gullett, Supervising Transportation Planner
James Austin, Fire Inspector
Julie Rodriguez, Planning Commission Secretary

II. PRELIMINARY MATTERS:

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

None.

B. Announcements and appeals.

Ms. Gularte announced that the Planning Commission meeting of June 9, 2016 has been cancelled and the next meeting will be on June 16, 2016.

C. Amend the following Planning Commission Minutes:

1. Minutes of March 18, 2016, approved April 7, 2016

MOTION: Lodge/Schwartz

Approve the minutes as amended.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 1 (Pujo) Absent: 1 (Thompson)

D. Review, consideration and action on the following draft Planning Commission Minutes and Resolutions:

1. May 5, 2016

MOTION: Schwartz/Lodge

Approve the minutes.

This motion carried by the following vote:

Ayes: 4 Noes: 0 Abstain: 2 (Pujo, Higgins). Absent: 1 (Thompson)

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

Chair Campanella opened the public hearing at 1:04 P.M. and, with no one wishing to speak, closed the hearing.

III. CONSENT ITEM:

ACTUAL TIME: 1:04 P.M.

APPLICATION OF BILL WOLF, ARCHITECT FOR DAVID AND MAUREEN ELLENBERG, 1401 SHORELINE DRIVE, APN 045-185-016, E-3/SD-3 ZONES, GENERAL PLAN DESIGNATION OF LOW DENSITY RESIDENTIAL MAX 5 DU/ACRE AND LOCAL COASTAL PLAN DESIGNATION: RESIDENTIAL5 DU/ACRE (MST16-00028)

The project consists of 45 square feet of first-story and 325 square feet of second-story additions to an existing 1,776 square foot two-story single family residence with an attached 429 square foot two-car garage on a 7,332 square foot lot. The project also includes a new covered entry porch, new 711 square foot rear deck with outdoor barbecue, and 180 square feet of balconies. The proposed total of 2,578 square feet is 85% of the required floor-to-lot area ratio (FAR). The project site is located in the E-3 Zone, the Hillside Design District, and the Appealable Jurisdiction of the Coastal Zone.

The discretionary application required for this project is a Coastal Development Permit (CDP2016-00002) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44.060).

The Environmental Analyst has determined that the project qualifies for an exemption from further environmental review under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, which allows for small additions to existing structures.

Contact: Kelly Brodison, Assistant Planner

Email: KBrodison@SantaBarbaraCA.gov

Phone: (805) 564-5470, extension 4531

MOTION: Lodge/Pujo

Assigned Resolution No. 014-16

Waive the Staff Report and approve the project, making the findings for the Coastal Development Permit as outlined in the Staff Report, dated May 26, 2016, subject to the Conditions of Approval in Exhibit A of the Staff Report.

This motion carried by the following vote:

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

Chair Campanella announced the ten calendar day appeal period.

IV. SUBSTANTIAL CONFORMANCE DETERMINATION:

ACTUAL TIME: 1:06 P.M.

**APPLICATION OF JOHN CUYKENDALL OF DUDEK, AGENT FOR APPLICANT
AXIS TREATMENT CENTERS, 1964 LAS CANOAS ROAD, 021-010-028, A-1,
SINGLE FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION:
HILLSIDE, LOW DENSITY RESIDENTIAL (MAX 1 DU/ACRE) (MST2016-00189)**

The County of Santa Barbara approved a Conditional Use Permit for the St. Mary's Seminary in 1962. The purpose of this discussion item is to receive input from the Planning Commission for a request to use the existing St. Mary's Seminary Retreat Center as a Residential Treatment Facility within the context of a Substantial Conformance Determination (SCD). The proposal would use the existing buildings on site for a fully licensed residential treatment center with a maximum of 40 clients residing on-site at any given time and 24 full time employees. The purpose of the meeting is to receive input from the Planning Commission and the public regarding the request. The Community Development Director will make the final determination as to whether or not the proposal is in substantial conformance with the approved project; therefore, the Planning Commission will not take a formal action on this item.

Contact: Kelly Brodison, Assistant Planner

Email: KBrodison@SantaBarbaraCA.gov

Phone: (805) 564-5470, extension 4531

Kelly Brodison, Assistant Planner, gave the Staff presentation. James Austin, Fire Inspector; and Dan Gullett, Supervising Transportation Planner, were available to answer any of the Commission's questions.

Ms. Brodison stated that public comment letters were received from Robert Burke; Karl Hutterer, Mission Canyon Association; and Jane Woodhead.

Sam Dekin, Chief Operating Officer, Axis Treatment Centers, gave the Applicant presentation. He was joined by Karlee Dahlin, Therapist; and Megan Dahlin, Compliance Director.

Chair Campanella opened the public hearing at 1:14 P.M.

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

1. Paul Henderson, neighbor, was concerned that with the original Conditional Use Permit not being found, a statement of similarity was difficult to comprehend. He also

stated that addiction is a disease whereas studying to be a priest is not. Therefore, this is a change of use. It is also a for-profit, and not a non-profit use. A change of zoning is also required.

2. Raymond Smith, Chair of Mission Canyon Board of Directors, was concerned with granting a Substantial Conformance Determination (SCD) without a thorough investigation of environmental impact for a change of use. This is a high fire zone that has experienced 3 fires in the last few years. He asked that this item be continued for a more thorough investigation.
3. Michelle Snyder, 1972 Las Canoas Road owner, was concerned about 'runners' from the center and the close proximity to a forest. She has a daughter who requires the care of a treatment center and, based on first-hand experience, gave multiple examples of situations that could arise by a runaway resident and her concern for the mutual safety of neighbors and the runaway resident.
4. Jan Vanderford, Las Canoas Road neighbor, questioned how the Applicant can conform to the original Conditional Use Permit when it is a missing document. This Applicant's project represents a change of use from a non-profit seminary to a for-profit treatment center. The new use requires a new Conditional Use Permit and he asked that the Commission direct Staff to reject the Substantial Conformance Determination (SCD). Denise Frey conceded her speaking time to Mr. Vanderford.

With no one else wishing to speak, the public hearing was closed at 1:24 P.M.

Commission's comments:

Commissioner Higgins:

1. Appreciated the concerns expressed by the neighborhood on the process, in particular traffic and fire related issues, but he does not feel that the Commission has a lack of evidence or a lack of detail that is common in historic CUP's. There is a defacto CUP with a later City add-on to the CUP for the gym. He is not concerned with how we will compare this CUP to conditions of approval or performance standards that were probably not attached to the form in the 1960's.
2. This is not an intensification of use in comparison to a dormitory that can house additional residents on the property. Based on what we have before us, his concern is that we will rely on the Applicant's assurances, especially since we do not provide conditions of approval on an SCD.
3. Questioned the appropriateness of an SCD, since the Planning Commission Guidelines corral the Commission around SCD's for projects that are in between the place of discretionary approval, environmental document approval, and construction documents where something has changed. He is not sure that this warrants an SCD since it does not trigger a change of use permit because based on the Applicant's assumptions, the parking will not change. Performance agreements are not necessarily appropriate. Community group housing is a conditional use in the A1 zone district.

4. Concerned with why it is being aired at a public hearing since there is enough evidence to rely on in the City code that allows a use of this type on that property in that zone district. There is a huge need for these types of facilities with the opiate epidemic.
5. Can support the project as presented and make positive comments on the applicability of the use under the current use permit and allowances within the zone district.
6. This particular use should be State licensed so that parameters are in place to comport with licensing and should provide some assurance to the neighbors.

Commissioner Jordan:

1. Agrees with Commissioner Higgins, in particular that we are holding a public forum for what was adequately presented that could have been held at a lower SCD level of approval.
2. As the operations are described, residential care facilities substantially adhere to the existing use and intensity. If approved, the intensity will be much less than what has historically taken place over the past few decades. The existing St. Mary's has been functioning, but has not been functioning at the approved intensity that was approved in 1965. There are not 250 people in a church at one time; the parking lot is not being filled; there are not 80 people living in the dorms, or 30 people living in the guest houses.
3. While St. Mary's is doing many of those things, we are referencing what they are entitled to versus what will be proposed, not what is actually on the ground now. Understands the concern, but the frame of reference was laid out accurately that makes the case for the intensity going forward. As described by the Applicant, the intensity of use will be much less than they are entitled to.
4. We have a history of successfully adding conditions to an SCD and he would like to add a condition that restricts tour bus-like vehicles from going up and down for their operations and limit large vehicles to 12-14 passenger vans only. Would like something, perhaps other than a condition, that the Applicant can agree to that will accomplish the restriction of buses.
5. Concurs with Commissioner Higgins on making the nexus on use and the determination on less intensity and that the SCD be approved.

Commissioner Lodge:

1. Agrees with commissioners Higgins and Lodge.
2. The CUP goes with the property, whether or not the original document can be found.
3. With the State licensing requirements, the fire evacuation plan, and a less intensive use, she can make the findings for conformity.

Commissioner Schwartz:

1. A level 4 SCD public hearing process provides the public an opportunity to know what is going on by its local government, provide transparency, and allow the public to express themselves.
2. Concerned with not locating the original CUP document. It is part of the City's due diligence to obtain whatever document St. Mary's has that shows how they have actually used the property, for whom, what purposes, and statistics. We need to align

Reverend Raymond Van Dorpe's letter (Exhibit A) with any archived documentation that St. Mary's has.

3. St. Mary's has stretched its use, and it cannot be looked at for intensity of use because of the absence of the original CUP. We owe it to the policy and process we have in place, the Applicant, and the community at large, that the approval is iron-clad.
4. If St. Mary's was allowed to conduct 12 step programs, then that is similar to the proposed use and she can find similarity.
5. If there was assurance from the Applicant that clients would absolutely not have cars on the premises, then that would assure the neighbors that traffic would be reduced. The fact that clients will be there for some time and not leaving daily, should also reduce traffic.
6. Extended use of this client type does warrant attention and oversight by the Applicant. Any project description given to the Community Development should include all uses and intensity.
7. For the societal value that is being provided, she thinks that some pieces need to be pulled together for the Community Development Director to fully substantiate a full approval of level four SCD.

Commissioner Pujo:

1. Before any adequate determination can be made by the City, a full detailed project description needs to be made that includes what the uses will be and include the verbal description and staff material that the applicant has provided, including State licensing, etc. Also include a clear definition of how many patients/visitors will be there and the maximum number of people on site at any one time. Include if the dwelling units will be kept on site and for what use. Include what the future use of the Church will be used for (e.g., deconsecration) . Define the accessory uses, such as the gymnasium as an accessory and not a new use. Define temporary uses to determine frequency and type of uses. Add documentation of prior uses.
2. In terms of intensity, if the new use replaces the prior use that was approved, then yes, it is less intense.
3. Provide documentation of recent activities, uses, etc. (e.g., ledgers, advertisements, etc.) within the last year as well as earlier (e.g. use of dwellings, retreats, seminars, special events, etc.) in order to validate applicant references to these activities and in order to provide proof that the CUP has not expired due to inactivity.

Commissioner Campanella:

1. Would like to be assured that no large events will be held. Wants no public events held at the site.
2. Likes that there will be a cross check with the County.
3. State licensing is good to have and he is happy to hear that the Applicant is in compliance.
4. Whether for a seminary, marriage encounter, 12 step program or the proposed use, the facility has provided a place for reflecting about oneself and taking this with you after you leave.

5. Thanked the public for commenting since it provided the Commission with more information to deliberate and make their comments to the Community Development Director.

V. ADMINISTRATIVE AGENDA

ACTUAL TIME: 3:26 P.M.

A. Committee and Liaison Reports

1. Staff Hearing Officer Liaison Report

- a. Commissioner Jordan reported on the Staff Hearing Officer meetings of May 11 and May 26, 2016.

2. Other Committee and Liaison Reports

- a. Commissioner Lodge reported on the Historic Landmarks Committee meeting of June 1, 2016.
- b. Commissioner Jordan reported on the Water Commission meeting of May 19, 2016.
- c. Chair Campanella reminded everyone that it was First Thursday and encouraged all to enjoy the events planned.

VI. ADJOURNMENT

Chair Campanella adjourned the meeting at 3:36 P.M.

Submitted by,

Julie Rodriguez, Planning Commission Secretary



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 014-16
1401 SHORELINE DRIVE
COASTAL DEVELOPMENT PERMIT
JUNE 2, 2016

APPLICATION OF BILL WOLF, ARCHITECT FOR DAVID AND MAUREEN ELLENBERG, 1401 SHORELINE DRIVE, APN 045-185-016, E-3/SD-3 ZONES, GENERAL PLAN DESIGNATION OF LOW DENSITY RESIDENTIAL MAX 5 DU/ACRE AND LOCAL COASTAL PLAN DESIGNATION: RESIDENTIAL5 DU/ACRE (MST16-00028)

The project consists of 45 square feet of first-story and 325 square feet of second-story additions to an existing 1,776 square foot two-story single family residence with an attached 429 square foot two-car garage on a 7,332 square foot lot. The project also includes a new covered entry porch, new 711 square foot rear deck with outdoor barbecue, and 180 square feet of balconies. The proposed total of 2,578 square feet is 85% of the required floor-to-lot area ratio (FAR). The project site is located in the E-3 Zone, the Hillside Design District, and the Appealable Jurisdiction of the Coastal Zone.

The discretionary application required for this project is a Coastal Development Permit (CDP2016-00002) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44.060).

The Environmental Analyst has determined that the project qualifies for an exemption from further environmental review under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, which allows for small additions to existing structures.

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 or in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, May 26, 2016.
2. Site Plans

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

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

COASTAL DEVELOPMENT PERMIT FINDINGS (SBMC §28.44.150)

- A. 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.
- B. The project is consistent with all applicable policies of the City's Local Coastal Plan, as identified in Exhibit G of the Staff Report, all applicable implementing guidelines, and all applicable provisions of the Code because the project is compatible with the existing neighborhood, is not visible from the beach, will not impact views from public view corridors, will not impact public

access, will not contribute to safety or drainage hazards on the site, is not in an archaeological sensitivity zone and will not affect a coastal bluff.

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 June 2, 2016 is limited to a two-story addition of approximately 370 square feet to an existing 1,776 square foot two-story residence, a 711 square foot rear deck, 180 square feet of balconies and the improvements shown on the plans signed by the chairperson of the Planning Commission on said date and on file at the City of Santa Barbara. **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. **Vehicle Storage Limitation.** No recreational vehicles, boats, or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan, including any tree protection measures. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement.
5. **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.

- C. **Design Review.** The project, including public improvements, is subject to the review and approval of the Single Family Design Board (SFDB).
- 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.** *Following Planning Commission:*
 - a. **Sewer:** A videotaped sewer lateral inspection is required prior to the issuance of the building permit (BLD) due to the addition of two or more plumbing fixtures per SBMC 14.46.040. A list of over sixty qualified closed-circuit television survey and recording contractors and the Sewer Inspection Form (SLIP) is available on the City of Santa Barbara website www.santabarbaraca.gov. Please submit the sewer video and paperwork to the Public Works Counter.
 - b. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff prepares said agreement for the Owner's signature and needs to be contacted.
 - 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 proposed less than 500 square feet of new/redeveloped impervious area and is required to comply with Tier 2 of the Storm Water BMP Guidance Manual, pursuant to Santa Barbara Municipal Code Chapter 22.87. 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.

- c. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the appropriate design review board, and all elements/specifications shall be implemented on-site.
- d. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

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

- E. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.
 - 1. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the point of entry to the site that list the contractor's name, and telephone number to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed six square feet if in a single family zone.
 - 2. **Construction 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 Public Works Director 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 are in addition to the conditions identified in Planning Commission Resolutions 96-86 and 026-87.
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:

- A. Otherwise explicitly modified by conditions of approval for the coastal development permit.
- B. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.
- C. 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 2nd day of June, 2016 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

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.