



# City of Santa Barbara California

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## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 017-17 1631 SHORELINE DRIVE COASTAL DEVELOPMENT PERMIT OCTOBER 5, 2017

**APPLICATION OF THOMAS OCHSNER, ARCHITECT FOR CHAD YONKER, PROPERTY OWNER, 1631 SHORELINE DRIVE, APN 045-173-022, E-3/SD-3 SINGLE FAMILY RESIDENTIAL AND COASTAL OVERLAY ZONES, GENERAL PLAN/LOCAL COASTAL PROGRAM LAND USE PLAN DESIGNATION: FIVE RESIDENTIAL UNITS PER ACRE (MST2016-00241/CDP2017-00002)**

The project consists of a major home remodel resulting in a first-story addition of 422 square feet and a new 1,356 square foot second-story addition to an existing one-story, 1,826 square foot single-family residence, and 382 square foot garage. Other proposed site improvements include landscape changes, a new wood fence, new plaster wall, a new concrete driveway, and a flagstone patio. Code violations in ZIR2016-00169 and ENF2008-00161 will be addressed with the project. The applicant is requesting permission to permit the two "as-built" retaining walls and chain link fence and remove the concrete pad. The proposed total of 3,986 square feet on a 20,100 square foot lot located in the Hillside Design District is 85% of the guideline maximum floor-to-lot-area ratio (FAR).

The property is zoned E-3/SD-3, Single Family and is located in the Appealable Jurisdiction of the Coastal Zone with a General Plan and Coastal Land Use designation of Residential, Five Dwelling Units per Acre.

The subject site is a south-facing bluff-face property with the existing main residential structure north of the edge of the coastal bluff. The existing drainage is via two drain inlets on the southern portion of the bluff that drain down to the beach. The project site would comply with Tier 3 Storm Water Management.

This project was reviewed by the Planning Commission on August 10, 2017 and continued for further notice to the neighbors and Single Family Design Board input on the design. The discretionary application required for this project is a Coastal Development Permit (CDP2017-00002) 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**, no one appeared to speak in favor of the application, and three people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, August 3, 2017.
2. Staff Report with Attachments, September 28, 2017.
3. Site Plans
4. Correspondence received in opposition to, or with concerns of, the project:
  - a. Kip Fulbeck, Santa Barbara, CA.
  - b. Susan Sheller and Bob Roe, Santa Barbara, CA.
  - c. Marc Chytilo, Attorney, on behalf of Mary Wise, Santa Barbara, CA.

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

**I.** Approved the Coastal Development Permit for the proposed development at 1631 Shoreline Drive, finding that the project qualifies for an exemption from further environmental review pursuant to CEQA Guideline Section 15183, subject to the conditions of approval in Exhibit A to the Planning Commission Staff Report dated August 3, 2017 as amended below, and making the following findings with regard to the Coastal Development Permit:

**A. ENVIRONMENTAL REVIEW (CEQA GUIDELINES §15183)**

The project qualifies for an exemption from further environmental review under CEQA guidelines section 15183, based on city staff analysis and the CEQA certificate of determination on file for this project.

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

The project's residential remodel and addition, landscaping, hardscaping, and drainage improvements are consistent with the policies of the California Coastal Act and Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code because the improvements minimize geologic hazards by adhering to the structural setback and the project would not substantially impact views of the ocean and from the shoreline as described in Sections VI and VII of the Staff Report dated August 3, 2017.

The Planning Commission finds that leaving the historic terracing of the bluff face and the associated improvements (i.e., retaining walls, railroad tie stairs, chain link fence) in their existing condition is not consistent with the Coastal Act or the City's Local Coastal Program Policy 8.2. Because the removal of the improvements would also be inconsistent with the City's Local Coastal Program Policy 8.2, of the remediation plans presented to the Planning Commission, the Commission finds the approach depicted in Option D of the applicant's presentation to the Commission on October 5, 2017 (as amended by the Commission) to be the most consistent with the Coastal Act (Public Resources Code Section 30253) and the City's Local Coastal Program. The Planning Commission does not find the removal of all improvements from the bluff face to be consistent with Public Resources Code Section 30253 because the removal of the as-built retaining walls does not minimize the risks to life and property in an area of high geologic hazard, would not assure the geologic stability of the bluff edge, and could potentially contribute significantly to erosion of the bluff edge.

Option D (Amended):

1. Leave the existing retaining walls in place, except for removing 18"-24" of the upper retaining wall.
2. Grade a 3:1 (horizontal:vertical) slope landward from the new top of the upper retaining wall.
3. Add the spoils from the grading of the 3:1 slope to the seaward base of the upper retaining wall (as depicted in Option D) and compact to a 2:1 slope with a 12" deep key.
4. No fill is to be added seaward of the lower retaining wall.

5. Remove the poles and chain link of the chain link fence, but protect in place the concrete footings for the poles so as to not disturb the bluff face.
6. Landscape the area between the bluff edge and the upper retaining wall with lemonade berry bushes in accordance with the approved landscape plan in order to camouflage the retaining walls and to prevent the use of the terraced areas by persons.
7. Remove the railroad tie stairs, but an access path for planting is acceptable.

Conditions of Approval:

The Planning Commission adopts the Conditions of Approval attached as Exhibit A to the Planning Commission Staff Report dated August 3, 2017 with the following revisions:

1. Condition I.B.1 shall be amended to reflect the date of approval of October 5, 2017 and incorporate the approval of Option D as described above.
2. A new Condition I.C.6 is added to encourage the SFDB to work with the applicant to consider reducing the massing of the second floor addition.
3. A new Condition I.D.2.g is added to require the applicant to submit performance security in a form acceptable to the Community Development Director and in an amount sufficient to complete a successful installation of the lemonade berry bush as proposed in the landscape plan. The security shall remain with the City for five years from certificate of occupancy or final inspection of the installation of the landscaping, whichever is later. The security shall be available to ensure additional planting as necessary to achieve the intended camouflaging effect with respect to the retaining walls.

**II.** Said approval is subject to the following conditions:

In consideration of the project approval granted by the Planning Commission and for the benefit of the owner(s) and occupant(s) of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession, and enjoyment of the Real Property:

- 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. 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 \_\_\_\_\_ is limited to a major home remodel to add 422 square feet of first floor additions and a 1,356 square foot second story addition to an existing one-story 2,208 square foot single family residence 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. Other proposed site improvements include landscape changes, a new wood fence, new plaster wall, a new concrete driveway and a flagstone patio.

As outlined in Option D on October 5, 2017, the following shall apply to address the as-built work.

- a. Leave the existing retaining walls in place, except for removing 18”-24” of the upper retaining wall.
  - b. Grade a 3:1 (horizontal:vertical) slope landward from the new top of the upper retaining wall.
  - c. Add the spoils from the grading of the 3:1 slope to the seaward base of the upper retaining wall (as depicted in Option D) and compact to a 2:1 slope with a 12” deep key.
  - d. No fill is to be added seaward of the lower retaining wall.
  - e. Remove the poles and chain link of the chain link fence, but protect in place the concrete footings for the poles so as to not disturb the bluff face.
  - f. Landscape the area between the bluff edge and the upper retaining wall with lemonade berry bushes in accordance with the approved landscape plan in order to camouflage the retaining walls and to prevent the use of the terraced areas by persons.
  - g. Remove the railroad tie stairs, but an access path for planting is acceptable.
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. **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.

4. **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 Santa Barbara Municipal Code section 22.87. 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.
  5. **Future Threats to Development.** By acceptance of this permit, the Owner agrees, on behalf of him/herself and all successors and assigns, that the Owner shall remove the development authorized by this permit, including the residence, garage, foundations, retaining walls, fences, flatwork, and utilities if any government agency has ordered that the structure(s) is not to be occupied in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or any other coastal hazards in the future. In the event that portions of the development fall to the beach before they are removed, the Owner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a Coastal Development Permit.
  6. **Coastal Bluff and Geotechnical Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from waves during storms and erosion, retreat, landslides, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.
- C. **Design Review.** The project, including public improvements, is subject to the review and approval of the Single Family Design Board (SFDB). The SFDB shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.
1. **Tree Removal and Replacement.** All trees removed, except fruit trees and street trees approved for removal without replacement by the Parks Department, shall be replaced on-site on a one-for-one basis with minimum 24-inch box sized tree(s) of an appropriate species or like species, in order to maintain the site's visual appearance and reduce impacts resulting from the loss of trees.

2. **Parks and Recreation Commission Tree Removal Approval.** Submit to the Planning Division verification of approval from the Parks and Recreation Commission for the removal of a 7” bahinia pupurea and two 6” metrosideros excelus trees in the right of way and front yard setback. The City Arborist is to approve the replacement trees, which are currently proposed as King Palms.
3. **Appropriate Plants on Bluff.** Remove all lawn from the bluff face and area of retaining walls and replace with drought tolerant planting. Special attention shall be paid to the appropriateness of the existing and proposed plant material on the bluff. All existing succulent plants that add weight to the bluff and/or contribute to erosion shall be removed in a manner that does not disturb the root system and replaced with appropriate plant material in a manner that does not increase the rate of erosion.
4. **Irrigation System.** The irrigation system shall be designed and maintained with the most current technology to prevent a system failure. Watering of vegetation on the bluff edge/slope shall be kept to the minimum necessary for plant survival. The drip system along the bluff edge/slope shall be removed after one full season of plant growth.
5. **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.
6. **Second Floor Massing.** Encourage the SFDB to work with the applicant to consider reducing the massing of the second floor addition.

**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.**

The Owner shall submit Public Works plans for construction of public improvements. 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 to City Standards shall include the following:

- a. **1631 Shoreline Drive Public Improvements.** As determined by the Public Works Department, the improvements shall include removal of one of the existing driveway aprons (West side); replacement with new sidewalk, curb and gutter and parkway, replace existing driveway apron (East side) with City Standard residential driveway with 4’ wide minimum path of travel and 2% maximum cross slope, and due to the condition of the existing sidewalk, the entire sidewalk fronting the property will have to be replaced with new sidewalk and parkway restored after the permitted tree removal. The public improvements will be required prior to Certificate of Occupancy.

- 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.
  - c. **Construction-Related Truck Trips.** Construction-related truck trips for trucks with a gross vehicle weight rating of three tons or more shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) in order to help reduce truck traffic on adjacent streets and roadways.
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 storm water requirements, pursuant to Santa Barbara Municipal Code Chapter 22.87 and the Storm Water BMP Guidance Manual. The Owner shall submit a hydrology/storm water report prepared by a registered civil engineer or licensed architect demonstrating that the new development will comply with requirements specified in the City’s Storm Water BMP Guidance Manual. Project plans for grading, drainage, storm water facilities and treatment methods, and project development, shall be subject to review and approval by the City Building Division, Creeks 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 (including, but not limited to trash, hydrocarbons, fertilizers, bacteria, etc.), 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, all storm water 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. **Letter to Consent to Development within GTE/SCE Utility Easement.** The existing residence encroaches into an existing GTE/SCE utility easement. GTE/SCE to confirm residential addition is okay to encroach within this easement.
  - d. **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.

- e. **Geologic Investigation Report Recommendations:** The project shall comply with the geology investigation report recommendations prepared by Adam Simmons, Certified Engineering Geologist and Hydrologist, dated June 15, 2017.
- f. **Performance Security.** The applicant shall submit a performance security in a form acceptable to the Community Development Director and in an amount sufficient to complete a successful installation of the lemonade berry bush as proposed in the landscape plan. The security shall remain with the City for five years from certificate of occupancy or final inspection of the installation of the landscaping, whichever is later. The security shall be available to ensure additional planting as necessary to achieve the intended camouflaging effect with respect to the retaining walls.
- g. **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 24 square feet if in a multi-family or commercial zone or 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. **Nesting Birds.** Birds and their eggs nesting on or near the project site are protected under the Migratory Bird Treaty Act and pursuing, hunting, taking, capturing, killing, or attempt to do any of the above is a violation of federal and state regulations. No trimming or removing brush or trees shall occur if nesting birds are found in the vegetation. All care should be taken not to disturb the nest(s). Removal or trimming may only occur after the young have fledged from the nest(s).
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](http://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. Diesel construction equipment meeting the California Air Resources Board (CARB) Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting CARB Tier 2 or higher emission standards should be used to the maximum extent feasible.
- k. Diesel powered equipment should be replaced by electric equipment whenever feasible.
- l. If feasible, diesel construction equipment shall be equipped with selective catalytic reduction systems, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California.
- m. Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
- n. All construction equipment shall be maintained in tune per the manufacturer's specifications.
- o. The engine size of construction equipment shall be the minimum practical size.
- p. 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. Construction worker trips should be minimized by requiring carpooling and by providing for lunch onsite.

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.

**G. General Conditions.**

1. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
2. **Approval Limitations.**
  - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
  - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission.
  - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
3. **Site Maintenance.** The existing site/structure(s) shall be maintained and secured. Any landscaping shall be watered and maintained until demolition occurs.

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.

## II. 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.

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 5<sup>th</sup> day of October, 2017 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 1 (Jordan) 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.

\_\_\_\_\_  
Kathleen Goo, 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.**