



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 012-17
214-226 E. DE LA GUERRA STREET
DEVELOPMENT PLAN
JULY 6, 2017

APPLICATION OF LAURA BENARD, ARCHITECT FOR THE CEARNAL COLLECTIVE LLP, FOR BETTY JO LAURITSON TRUST, 214-226 E. DE LA GUERRA ST, APNS 031-082-002, -003, AND -004, C-2 COMMERCIAL ZONE, GENERAL PLAN DESIGNATION: COMMERCIAL/HIGH RESIDENTIAL, PRIORITY HOUSING OVERLAY (37-63 DU/ACRE) (MST2016-00447)

The project consists of a 26-unit mixed-use project to be developed on three parcels under the Average Unit-Size Density (AUD) Program. The project proposes to demolish an existing two-story, 2,464 square foot, four-unit apartment complex (226 E. De La Guerra Street), three sheds, and a surface parking lot. Site preparation would include 4,300 cubic yards of cut and 100 cubic yards of fill, and 4,200 cubic yards of export. The project proposes to construct a four-story, 18,753 square foot, mixed-use building that includes 14,004 square feet of residential area, 4,749 square feet of commercial floor area, and 10,807 square feet of partially subterranean basement area consisting of storage and 43 parking spaces, with 32 of the spaces provided in an automated parking system with stacked parking. The residential component comprises 26 AUD rental apartments with an average unit size of 525 square feet; an average unit size of 840 square feet is allowed.

The three parcels have a General Plan Land Use designation of Commercial/High Residential with Priority Housing Overlay (37-63 dwelling units per acre). The proposed density on the total of .44 acres will be 60 units per acre, as allowed by the AUD Priority Housing Overlay. The existing single family residence, which is a City Landmark known as the Louisa Ygnacio House, and duplex at 214 E. De La Guerra Street will be preserved and renovated. The existing residences are part of the 26 residential unit count. The discretionary applications required for this project are:

1. Planning Commission review of an Average Unit-Size Density Program project on a lot greater than 15,000 square feet (SBMC §28.20.080);
2. A Development Plan to allow the construction of 4,749 square feet of new nonresidential floor area (SBMC §28.85.030); and
3. Historic Landmarks Commission approval of the architectural design of the mixed-use development.

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

1. Staff Report with Attachments, June 29, 2017
2. Site Plans

3. Correspondence received in opposition to, or with concerns of, the project:
 - a. Nora A. Birkland, via email
 - b. Linda Wade Williams, 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 (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. DEVELOPMENT PLAN FINDINGS (SBMC §28.85.040)

1. The proposed development complies with all provisions of Title 28 (Zoning Ordinance) of the Santa Barbara Municipal Code, including the Non-residential Growth Management Program requirements, as identified in Section V of the Staff Report.
2. The proposed development is consistent with the principles of sound community planning. The documents that guide development in this area are the City's General Plan, Zoning Ordinance and the City's design review guidelines. The project is consistent with applicable regulations, goals and policies of these documents, as discussed in Sections V, VI, and VII, respectively, of the Staff Report.
3. The proposed development will not have a significant adverse impact upon the community's aesthetics or character in that the size, bulk or scale of the development will be compatible with the neighborhood based on the Project Compatibility Analysis criteria found in SBMC §22.22.145, as determined by the Historic Landmarks Commission and described in Section VII of the Staff Report.
4. The proposed development is consistent with the policies of the City of Santa Barbara Traffic Management Strategy (as approved by City Resolution No. 13-010 dated as of March 12, 2013) as expressed in the allocation allowances specified in SBMC §28.85.050, as described in Section V.A 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. **Design Approvals.** Obtain design approval from the Historic Landmarks Commission (HLC).
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. **Submittal for Voluntary Lot Merger.** The Owner shall submit application for Voluntary Lot Merger for review to the Public Works Department as required.
6. 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 July 6, 2017 is limited to the proposed demolition of an existing two-story, 2,464 square foot four unit apartment complex (226 E. De La Guerra St.), three sheds, and a surface parking lot and the construction of 4,749 square feet of nonresidential floor area. The proposed 26 residential units that would be developed under the Average Unit-Size Density (AUD) Program are subject to approval by the Historic Landmarks Commission.
2. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Historic Landmarks Commission (HLC). Such plan shall not be modified unless prior written approval is obtained from the HLC. 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 HLC, the owner is responsible for its immediate replacement.
3. **Common Area Maintenance.** All common/shared areas/facilities/improvements shall be kept open, available and maintained in the manner in which it was designed and permitted.
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. **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 is required to authorize such work. The Owner is responsible for the adequacy of any project-related

drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.

6. **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.
7. **Gates.** Any gates that have the potential to block access to any designated commercial space shall be locked in the open position during business hours.

C. Design Review. The project, including public improvements, is subject to the review and approval of the Historic Landmarks Commission (HLC). The HLC 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 with three (3) 36" oak trees and new citrus and cercis trees, in order to maintain the site's visual appearance and reduce impacts resulting from the loss of trees.

Owner shall landscape the public parkway up to the Santa Barbara Street corner, including the addition of 1-2 street trees, as is feasible and as the City Arborist deems appropriate.

2. **Oak Tree Protection and Arborist's Report.** The existing 36" diameter oak tree shown on the Landscape Plan shall be preserved, protected, and maintained in accordance with the recommendations contained in the arborist's report prepared by Peter Winn of Westree, dated January 4, 2017. Mr. Winn's tree protection recommendations shall be reproduced on the plans.
3. **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 HLC.
4. **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 HLC.
5. **Project Directory.** A project directory (including map and parking directional signs) listing all units on-site shall be indicated on the project plans. This directory shall be lit sufficiently for readability for site visitors and placed in a location or locations acceptable to the Fire Department, shall meet current accessibility requirements, and is subject to Design Review Approval.
6. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.

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

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.c. "De La Guerra Street Public Improvements" shall be submitted to the Public Works Department for review and approval. Upon completion of review of the public improvement plans, a Public Works permit may be issued. Public Works issuance may require the Owner to bond for public improvements and executed the Agreement to Construct and Install Improvements (Not a Subdivision) as required by the City Engineer.
- b. **De La Guerra Public Improvements.** The Owner shall submit public improvement plans for construction of improvements along the property frontage on 214-216 De La Guerra Street. Plans may be submitted separately from plans submitted for a Building Permit, and shall be prepared by a licensed Civil Engineer registered in the State of California. As determined by the Public Works Department, the improvements shall generally include new and/or remove and replace to City standards the improvements shown on the approved Project Plan Sheet C-2.1, Sheet C-2.2 and the addition of a commercial fire hydrant at location approved by the Fire Chief. The installation of one mid-block Type B-08 pole and luminaire with 70 Watt LED streetlight per City Standards for Public Improvements. The plans shall not include any release of collected groundwater into the right of way. All storm water treatment facilities shall be on-site. Owner shall landscape the public parkway up to the Santa Barbara Street corner, including the addition of 1-2 street trees, as is feasible and as the City Arborist deems appropriate.
- c. **Agreement to Construct and Install Improvements.** The Owner may submit an executed *Agreement to Construct and Install Improvements*, prepared by the Engineering Division, based on the applicant's Civil Engineer's Estimate, and provide securities for construction of improvements prior to execution of the Agreement. This agreement allows approval of building plans prior to the completion of public improvements. This may only be necessary if Engineer's Estimate of all public improvements is in excess of \$25,000 or as required by the City Engineer.
- d. **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.
- e. **Lot Merger.** If merger is required, submittal will be reviewed by Public Works Department on behalf of the Director of Public Works. It is assumed that a merger

will require the recordation of a Record of Survey prior to approval of a merger by the Director of Public Works.

- f. **Haul Routes Require Separate Permit.** Apply for a Public Works permit to establish the haul route(s) for all construction-related trucks with a gross vehicle weight rating of three tons or more entering or exiting the site.
- g. **Construction-Related Truck Trips.** Construction-related truck trips for trucks with a gross vehicle weight rating of three tons or more shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) in order to help reduce truck traffic on adjacent streets and roadways.

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, 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. **Archaeological Monitoring Contract.** Submit a contract with an archaeologist from the most current City Qualified Archaeologists List for monitoring during all ground-disturbing activities associated with the project, including, but not limited to, grading, excavation, trenching vegetation or paving removal and ground

clearance in the areas identified in the Extended Phase 1 Archaeological Resources Report prepared for this site by David Stone of Dudek and Associates, dated March 2017. The contract shall be subject to the review and approval of the Environmental Analyst.

The archaeologist's monitoring contract shall include the provisions identified in condition D.2.d "Requirement for Archaeological Resources" below.

- d. **Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and 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 Planning Division 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 Planning Division grants authorization.

Also include other recommended monitoring measures included in David Stone's Extended Phase 1 Report dated March 2017.

- e. **Arborist's Monitoring.** Submit to the Planning Division an executed contract with a qualified arborist for monitoring of all work (within the dripline of the 36" oak tree) 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.
- f. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a draft copy of the notice to the Planning Division for review and approval.
- g. **Letter of Commitment for Neighborhood Notification Prior to Construction.** The Owner shall submit to the Planning Division a letter of commitment to provide the written notice specified in condition E.1 "Neighborhood Notification Prior to

Construction” below. The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person(s) who compiled the mailing list shall be submitted to the Planning Division.

- h. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment to hold the Pre-Construction Conference identified in condition E.2 “Pre-Construction Conference” prior to disturbing any part of the project site for any reason.
- i. **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.
- j. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

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

E. Construction Implementation Requirements. All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.

- 1. **Neighborhood Notification Prior to Construction.** At least twenty (20) days prior to commencement of construction, the contractor shall provide written notice to all property owners, businesses, and residents within 300 feet of the project area. The notice shall contain a description of the project, the construction schedule, including days and hours of construction, the name and phone number of the Contractor(s), site rules and Conditions of Approval pertaining to construction activities, and any additional information that will assist Building Inspectors, Police Officers and the public in addressing problems that may arise during construction.

2. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Community Development Department Building and Planning Divisions, the Property Owner, Archaeologist, Architect, Arborist, Landscape Architect, Soils Engineer, Project Engineer, Contractor and each Subcontractor.
3. **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.
4. **Construction Hours.** Construction (including preparation for construction work) shall only be permitted Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m. and Saturdays between the hours of 9:00 a.m. and 4:00 p.m., excluding the following holidays:

New Year's Day	January 1st*
Martin Luther King, Jr. Day	3rd Monday in January
Presidents' Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the City to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out said construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

5. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Public Works Director with a Public Works permit.

6. **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 Public Works Director.
7. **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).
8. **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. 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.
9. **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. **Archaeological Monitoring Report.** A final report on the results of the archaeological monitoring shall be submitted to the Planning Division within 180 days of completion of the monitoring or prior to the issuance of the Certificate of Occupancy / Final Inspection, whichever is earlier.
4. **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. **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.

III. NOTICE OF DEVELOPMENT PLAN TIME LIMITS:

The Planning Commission action approving the Development Plan shall expire four (4) years from the date of approval per Santa Barbara Municipal Code §28.85.090, unless:

1. A building or grading permit for the work authorized by the development plan is issued prior to the expiration date of the approval.
2. The Community Development Director grants an extension of the development plan approval upon finding that the applicant has demonstrated due diligence in implementing and completing the proposed project. The Community Development Director may grant one (1) one-year extension of the development plan approval.

This motion was passed and adopted on the 6th day of July, 2017 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

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



Kathleen Goo, Interim Planning Commission Secretary

8/10/17

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.