



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 013-18 1062 COAST VILLAGE ROAD INTERIOR SETBACK MODIFICATION, DISTANCE BETWEEN BUILDINGS MODIFICATION, VESTING TENTATIVE SUBDIVISION MAP, AND COASTAL DEVELOPMENT PERMIT MAY 10, 2018

APPLICATION OF CEARNAL COLLECTIVE, ARCHITECT, FOR DAVID BACK AND MONIKA DRAGGOO, TRUSTEES, 1062 COAST VILLAGE ROAD, APN 009-211-014, C-1/SD-3, LIMITED COMMERCIAL AND COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: GENERAL COMMERCE, LOCAL COASTAL PROGRAM LAND USE DESIGNATION: COMMERCIAL (MST2016-00451)

The proposed project involves the demolition of an existing 14-unit apartment building and carport and the construction of a new 37,116 square foot (net), mixed-use development on a 25,554 square foot (0.59 acre) lot. The proposed project includes nine, two-story, three-bedroom residential condominium units (totaling 20,651 sq. ft.), one 874 square foot (net) commercial condominium unit, a subterranean garage with 23 parking spaces (totaling 15,591 sq. ft.). The residential units would range in size between 2,005 and 2,585 square feet and each would have a roof deck. The building heights would range between 21' and 38'-7". The project involves 7,600 cubic yards of cut and 50 cubic yards of fill. Eight trees would be removed (seven Canary Island Pines, one Gold Medallion) and five trees would be preserved (three Canary Island Pines, one Coast Live Oak, one Black Acacia). A total of 42 new trees would be planted, including two street trees. A 3.33 foot wide easement would be dedicated to the City in order to widen the sidewalk.

The discretionary applications required for this project are:

1. A Coastal Development Permit (CDP2017-00009) to allow the proposed development in the Non-Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44.060);
2. A Vesting Tentative Subdivision Map for a one-lot subdivision to create one (1) commercial condominium unit and nine (9) residential condominium units (SBMC Chapters 27.07, 27.13 and 27.20);
3. A Modification to allow encroachments into the required interior setback (SBMC §28.63.060 and SBMC §28.92.110); and
4. A Modification to allow less than the required distance between buildings (SBMC §28.21.070 and SBMC §28.92.110).

The project requires an environmental finding pursuant to California Environmental Quality Act Guidelines Section 15183 (Projects Consistent with the General Plan).

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 one person appeared to speak with concerns thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, May 3, 2018
2. Site Plans
3. Correspondence received in opposition to, or with concerns of, the project:
 - a. Sascha Liebowitz, Montecito CA
 - b. Allison Marcillac, Montecito CA

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

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

A. ENVIRONMENTAL REVIEW

The project qualifies for an exemption from further environmental review under CEQA Guidelines Section 15183, based on the City staff analysis and the CEQA Certificate of Determination on file for this project.

B. INTERIOR SETBACK MODIFICATION (SBMC § 28.63.060 and SBMC §28.92.110)

As described in Section VI of the staff report, the interior setback modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot because the proposed setbacks either equal ½ the height of the building at the setback or the encroachments are very minor, are appropriate in those locations, and would have a negligible impact on adjacent residential properties.

C. DISTANCE BETWEEN BUILDINGS MODIFICATION (SBMC §28.21.070 and SBMC §28.92.110)

As described in Section VI of the staff report, the distance between buildings modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot because it does not detrimentally affect the apparent mass, bulk and scale of the project and is consistent with the intent of the requirement to provide some space between the buildings.

D. VESTING TENTATIVE SUBDIVISION MAP (SBMC CHAPTER 27.07 AND 27.20)

As described in Section VI of the staff report, the Tentative Subdivision Map is consistent with the Subdivision Map Act and the Zoning Ordinance.

As described in Section VI of the Staff Report, the project is consistent the policies of the City's General Plan in the Land Use Element, Housing Element, Conservation Element, and Circulation Element by providing a mixed-use residential development that is compatible with the surrounding neighborhood, conducting a coordinated review with Santa Barbara County, providing new housing, providing energy-efficient buildings and electric vehicle charging stations, minimizing dust and emissions during construction, preserving trees, and widening the existing sidewalk.

As described in Section VI of the staff report, the site is physically suitable for the mixed-use condominium development and the proposed density of the development.

As discussed in Section VII of the staff report, the design of the project will not cause substantial environmental damage, will not cause serious public health problems, and will not result in water quality violations.

As discussed in Section VI of the staff report, the design of the development will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed development and the project site is not located adjacent to, nor have access to, any public natural resources.

E. NEW CONDOMINIUM DEVELOPMENT (SBMC §27.13.080)

1. There is compliance with all provisions of Chapter 27.13 (Residential Condominium Development), including parking, private storage space, separate utility metering, laundry facilities, public improvement districts, density, unit size, outdoor living space, and storage of recreational vehicles, as described in Section VI of the Staff Report.
2. The project is consistent the policies of the City's General Plan in the Land Use Element, Housing Element, Conservation Element, and Circulation Element by providing a mixed-use residential development that is compatible with the surrounding neighborhood, conducting a coordinated review with Santa Barbara County, providing new housing, providing energy-efficient buildings and electric vehicle charging stations, minimizing dust and emissions during construction, preserving trees, and widening the existing sidewalk, as described in Section VI of the Staff Report.
3. The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources because the design of the proposed project is compatible with the surrounding neighborhood, the project is adequately served by public streets, has adequate parking, and will not result in project specific traffic impacts, as described in Sections VI, VII, and VIII of the Staff Report.

F. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)

As described in Section VI of the Staff Report, the project is consistent with the policies of the California Coastal Act and all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code because no major coastal issues such as shoreline access, marine resources, environmentally sensitive habitat, coastal hazards, or scenic coastal views have been identified on the project site. Issues which do apply generally to development on Coast Village Road include views, recreational facilities, visitor-serving uses, and housing; however, the proposed project would not significantly block views of the mountains more than the existing trees and structures, increase recreational demand, would not negatively impact visitor-serving uses, would be compatible with the neighborhood, and would not overburden on-street parking

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. Pay the displacement assistance in accordance with the Tenant Displacement Assistance Ordinance.

4. Pay Inclusionary Housing In-Lieu Fee.
5. Submit an application for and obtain City Council approval of the Final Map and Agreement(s) and record said documents.
6. Permits following recordation of Final Map.
 - a. Submit an application for and obtain a Building Permit (BLD) for construction of approved development.
 - b. Submit an application for and obtain a Public Works Permit (PBW) for all required public improvements.

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

B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an *Agreement Relating to Subdivision Map Conditions Imposed on Real Property*, which shall be 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 concurrent with the Final Map, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Planning Commission on May 10, 2018 is limited to one 874 square foot (net) commercial condominium unit and nine residential condominium units and the improvements shown on the Vesting Tentative Subdivision Map and project plans signed by the chair of the Planning Commission on said date and on file at the City of Santa Barbara.
2. **Uninterrupted Water Flow.** The Owner shall provide for the continuation of any historic uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
3. **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.
4. **Landscape Screening on Roof Decks (Units 1 and 2).** A six foot high hedge shall be provided and maintained on the roof decks of Unit 1 and 2 in order to provide a buffer from Highway 101 for air quality purposes.

5. **Landscape Screening on Roof Deck (Unit 9).** A six foot high hedge shall be provided and maintained on the roof deck of Unit 9 in order to provide privacy to the surrounding residential uses.
 6. **Rooftop Equipment.** All rooftop equipment shall be screened.
- C. **Public Works Submittal Prior to Final Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Final Map and prior to the issuance of any permits for the project:
1. **Final Map.** The Owner shall submit to the Public Works Department for approval, a Final Map prepared by an appropriately licensed land surveyor or registered Civil Engineer. The Final Map shall conform to the requirements of the City Survey Control Ordinance.
 2. **Dedication.** Easements, as shown on the approved Tentative Subdivision Map and described as follows, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:

An easement for all street purposes along Coast Village Road in order to establish a 12-foot wide sidewalk corridor.
 3. **Can and Will Serve Letters.** Obtain a "can and will serve" letter from Montecito Water District.
 4. **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.
 5. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water Management Plan (treatment, rate and volume). The Owner shall submit a hydrology report prepared by a registered civil engineer or licensed architect demonstrating that the new development will comply with the City's Storm Water Management Plan. 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 significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants (including, but not limited to trash, hydrocarbons, fertilizers, bacteria, etc.), or groundwater pollutants would result from the project.

The Owner shall provide an Operations and Maintenance Procedure Plan (describing replacement schedules for pollution absorbing pillows, etc.) for the operation and use of the storm drain surface pollutant interceptors. The Plan shall be reviewed and approved consistent with the Storm Water Management Plan BMP Guidance Manual.
 6. **Coast Village Road Public Improvements.** The Owner shall submit C-1 public improvement or Public Works plans for construction of improvements along the property frontage on Coast Village Road. Plans shall be submitted separately from plans submitted for a Building Permit, and shall be prepared by a licensed civil engineer registered in the

State of California. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: 100 linear feet of sidewalk, a driveway apron modified to meet Title 24 requirements with a maximum width of 20 linear feet, crack and slurry seal to the median of the Coast Village Road along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limits of all trenching, preserve and/or reset survey monuments, protect and relocate existing contractor stamps to parkway, supply and install directional/regulatory traffic control signs per the CA MUTCD during construction. Any work in the public right-of-way requires a Public Works Permit.

7. **Agreement to Secure Public Improvements.** The Owner shall submit an executed *Agreement for Land Development Improvements*, prepared by the Engineering Division. Owner shall submit an Engineer's Estimate, wet signed, and stamped by a civil engineer registered in the State of California, and shall submit securities for construction of improvements prior to execution of the Agreement.
 8. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way or easements shall be obtained by the Owner.
- D. **Design Review.** The project, including public improvements, is subject to the review and approval of the Architectural Board of Review (ABR). ABR shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.
1. **Landscape Screening on Roof Decks (Units 1 and 2).** A six foot high hedge shall be provided and maintained on the roof decks of Unit 1 and 2 in order to provide a buffer from Highway 101 for air quality purposes.
 2. **Landscape Screening on Roof Deck (Unit 9).** A six foot high hedge shall be provided and maintained on the roof deck of Unit 9 in order to provide privacy to the surrounding residential uses.
 3. **Rooftop Equipment.** All rooftop equipment shall be screened.
 4. **Screened Backflow Device.** All backflow devices shall be provided in a location screened from public view or included in the exterior wall of the building, as approved by the ABR.
 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 ABR.
 6. **Project Directory.** A project directory 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 acceptable to the Fire Department and Community Development Department, shall meet current accessibility requirements, and is subject to Design Review Approval.

7. **Existing Sandstone.** The sandstone material within the existing sandstone wall on the Coast Village Road frontage shall be preserved during demolition and re-used on the project site.
 8. **Plaque.** A plaque shall be installed on the project site to commemorate architect Sherrill Broudy's role in transforming Coast Village Road in the post-World War II period.
- E. **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 C.7 "Coast Village Road Public Improvements" shall be submitted to the Public Works Department for review and approval. Upon acceptance of conceptual public improvement plans, a Building permit may be issued if the Owner has bonded for public improvements and executed the *Agreement for Land Development Improvements*.
 - b. **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.
 - 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. **Required Private Covenants.** The Owner shall submit a copy of the draft Required Private Covenants, Conditions and Restrictions (CC&Rs) for the project, which shall provide for the following:
 - (1) **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium units.
 - (2) **Garages Available for Parking.** A requirement that all residential garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
 - (3) **Parking Space Assignment.** Parking spaces for the residential uses within the project shall be allocated.

- (4) **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
 - (5) **Landscape Maintenance.** That the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan. Such Plan shall not be modified unless prior written approval is obtained from the appropriate design review board. If said landscaping is removed for any reason without approval by the appropriate design review board, the owner is responsible for its immediate replacement. The covenant shall also include the following specific requirements:
 - (a) A six foot high hedge shall be provided and maintained on the roof decks of Unit 1 and 2 in order to provide a buffer from Highway 101 for air quality purposes.
 - (b) A six foot high hedge shall be provided and maintained on the roof deck of Unit 9 in order to provide privacy to the surrounding residential uses.
 - (6) **Trash and Recycling.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the landscaping or be hauled off site by the landscaping maintenance company. If no green waste containers are provided for common interest developments, include an item in the CC&Rs stating that the green waste will be hauled off site.
 - (7) **Public Improvement Districts.** A waiver to protest formation of public improvement districts.
 - (8) **Covenant Enforcement.** An express method that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.
- b. **Inclusionary Housing In-lieu Fee.** The project is subject to the Inclusionary Housing Ordinance (SBMC Chapter 28.43). Submit evidence that the Owner has paid the required inclusionary housing in-lieu fee of \$211,275.00.
 - c. **Recordation of Final Map and Agreements.** After City Council approval, the Owner shall provide evidence of recordation of the map and agreements to the Community Development Department prior to issuance of building permits.
 - d. **Interior Noise.** All recommendations in the noise analysis (e.g., mechanical ventilation, air conditioning system, sound-rated doors and windows, etc.) to comply with the City's 45 dB CNEL interior noise standard shall be required and included on the plans.
 - e. **Sound Barriers.** Plans shall show the location of the required temporary sound barriers along the northern property line, the eastern property line (from the northern property line of the adjacent restaurant to the northern property line of the

project site), and the western property line (from the southern property line of the project site to the north approximately 25 feet).

- f. **Arborist’s Monitoring.** Submit to the Planning Division an executed contract with a qualified arborist for monitoring of all work 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.
- g. **Tenant Displacement Assistance Ordinance Compliance.** Submit evidence of compliance with the Tenant Displacement Assistance Ordinance (SBMC Chapter 28.89), including displacement assistance and right of first refusal.
- h. **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.
- i. **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 F.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.
- j. **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 F.2 “Pre-Construction Conference” prior to disturbing any part of the project site for any reason.
- k. **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 D “Design Review,” and all elements/specifications shall be implemented on-site.
- l. **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.

- F. **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 demolition, grading or 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, and 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 or Agent, Architect, Arborist, Landscape Architect, Biologist, 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., 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. **Tree Protection Plan.** The tree protection measures contained in the Tree Protection Plan prepared by Arcadia Studio, dated April 4, 2018, shall be implemented.
8. **Pre-construction Nesting Bird Survey.** A pre-construction survey for nesting birds shall be conducted by a City-qualified biologist for areas impacted by the project site consistent with the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (FGC) as enforced by the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife, respectively. The survey will be conducted to determine if active nests of special-status birds and common bird species, protected by the MBTA and/or the FGC, are present in the survey area. The survey should be conducted within one week prior to construction or site preparation activities that would occur during the nesting/breeding season of native bird species potentially nesting on the site (typically March 1 through August 30). If construction activities are halted for greater than two weeks then a follow-up nesting bird survey will be required.
9. **Nesting Bird Buffers and Requirements.** If active nests are found, a no-construction buffer shall be established at a minimum of 100-foot (this distance may be greater or reduced depending on the bird species and construction activity, as determined by the biologist) around the nest site where it overlaps with work areas. Clearing and construction within no-construction buffer shall be postponed or halted, at the discretion of the biologist,

until the nest is vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting. In addition, all active nests shall be mapped with a GPS unit and nest locations with 100-foot buffers overlain on aerial photographs to provide regular updated maps to inform the project manager/engineer and construction crew of areas to avoid. A City-appointed biologist should also serve as a construction monitor during the breeding season to ensure that there are no inadvertent impacts to nesting birds.

10. **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.
11. **Noise Control.** The following measures shall be shown on grading and building plans and shall be adhered to throughout grading, hauling, and construction activities:
- a. Stationary construction equipment that generates noise that exceeds 63 dB(A) at the property boundaries shall be shielded with a barrier that meets a STC rating of 25. Depending upon the location of the barrier with respect to the equipment and the nearest property boundary, sound level attenuation in the range of 5 to 10 dB(A) would be expected at the property line.
 - b. All construction equipment powered by internal combustion engines shall be properly muffled and maintained. No internal combustion engine shall be operated on the site without a muffler. All diesel equipment shall be operated with closed engine doors and shall be equipped with factory recommended mufflers. Unnecessary idling of internal combustion engines shall be prohibited.
 - c. Air compressors and generators used for construction shall be surrounded by temporary acoustical shelters. Whenever feasible, electrical power shall be used to run air compressors and similar power tools.
 - d. Install a temporary construction sound barrier wall along the northern site boundary. The barrier should be made of sound attenuating material (not landscaping). To effectively reduce sound transmission through the barrier, the material chosen must be rigid and sufficiently dense (at least 20 kilograms/square

meter). All noise barrier material types are equally effective, acoustically, if they have this density. For example, 5/8 inch plywood, mounted with no gaps between adjacent sheets, would be of sufficient density to achieve the target attenuation. The barrier shall be 8 feet in height from the ground surface on the construction side of the wall, to achieve the goal of blocking direct line of sight to the adjacent residence windows. It is estimated that a noise barrier of the prescribed density would reduce average noise levels to sensitive receptors by up to 5 dB by blocking direct line of sight to ground-level receptors.

- e. Along the eastern subject property line, starting at the northern China Castle property line and heading north to the northern property boundary of the project site, install a temporary construction sound barrier immediately following removal of existing onsite structures that currently conflict with the location of the barrier. The barrier should be made of sound attenuating material (not landscaping). To effectively reduce sound transmission through the barrier, the material chosen must be rigid and sufficiently dense (at least 20 kilograms/square meter). All noise barrier material types are equally effective, acoustically, if they have this density. For example, 5/8 inch plywood, mounted with no gaps between adjacent sheets, would be of sufficient density to achieve the target attenuation. The barrier shall be 8 feet in height from the ground surface on the construction side of the wall, to achieve the goal of block direct line of sight to the adjacent first floor residence windows. It is estimated that a noise barrier of the prescribed density would reduce average noise levels to sensitive receptors by up to 5 dB by blocking direct line of sight to ground-level receptors.
- f. Along the western property boundary, starting at the southern property boundary and extending northward approximately 25 feet, install a temporary construction sound barrier immediately following removal of existing on-site improvements that currently conflict with the location of the barrier. The barrier should be made of sound attenuating material (not landscaping). To effectively reduce sound transmission through the barrier, the material chosen must be rigid and sufficiently dense (at least 20 kilograms/square meter). All noise barrier material types are equally effective, acoustically, if they have this density. For example, 5/8 inch plywood, mounted with no gaps between adjacent sheets, would be of sufficient density to achieve the target attenuation. The barrier shall be 8 feet in height from the ground surface on the construction side of the wall, to achieve the goal of blocking direct line of sight to the outdoor eating area for the adjacent Starbucks. It is estimated that a noise barrier of the prescribed density would reduce average noise levels to sensitive receptors by up to 5 dB by blocking direct line of sight to diners in the ground level patio area.

12. **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.

G. Prior to Certificate of Occupancy. Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
2. **Complete Public Improvements.** Public improvements, as shown in the public improvement plans or building plans, shall be completed.
3. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, and submitted to the Planning Division.
4. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided to the Community Development Department, Planning Division that the private CC&Rs required in Section B "Recorded Conditions Agreement" have been recorded.

H. 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. **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 MODIFICATION APPROVAL TIME LIMITS:**

The Planning Commission action approving the Modifications shall terminate three (3) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

A. NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:

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

1. Otherwise explicitly modified by conditions of approval for the coastal development permit.
2. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.
3. The Community Development Director grants an extension of the coastal development permit approval. The Community Development Director may grant up to three (3) one-year extensions of the coastal development permit approval. Each extension may be granted upon the Director finding that: (i) the development continues to conform to the Local Coastal Program, (ii) the applicant has demonstrated due diligence in completing the development, and (iii) there are no changed circumstances that affect the consistency of the development with the General Plan or any other applicable ordinances, resolutions, or other laws.

B. NOTICE OF TENTATIVE SUBDIVISION MAP TIME LIMITS:

The Planning Commission action approving the Tentative Map shall expire three (3) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110.

NOTICE OF TIME LIMITS FOR PROJECTS WITH MULTIPLE APPROVALS (S.B.M.C. § 28.87.370):

If multiple discretionary applications are approved for the same project, the expiration date of all discretionary approvals shall correspond with the longest expiration date specified by any of the land use discretionary applications, unless such extension would conflict with state or federal law. The expiration date of all approvals shall be measured from date of the final action of the City on the longest discretionary land use approval related to the application, unless otherwise specified by state or federal law.

This motion was passed and adopted on the 10th day of May, 2018 by the Planning Commission of the City of Santa Barbara, by the following vote:

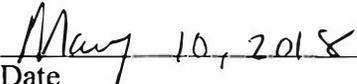
AYES: 7 NOES: 0 ABSTAIN: 0 ABSENT: 0

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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.



Krystal M. Vaughn, 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.