



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 003-19

726 NORTH LA CUMBRE ROAD

ANNEXATION, GENERAL PLAN AMENDMENT, ZONING MAP AMENDMENT, TENTATIVE SUBDIVISION MAP

JANUARY 17, 2019

APPLICATION OF ZOE CARLSON, DUDEK, AGENT FOR COMETA TRUST, 726 NORTH LA CUMBRE ROAD, APN 057-111-003, COUNTY ZONE: 8-R-1 (SINGLE FAMILY RESIDENTIAL WITH MINIMUM LOT SIZE 8,000 SQUARE FEET PER UNIT), COUNTY GENERAL PLAN DESIGNATION: RESIDENTIAL 4.6 UNITS PER ACRE (MST2016-00431)

The project proposes the subdivision of a 29,600 square foot parcel into three lots of 8,000, 8,500, and 13,100 square feet, and annexation of the parcel(s) into the city of Santa Barbara. The property is currently developed with a 1,420 square foot single-residential unit and a 480 square foot detached garage. The parcel is accessed off of Pemm Place and is bounded by North La Cumbre Road to the west. Public improvements within the existing City public right-of-way for Pemm Place include re-grading, realigning, and repaving the street, a new sidewalk and parkway on the north side, tree removal, and installation of new street trees are included as part of the subdivision. The Planning Commission initiated the annexation on October 5, 2017.

The discretionary applications required for this project are:

Recommendation by Planning Commission to City Council, and subsequent approval by City Council and the Local Agency Formation Commission (LAFCO):

- A. Annexation and Reorganization of the subject property from the unincorporated area of Santa Barbara County to the city of Santa Barbara;
- B. General Plan Amendment to add the subject property to the City's General Plan Map with a designation of Low Density Residential, Five Dwelling Units Per Acre (SBMC Chapter 30.235); and
- C. Zoning Map Amendment to add the subject property to the City's Zoning Map with a designation of RS-7.5/USS (Residential Single-Unit, 7,500 square foot minimum lot size/Upper State Street Area Overlay) (SBMC Chapter 30.235).

Planning Commission may take action to approve the following application contingent upon the above listed applications:

- D. Tentative Subdivision Map to allow the division of one parcel into three lots (SBMC Chapter 27.07).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the 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, and the following exhibits were presented for the record:

1. Staff Report with Attachments, January 10, 2019

2. Site Plans

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

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

A. ANNEXATION AND REORGANIZATION

The proposal is consistent with City’s General Plan and annexation policies, which encourage annexation of parcels within the City’s sphere of influence at the earliest convenience. Therefore, the Planning Commission recommends that City Council forward a recommendation to LAFCO to approve the Annexation and Reorganization, specifying that the parcel should not be part of the City’s Hillside Design District.

B. GENERAL PLAN MAP AMENDMENT

The Planning Commission finds the General Plan Map Amendment consistent with applicable General Plan policies as described in Section V of the staff report, and recommends that City Council approve the General Plan Map Amendment with a General Plan land use designation of Low Density Residential, 5 dwelling units per acre.

C. ZONING ORDINANCE MAP AMENDMENT

The Planning Commission finds the Zoning Ordinance Map Amendment to be consistent with the General Plan as described in Section V of the staff report, and recommends that City Council approve the Zoning Ordinance Map Amendment with a zoning designation of RS-7.5/USS.

D. ENVIRONMENTAL REVIEW

The Planning Commission finds that 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.

E. THE TENTATIVE MAP (SBMC §27.07.100)

The Planning Commission finds the following to approve the Tentative Subdivision Map:

The Tentative Subdivision Map is consistent with relevant General Plan policies pertaining to residential density, tree protection, noise, housing, and safety. The site is physically suitable for the proposed development, as there are no physical constraints, such as steep slopes, extensive vegetation or watercourses that would prevent future development or require exceptions from the Municipal Code. The proposed density of development of 4.4 units per acre is within the density allowable under the proposed General Plan designation (5 units per acre). The design of the project will not cause substantial environmental damage because a grading plan was provided that demonstrates drainage being conveyed in a manner consistent with adopted regulations and guidelines. The design of the development is not likely to cause public health problems, as the future development would be single-family residences, consistent with the surrounding neighborhood. The project will replace the existing street paving and provide a new sidewalk, parkway, and street trees along Pemm Place.

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 additional land use approvals. Refer to condition B “Approval Contingent upon Annexation and Adoption of Zoning and General Plan Map Amendment.”
 2. Obtain all required design review approvals.
 3. Pay Land Development Team Recovery Fee (30% of all planning fees, as calculated by staff) at time of first Building Permit or Public Works Permit application.
 4. Submit an application for and obtain a Building Permit (BLD) to demolish any structures/improvements that would conflict with the Parcel Map. A BLD may also be obtained to perform rough grading. Comply with condition G “Construction Implementation Requirements.”
 5. Submit an application for and obtain a Public Works Permit (PBW) for all required public improvements and **complete** said improvements.
 6. Submit an application for and obtain Building Permit(s) for the construction of all private improvements required to ensure the lot is ready for subdivision and complete said improvements. This includes installation of any required on-site landscaping and storm water improvements.
 7. Pay Inclusionary Housing In-Lieu Fee at time of Parcel Map submittal.
 8. Submit an application for and obtain City Council approval of the Parcel Map and Agreement(s) and record said documents.

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

- B. **Approval Contingent Upon Annexation and Adoption of Zoning and General Plan Map Amendment.** Approval of the subject project is contingent upon approval of the Zoning and General Plan Map Amendment by the City Council and approval of the Annexation and Reorganization by the Local Agency Formation Commission and completion of that annexation/reorganization.
- C. **Recorded Conditions Agreement.** 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, and shall include the following:
1. **Approved Development.** The development of the Real Property approved by the Planning Commission on January 17, 2019 is limited to three lots and the improvements shown on the Tentative Subdivision Map 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(s) of each newly created parcel shall allow for the continuation of any historic flow of water onto their newly created parcels including water from adjacent sources such as, but not limited to, public or private property drainage swales, natural watercourses, conduits, runoff from public or private roads, etc., as may be deemed appropriate.

3. **Recreational Vehicle Storage Limitation.** No recreational vehicles, boats, or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
 4. **Landscape Plan Compliance.** The Owner(s) shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan, including any tree protection measures. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement.
 5. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state and in accordance with the Storm Water BMP Guidance Manual and Operations and Maintenance Procedure Plan approved by the Creeks Division. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit 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.
- D. **Protection of Pemm Place Public Right-of-way Pervious Pavement During Construction.** During any construction on Lots 1, 2 or 3, the Owner of said Lot shall be responsible for ensuring that there is no damage to the road and that steps are taken to ensure that the permeability of the road is maintained as designed. Therefore, all work relating to or that impacts the Public Improvement design and construction shall conform to: recognized standards of construction; all City of Santa Barbara SWMP, loading, travel-way and long-term maintenance requirements; and shall maintaining a clean, operational and orderly condition during and upon completion of site development construction, most notably initial site development and home construction, on Lots 1, 2 and 3
- E. **Public Works Submittal For Parcel 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 Parcel Map:
1. **Parcel Map.** The Owner shall submit to the Public Works Department for approval, a Parcel Map prepared by a licensed land surveyor or registered Civil Engineer. The Parcel Map shall conform to the requirements of the City Survey Control Ordinance.
 2. **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.
 3. **Drainage and Water Quality.** The project is required to comply with Tier 3 storm water requirements in the public right-of-way, 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.

4. **Pemm Place Public Improvements.** The Owner shall submit C-1 public improvement plans for construction of improvements along the property frontage on Pemm Place. 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: 370 linear feet of 5'-wide sidewalk, 4'-wide parkway, six (6) Residential driveway aprons modified to meet Title 24 requirements with a maximum width of 16 feet, 350 linear feet of curb and gutter, pervious pavement on aggregate base along entire subject property frontage, connection to and extension of City water main and utilities, installation of one (1) new residential fire hydrant, public drainage improvements with supporting drainage calculations and hydrology report for installation of pervious pavement, supply and install two (2) residential City standard Dome Style street lights, preserve and/or reset survey monuments, supply and install directional/regulatory traffic control signs per the CA MUTCD during construction, supply and install six (6) new street trees per approval of the Parks and Recreation Commission, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.
5. **North La Cumbre Road Public Improvements.** If the City Public Works Department has not completed La Cumbre Sidewalk Infill project PBW2016-01316 at the time of Parcel Map recordation, the Owner shall submit C-1 public improvement plans for construction of improvements along the property frontage on La Cumbre 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: one (1) One-way Directional access ramp as required for coordination with the City's Sidewalk Infill Program, crack and slurry seal a minimum of 20 feet beyond the limits of all trenching, connection to and extension of City water main and utilities, 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, storm drain stenciling, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

6. **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.
 7. **Inclusionary Housing Fee.** Submit evidence that the Owner has paid the required inclusionary housing fee of \$43,514.00 to the Community Development Department. Because the project involves a subdivision without construction of units, payment is due prior to approval of the Parcel Map.
 8. **Covered Parking.** Prior to recordation of the Parcel Map, the existing garage straddling the proposed property line shall be demolished, and a residential garage or carport serving the existing residence on proposed Lot 1 shall be constructed within the property boundary of proposed Lot 1, in compliance with required setbacks. Appropriate building permits for these improvements are required.
 9. **Goleta Water Service.** The water meter for Lot #1 shall be located on a new water main on Pemm Place and the existing Goleta Water meter and service on North La Cumbre Road shall be abandoned.
 10. **Water Services for Undeveloped Lots.** Water services will be installed when the new water main is installed, but meters will not be set for vacant proposed Lots #2 and #3 until development is proposed for those lots and building permits have been issued for those improvements.
 11. **Water Capacity Charges.** Water capacity charges will be due for the existing residence on proposed Lot #1 to be detached from Goleta Water District water service and provided water service by the City. Additional water and wastewater capacity charges will be due for future development of proposed Lots #2 and #3 after those developments are proposed.
- F. **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 shall be replaced on-site on a with minimum 24-inch box sized trees as recommended in the "Mitigation Tree Report for the Pemm Place Project, Santa Barbara, California" prepared by Christopher Kallstrand of Dudek and dated October 9, 2018 in order to minimize visual and biological impacts resulting from the loss of trees.
 2. **Tree Protection Measures.** The grading plan shall include the following tree protection measures:
 - a. **Tree Protection.** All trees not indicated for removal on the approved Tentative Subdivision Map shall be preserved, protected, and maintained, in accordance with the Tree Protection Plan and any related Conditions of Approval.
 - b. **Arborist's Report / Tree Protection Plan.** Include a note on the plans that the recommendations/conditions contained in the arborist's report / Tree Protection Plan prepared for the project by Dudek, dated July 3, 2017, shall be implemented.

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 SFDB.
 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 SFDB.
- G. **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 pulled pursuant to Condition A.4, or for public improvement permits pulled prior to recordation of the Parcel Map. Please note that these conditions are in addition to the standard submittal requirements for each department.
1. **Public Works Department.**
 - a. **Public Improvement Plans.** Public Improvement Plans as identified in conditions D.4 and D.5 “Pemm Place” and “North La Cumbre Road” Public Improvements, respectively, shall be submitted to the Public Works Department for review and approval. Upon acceptance of the approved public improvement plans, submittal of securities and a Land Development Agreement, a Public Works Permit shall be issued.
 - 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. **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 G.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.
 - b. **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 G.2 “Pre-Construction Conference” prior to disturbing any part of the project site for any reason.
 - c. **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 F “Design Review,” and all elements/specifications shall be implemented on-site.

- d. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. 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.

- H. **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 and future construction of residences on proposed Lots 2 and 3.
 - 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 Public Works and 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, Contractor and each Subcontractor.
 - 3. **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.

4. **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.
5. **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).
6. **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.

7. **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.

I. **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 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.

This motion was passed and adopted on the 17th day of January, 2019 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 0 ABSTAIN: 0 ABSENT: 2

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, Senior 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.

DRAFT