



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 004-19 517 CHAPALA STREET DEVELOPMENT PLANS MARCH 7, 2019

**APPLICATION OF TRISH ALLEN, SEPPS, AGENT FOR EDWARD ST. GEORGE, 517 CHAPALA STREET, APN 037-163-007 & -008, C-G (COMMERCIAL GENERAL) ZONE, GENERAL PLAN DESIGNATION: COMMERCIAL/MEDIUM HIGH RESIDENTIAL (15-27 DU/AC) (MST2017-00151)**

The project consists of the demolition of an existing automobile dealership with 1,300 square feet of office space, merger of two lots (APNs 037-163-007 & 037-163-008) for a combined lot area of 11,500 square feet, and construction of a new three-story, 17,052 square foot (net) building containing 16 hotel rooms, a caretaker unit, and 519 square feet (net) of commercial space. The first level would include the hotel lobby, commercial space, 17 vehicle parking spaces, and three bicycle parking spaces. The second level would include nine hotel rooms and a courtyard area. The third level would include seven hotel rooms and a 905 square foot (net) caretaker unit. A 277 square foot roof deck would be provided for the caretaker unit.

The discretionary applications required for this project are:

1. Development Plan to allow the construction of 7,693 square feet of net new nonresidential floor area (SBMC Chapter 30.230); and
2. Development Plan for a Transfer of Existing Development Rights to transfer three hotel rooms from 3714-3744 State Street (APN 053-300-038) to the project site (SBMC Chapter 30.270).

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**, 4 people appeared to speak and the following exhibits were presented for the record:

1. Staff Report with Attachments, February 28, 2019
2. Site Plans
3. Correspondence received:
  - a. Tony Vassallo, Santa Barbara
  - b. Caroline Vassallo, Santa Barbara
  - c. Carole Daneri, Santa Barbara

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

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

The Planning Commission finds the following:

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

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. DEVELOPMENT PLAN (SBMC §30.230.060)**

1. The proposed development complies with all applicable provisions of the Zoning Ordinance, including the Nonresidential Growth Management Program and development standards for the C-G Zone, as described in Section VI of the staff report.
2. The proposed development is consistent with the principles of sound community planning because it is consistent with applicable regulations, goals and policies of the City's General Plan, Zoning Ordinance, and the City's design review guidelines, as discussed in Section VI 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 and scale of the development will be compatible with the neighborhood based on the Project Compatibility Analysis criteria found in Section 22.22.145 of the Santa Barbara Municipal Code, as determined by the Historic Landmarks Commission on January 10, 2018, and as described in Sections VI and VIII 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 §30.170.030, Traffic Management Strategy. The Traffic Management Strategy allows for the allocation of nonresidential floor area as described in Section VI of the staff report.

**C. DEVELOPMENT PLAN FOR TRANSFER OF EXISTING DEVELOPMENT RIGHTS (SBMC §30.270.060)**

1. The proposed development for both the Sending and Receiving Sites is consistent with the goals and objectives of the General Plan of the City of Santa Barbara and the Zoning Ordinance, as described in as described in Section VI of the staff report.
2. The proposed developments will not be detrimental to the site(s), neighborhood or surrounding areas, as described in Section VI of the staff report.
3. Each of the proposed nonresidential developments on the respective Sending Site(s) and Receiving Site(s) will comply with all applicable provisions of the Zoning Ordinance, and with any additional specific conditions for a transfer approval, as described in Section VI of the staff report.
4. The development remaining, or to be built, on the Sending Site at 3714-3744 State Street is appropriate in size, scale, use, and configuration for the neighborhood and is beneficial to the community as determined by the Planning Commission approval in 2014, as described in Section VI of the staff report.

5. The proposed development on the receiving site at 517 Chapala Street 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 §30.170.030, Traffic Management Strategy. The Traffic Management Strategy allows for the transfer of hotel rooms as described in Section VI of the staff report.

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

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

- A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:
  1. Obtain all required design review approvals.
  2. Pay Land Development Team Recovery Fee (30% of all planning fees, as calculated by staff) at time of building permit application.
  3. Submit an application for and obtain a Building Permit (BLD) to demolish any structures/ improvements and/or perform rough grading. Comply with condition E “Construction Implementation Requirements.”
  4. Record any required documents (see Recorded Conditions Agreement section).
  5. Permits.
    - a. Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.
    - b. Submit an application for and obtain a Public Works Permit (PBW) for all required public improvements and complete said improvements.

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

- B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
  1. **Approved Development.** The development of the Real Property approved by the Planning Commission on March 7, 2019 is limited to the demolition of an existing auto dealership with 1,300 square feet of office space, merger of two lots (APNs 037-163-007 & 037-163-008) for a combined lot area of 11,500 square feet, and construction of a new three-story, 17,052 square foot (net) building containing 16 hotel guestrooms, a caretaker unit, and 519 square feet (net) of commercial space, and the improvements shown on the plans signed by the chairperson of the Planning Commission on said date and on file at the City of Santa Barbara.

2. **Hotel Guestrooms.** Due to potential parking impacts, the hotel guestrooms shall not be converted to residential units or rented for periods of 30 consecutive calendar days or more, without first obtaining all required City approvals and permits.
3. **Caretaker Unit.** The caretaker unit must be occupied by the owner, manager or other employee of the hotel and may not be converted to a nonresidential use, including a hotel use or other transient occupancy use, without a permit (SBMC §30.185.120). No residential parking permits shall be issued for the caretaker unit.
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. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
6. **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.
7. **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.
8. **Recyclable Material Use and Collection for Hotels.** Hotel operators shall encourage guests to recycle by using recyclable materials, and providing sufficient and appropriate receptacles, such as recycling containers, in each room. Recyclable material and green waste collection and pick-up areas shall be provided on-site for the hotel operations. A minimum of 50 percent of the area devoted to holding trash for the project shall be used for recycling purposes.
9. **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.

- 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. **Screened Backflow Device.** The backflow devices for fire sprinklers 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.
- 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.d “Chapala Street Public Improvements” shall be submitted to the Public Works Department for review and approval. Upon acceptance of completed public improvement plans, a Building permit may be issued if the Owner has bonded for public improvements and executed the *Agreement to Construct and Install Improvements (Not a Subdivision)*.
    - b. **Dedication.** Easements, as shown on the approved site plan 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:  
  
A dedication of approximately 2’-3” for all street purposes along Chapala Street in order to establish a 12-foot wide sidewalk and/or parkway.
    - c. **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.
    - d. **Chapala Street Public Improvements.** The Owner shall submit C-1 public improvement or Public Works plans for construction of improvements along the property frontage on Chapala Street. 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 consistent with the Chapala Street Design Guidelines and to match sidewalk on adjacent property to the north, tree wells enlarged and trim design consistent with the Chapala Street Design Guidelines, one driveway apron modified to meet Title 24 requirements with a width of 18 linear feet, 25 linear feet of curb and gutter, crack seal to the centerline of the street 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.

- e. **Lot Merger Required.** The Real Property known as APN 037-163-007 and APN 037-163-008 shall be merged into one (1) lot, following the procedure in Santa Barbara Municipal Code Chapter 27.30.
- 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.
- h. **Agreement to Construct and Install Improvements.** The Owner shall submit an executed *Agreement to Construct and Install Improvements*, prepared by the Engineering Division, an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the Agreement.
- i. **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.

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. **Transfer of Existing Development Rights.** The documents transferring the development rights from the sending site (3714-3744 State Street) to the receiving site (517 Chapala Street) shall be submitted to the Community Development Director for review and approval prior to execution. Once the document(s) affecting the transfer of rights has been executed and recorded, evidence of the recording shall be submitted to the Community Development Department.
- c. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water BMP Guidance Manual, pursuant to Santa Barbara Municipal Code Chapter 22.87 (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 BMP Guidance Manual. Project plans for grading, drainage, stormwater facilities and treatment methods, and project development, shall be subject to review and approval by the City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no unpermitted construction-related or long-term effects from increased runoff,

erosion and sedimentation, urban water pollutants (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.

- d. **Environmental Site Assessment Subsurface Fieldwork Contract.** Submit a contract with Groundwater Solutions Inc., or other appropriate consultant, to conduct the subsurface fieldwork as recommended in the Phase I Environmental Site Assessment Report (Groundwater Solutions Inc., June 2005). The contract shall be subject to the review and approval of the Environmental Analyst.
- e. **Archaeological Contract for Supplemental Phase I Surface Survey.** Submit a contract with an archaeologist from the most current City Qualified Archaeologists List for the Supplemental Phase I Surface Survey recommended in the Phase I Archaeological Resources Report (Stone, April 2006). The contract shall be subject to the review and approval of the Environmental Analyst. The archaeologist's contract shall include the provisions identified in condition E.1 below.
- 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.4 "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. **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.
- i. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. The following statement shall be

signed prior to issuance of permits: 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. **Supplemental Phase I Surface Study.** The project shall comply with the recommendations of the Phase I Archaeological Resources Report (Stone, April 2006). After removal of all structures and pavement, construction shall be temporarily suspended and a City-qualified archaeologist shall be retained to inspect the ground of the entire project site to ensure the likely absence of any prehistoric archaeological resources. If no prehistoric cultural remains are identified on the exposed ground surface during the Supplemental Phase I surface study, no further prehistoric archaeological investigations are necessary. A report with the results of the survey shall be provided to the City Environmental Analyst for review and acceptance.

In the highly unlikely event that prehistoric cultural remains are identified on the ground surface during the inspection, a City-qualified archaeologist and a City-qualified Barbareño Chumash representative shall be retained to monitor all subsequent construction excavations until a depth is reached below any potential to disturb the remains, pursuant to the City’s Master Environmental Assessment (MEA) criteria. The archaeologist shall determine the need for any other actions, including collecting a representative sample of prehistoric remains, consistent with a Phase 3 Date recovery excavation as defined in City MEA criteria, and subject to the review and approval of the City Environmental Analyst.

2. **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.

3. **Environmental Site Assessment Subsurface Fieldwork and Report.** Conduct the subsurface fieldwork as recommended in the Phase I Environmental Site Assessment Report (Groundwater Solutions Inc., June 2005) and submit a report on the results of the subsurface fieldwork to the Environmental Analyst within 30 days of completion of the fieldwork.
4. **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.
5. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site, on both Chapala Street and the alley, 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.

6. **Construction Hours.** Construction (including preparation for construction work) shall only be permitted Monday through Friday between the hours of 7:00 a.m. and 5:30 p.m. and Saturdays between the hours of 9:00 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.

7. **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.
8. **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.
9. **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:
- 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.
  - Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.

- c. If importation, exportation and stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.
- d. Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
- e. After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
- f. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading of the structure.
- g. All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.
- h. Fleet owners of mobile construction equipment are subject to the California Air Resource Board (CARB) Regulation for In-use Off-road Diesel Vehicles (Title 13 California Code of Regulations, Chapter 9, § 2449), the purpose of which is to reduce diesel particulate matter (PM) and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles. For more information, please refer to the CARB website at [www.arb.ca.gov/msprog/ordiesel/ordiesel.htm](http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm).
- i. All commercial diesel vehicles are subject to Title 13, § 2485 of the California Code of Regulations, limiting engine idling time. Idling of heavy-duty diesel construction equipment and trucks during loading and unloading shall be limited to five minutes; electric auxiliary power units should be used whenever possible.
- j. Diesel construction equipment meeting the California Air Resources Board (CARB) Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting CARB Tier 2 or higher emission standards should be used to the maximum extent feasible.
- k. Diesel powered equipment should be replaced by electric equipment whenever feasible.
- l. If feasible, diesel construction equipment shall be equipped with selective catalytic reduction systems, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California.
- m. Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
- n. All construction equipment shall be maintained in tune per the manufacturer's specifications.
- o. The engine size of construction equipment shall be the minimum practical size.

- p. The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time. Construction worker trips should be minimized by requiring carpooling and by providing for lunch onsite.

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. **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. **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 AND TRANSFER OF EXISTING DEVELOPMENT RIGHTS PERMIT TIME LIMITS:**

The Planning Commission action approving the Development Plan and Transfer of Existing Development Rights Permit shall expire four (4) years from the date of approval per Santa Barbara Municipal Code §30.205.120, 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 prior to the expiration of the approval.

This motion was passed and adopted on the 7<sup>th</sup> day of March, 2019 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.

\_\_\_\_\_  
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.**