



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 006-19

1202 DIANA ROAD

TENTATIVE SUBDIVISION MAP, PUBLIC STREET FRONTAGE WAIVER, AND 4 STREET FRONTAGE MODIFICATIONS

APRIL 11, 2019

APPLICATION OF SHAUN LYNCH, APPLICANT FOR BLH PROPERTIES LLC, PROPERTY OWNER, 1202 DIANA ROAD, APN 031-190-008, RS-6 (RESIDENTIAL SINGLE UNIT) ZONE, GENERAL PLAN LAND USE DESIGNATION: LOW DENSITY RESIDENTIAL, MAXIMUM 5 DU/AC (PLN2017-00217).

The project consists of a proposal to subdivide an existing 1.06-acre parcel into four lots in the RS-6, Residential Single Unit Zone and Low Density Residential (Max. 5 Dwelling Units/Acre) General Plan designation. The proposed lots vary in size from 9,004 to 15,505 square feet and comply with General Plan and Zoning density.

Proposed improvements for the subdivision include site grading (approximately 1,000 cubic yards of cut and 540 cubic yards of fill), removal of 5 existing oak trees, installation of 22 replacement oak trees, and approximately 8,500 square feet of paving to create a new shared driveway connecting the proposed lots to Cota Street, including alterations to the existing driveway/access for the existing condominiums on the adjacent lot, located at 1133 E. Cota Street. The existing driveway to Diana Road would remain as a secondary access.

The proposal includes development of a new two-story primary dwelling unit on three of the four proposed lots. Proposed residences would range in size from approximately 2,161 to 2,694 square feet, including an attached two-car garage.

Proposed Lot 3 would contain the existing one-story residence, which is a designated Structure of Merit. The project includes demolition of all unpermitted additions to this residence in order to return it to the configuration of the original 1921 adobe residence. Also proposed is the addition of an attached two-car garage at the rear of the residence. The proposal would result in an approximately 975 square foot residence and a 400 square foot garage on Lot 3.

Other site alterations include demolition of the existing detached garage and detached accessory buildings. The proposed project would also address violations identified in ENF2017-00868.

The discretionary applications required for this project are:

1. A Tentative Subdivision Map to allow the division of a 1.06-acre lot into four lots (SBMC Chapter 27.07);
2. A Public Street Frontage Waiver to allow a subdivision where access to the lots is provided by a private driveway that serves more than two lots, rather than by a public street (SBMC §22.060.300);
3. A Street Frontage Modification to allow proposed Lot 1 with less than the minimum 60 feet of frontage on a public street (SBMC §30.20.030 and SBMC §30.250.020);
4. A Street Frontage Modification to allow proposed Lot 2 with less than the minimum 60 feet of frontage on a public street (SBMC §30.20.030, and SBMC §30.250.020);
5. A Street Frontage Modification to allow proposed Lot 3 with less than the minimum 60 feet of frontage on a public street (SBMC §30.20.030, and SBMC §30.250.020); and

6. A Street Frontage Modification to allow proposed Lot 4 with less than the minimum 60 feet of frontage on a public street (SBMC §30.20.030 and SBMC §30.250.020).

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

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, five (5) people appeared to speak, and the following exhibits were presented for the record:

1. Staff Report with Attachments, April 4, 2019
2. Project Plans
3. Correspondence received:
 - a. Robert Gheno, Santa Barbara CA

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

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

A. STREET FRONTAGE MODIFICATIONS (SBMC §30.250.060.F)

The four street frontage modifications are consistent with the purposes and intent of the Zoning Ordinance because they allow for a large parcel to be subdivided to lot sizes that are consistent with the RS-6 zoning designation. The resultant lots will have adequate access via a new driveway from E. Cota Street, and will allow for in-fill housing development consistent with the General Plan and Zoning Ordinance.

The street frontage modifications are necessary to secure an appropriate improvement on the lot because the existing flag lot site does not comply with the street frontage requirements and it is not possible for a subdivision of the lot to provide the required street frontage. The street frontage modifications will result in development that is generally consistent with the existing patterns of development for the neighborhood because there are other flag lot configurations in the immediate neighborhood and in the City as a whole.

B. THE TENTATIVE MAP (SBMC §27.07.100)

As described in Sections V and VI of the staff report, with the approval of the street frontage modifications, the Tentative Subdivision Map is consistent with the Subdivision Map Act and the Municipal Code.

As described in Section V.B. of the staff report, the project is consistent with the policies of the City's General Plan, including the Land Use Element, Housing Element, Historic Resources Element, and

Environmental Resources Element, and the proposed use is consistent with the vision for this residential Eastside neighborhood of the General Plan.

As described in Section V of the staff report, the site is physically suitable for the proposed residential development because it complies with lot area and density provisions of the Municipal Code and the General Plan and provides adequate access to the new lots.

As described in Section VII of the staff report, the project will not cause environmental damage or serious public health problems; 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.

C. PUBLIC STREET WAIVER (SBMC §22.60.300)

1. The private driveway will provide adequate access to the subject property and other properties using said driveway. The proposal provides adequate access, and will not eliminate nor reduce access to the subject properties and adjacent properties using the driveway.
2. The private driveway and adjacent paved areas will provide adequate access for fire suppression vehicles as required by applicable fire regulations, including but not limited to turnaround area, width, grade and construction. The proposed driveway is acceptable to the Fire Department and Public Works Department.
3. Adequate provision for maintenance of the private driveway will be provided in the Declaration of Covenants, Conditions and Restrictions for Maintenance of Private Access (which requires all owners who use the access easement to adequately maintain the private driveway). This Declaration will be recorded prior to or concurrent with recordation of the Parcel Map.
4. The waiver is in the best interests of the City and will improve the quality and reduce impacts of the proposed development. Development of a public road to serve the proposed lots will not improve the quality of the development, and would require additional paving and road width to allow for parking areas. The proposed new driveway will improve the current condition and comply with access and circulation requirements.

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 Parcel Map application.
 3. 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

demolish non-conflicting structures/improvements and/or perform rough grading. Comply with condition F “Construction Implementation Requirements.”

4. Submit an application for and obtain Building Permit(s) for, and complete, the construction of all private improvements required **prior** to approval of the Map to ensure the lot is ready for subdivision.
5. Pay Inclusionary Housing In-Lieu Fee.
6. Submit an application for and obtain City Council approval of the Parcel Map and Agreement(s) and record said documents.
7. Permits following recordation of Parcel 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, except a demolition or other appropriate (as determined by City staff) building permit for work in anticipation of primary project improvements, 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 Parcel Map, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Planning Commission on April 11, 2019, is limited to a four-lot subdivision 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. The proposed lots vary in size from approximately 9,004 to 15,505 square feet.

Proposed improvements for the subdivision include site grading (approximately 1,000 cubic yards of cut and 540 cubic yards of fill), removal of 5 existing oak trees, installation of 22 replacement oak trees, and approximately 8,500 square feet of paving to create a new shared driveway connecting the proposed lots to Cota Street, including alterations to the existing driveway/access for the existing condominiums on the adjacent lot, located at 1133 E. Cota Street. The existing driveway to Diana Road would remain as a secondary access.

The proposal includes development of a new two-story primary dwelling unit on three of the four proposed lots. Proposed residences would range in size from approximately 2,161 to 2,694 square feet, including an attached two-car garage.

Proposed Lot 3 would contain the existing one-story residence, which is a designated Structure of Merit. The project includes demolition of all unpermitted additions to this residence in order to return it to the configuration of the original 1921 adobe residence. Also proposed is the addition of an attached two-car garage at the rear of the residence.

The proposal would result in an approximately 975 square foot residence, and a 400 square foot garage on Lot 3.

Other site alterations include demolition of the existing detached garage and detached accessory buildings. The proposed project would also address violations identified in ENF2017-00868.

2. **Development Rights Restrictions.** The Owner shall not make any use of the restricted portion of the Real Property (Development Restriction Area) as designated on the approved Tentative Subdivision Map (specifically the northerly corner of proposed Lot 3) in order that those portions of the Real Property remain in their natural state. The Owner shall not make use of the restricted area including, but not limited to, grading, irrigation, structures, ornamental landscaping, or utility service lines. The restricted area shall be shown on the Parcel Map. The Owner shall continue to be responsible for maintenance of the restricted area, and compliance with orders of the Fire Department. Any brush clearance shall be performed without the use of earth moving equipment.
3. **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.
4. **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 Design Review.
5. **Oak Tree Protection.** The existing oak trees shown to remain, and the proposed replacement oak trees shown on the Arborist Map Plan (Sheet A102) shall be preserved, protected, and maintained in accordance with the recommendations contained in the Arborist's Report prepared by Kenneth A. Knight Consulting LLC, dated November 26, 2018. A copy of this report shall be attached to the recorded conditions as an exhibit. The following provisions shall apply to any oak trees to remain on the property:
 - a. No irrigation systems shall be installed within three feet of the drip line of any oak tree.
 - b. The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.
6. **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.

7. **Required Private Covenants, Conditions and Restrictions (CC&Rs).** The Owners shall record in the official records of Santa Barbara County either private covenants, conditions and restrictions, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for the following:

- a. **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 parcels.
- b. **Garages Available for Parking.** A covenant that includes a requirement that all 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.
- c. **Landscape Maintenance.** A covenant that provides 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.
- d. **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.
- e. **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.

C. **Public Works Submittal Prior to 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 and prior to the issuance of any permits for the project except a demolition or other appropriate (as determined by City staff) permit for work in anticipation of primary project improvements:

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. **New Addressing.** Submit an application to Public Works and complete the parcel address change to an East Cota Street address.

3. **Dedication(s).** 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:
 - a. An easement for utility reading purposes as shown on the approved Tentative Subdivision Map.
 - b. A minimum 5-foot wide public access easement for pedestrians to use the driveway to connect through the neighborhood between Cota Street to Diana Road.
 - c. A variable width easement for private driveway, access, landscaping and private utilities.
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. **Required Private Covenants.** The Owner shall submit a copy of the draft private covenants, reciprocal easement agreement, or similar private agreements required for the project, concurrently with the Parcel Map.
6. **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 that would result from the project.
7. **East Cota Street Public Improvements.** The Owner shall submit public improvement plans for construction of improvements along the property frontage on East Cota 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:
 - driveway apron modified to meet Title 24 requirements with a maximum width of 26 feet;
 - asphalt concrete or concrete pavement on aggregate base or 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; and
- relocation of the existing street light is required if the new driveway approach is within two linear feet of the street light pole.

Any work in the public right-of-way requires a Public Works Permit.

8. **Agreement to Secure Construction of Private Driveway and Utilities.** 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.
 9. **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.
 10. **Inclusionary Housing Fee.** Submit evidence that the Owner has paid the required inclusionary housing fee of \$65,271.00 to the Community Development Department. If the project involves a subdivision, payment is due prior to approval of the Parcel Map.
 11. **Water Meter Access.** Per Santa Barbara Municipal Code 14.08.140(B), the property owner must dedicate to the City an easement or agree to provide the City the irrevocable right of access to locate, operate, replace, maintain, and read the meters by a deed or agreement approved by the City Attorney.
- D. Design Review.** The project, including public improvements, is subject to the review and approval of the Single Family Design Board (SFDB) for Lots 1, 2 and 4, and the Historic Landmarks Commission for Lot 3. SFDB/HLC shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.
1. **Tree Removal and Replacement.** All trees removed, except fruit trees and street trees approved for removal without replacement by the Parks Department, shall be replaced on-site in accordance with the recommendations contained in the Arborist's Report prepared by Kenneth A. Knight Consulting LLC, dated November 26, 2018.
 2. **Parks and Recreation Commission Tree Removal Approval.** Per Parks and Recreation Commission approval of the removal of one street tree, the street tree shall be replaced with a new street tree. The replacement tree species and location shall be approved by the Parks and Recreation Department. Provide verification of replacement approval from the Parks and Recreation Department.
 3. **Tree Protection Measures.** The landscape plan and grading plan shall include the following tree protection measures:
 - a. **Tree Protection.** All trees not indicated for removal on the approved Arborist map/landscape plan (A102) shall be preserved, protected, and maintained, in accordance with the Arborist Report, and any related Conditions of Approval.

- b. **Landscaping Under Trees.** Landscaping under the trees shall be compatible with the preservation of the trees, as determined by the applicable design review board.
- c. **Oak Trees.** The following additional provisions shall apply to existing oak trees on site:
 - (1) No irrigation system shall be installed within three feet of the dripline of any oak tree.
 - (2) Oak trees greater than four inches (4”) in diameter at four feet (4’) above grade removed as a result of the project shall be replaced on-site at a three to one (3:1) ratio, with exception of tree #11 which shall be replaced at a four to one (4:1) ratio, at a minimum 24-inch box size, from South Coastal Santa Barbara County Stock, in accordance with the recommendations contained in the Arborist’s Report prepared by Kenneth A. Knight Consulting LLC, dated November 26, 2018.
 - (3) The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.
- d. **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 by Kenneth A. Knight Consulting LLC, dated November 26, 2018, shall be implemented.
- e. **During Construction.**
 - (1) All existing trees to remain shall have fencing placed around the critical root zones for protection.
 - (2) No grading shall occur within three feet of the driplines of the existing trees, except as indicated on the grading plans (G1 & G2) for construction of the new driveway to provide vehicular access to East Cota Street.
 - (3) A qualified Arborist shall be present during any excavation within the critical root zones of the trees which are required to be protected. All excavation within the driplines of the trees shall be minimized and shall be done with hand tools.
 - (4) Any roots encountered shall be cleanly cut and sealed with a tree-seal compound.
 - (5) Any root pruning and trimming shall be done under the direction of a qualified Arborist.
 - (6) No heavy equipment, storage of materials or parking shall take place under the dripline of any tree(s), or within five (5) feet of the dripline of any oak tree.
 - (7) Oak seedlings and saplings less than four inches (4”) at four feet (4’) above the ground that are removed during construction shall be transplanted where feasible. If transplantation is not feasible, replacement trees shall be planted at a minimum one to one (1:1) ratio. Replacement trees shall be a minimum

of one (1) gallon size derived from South Coastal Santa Barbara County stock.

4. **Pedestrian Pathway.** To improve pedestrian friendliness, a separate pedestrian pathway shall be provided adjacent to the driveway from the East Cota Street sidewalk using a different material. In areas where the driveway is less than 15 feet wide and up until the point where it connects with Diana Road, a separate pathway is not required and all driveway material may be consistent.
5. **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.
6. **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.
7. **Lighting.** Applicant to study ways to screen the lights of vehicles coming down the center driveway away from neighboring properties.

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.6 “East Cota Street 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 routes 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. **Fire Department.** Provide “Fire Lane No Parking” signage in the fire lane turn around.
3. **Community Development Department.**
 - a. **Recordation of Parcel 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 for individual parcels.

- b. **Arborist’s Monitoring.** Submit to the Planning Division an executed contract with a qualified arborist for monitoring of all work within the dripline of all existing oak trees 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.
- c. **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.
- d. **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 persons who compiled the mailing list shall be submitted to the Planning Division.
- e. **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.
- f. **Private Driveway Maintenance Agreement.** The Owner shall submit a copy of the draft *Agreement for Shared Maintenance* of the proposed private driveway. Said Agreement is subject to the review and approval of the Community Development Director and City Attorney.
- g. **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.
- h. **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.

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 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 Contractors, site rules and Conditions of Approval pertaining to construction activities, and any additional information that will assist Building Inspectors, Police Officers and the public in addressing problems that may arise during construction.
2. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, 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, Architect, Arborist, Landscape Architect, 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 contractors name, contractors telephone numbers, construction work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
4. **Construction Hours.** Construction (including preparation for construction work) shall only be permitted Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m. and Saturdays between the hours of 9:00 a.m. and 4:00 p.m., excluding the following holidays:

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

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

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

5. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Public Works Director with a Public Works permit.
6. **Construction Parking.** During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Public Works Director.
7. **Nesting Birds.** Birds and their eggs nesting on or near the project site are protected under the Migratory Bird Treaty Act and pursuing, hunting, taking, capturing, killing, or attempt to do any of the above is a violation of federal and state regulations. No trimming or removing brush or trees shall occur if nesting birds are found in the vegetation. All care should be taken not to disturb the nest(s). Removal or trimming may only occur after the young have fledged from the nest(s).
8. **Air Quality and Dust Control.** The following measures shall be shown on grading and building plans and shall be adhered to throughout grading, hauling, and construction activities:
 - a. During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used whenever possible. However, reclaimed water should not be used in or around crops for human consumption.

- b. Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.
 - c. If importation, exportation and stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.
 - d. Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
 - e. After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
 - f. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading of the structure.
 - g. All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.
 - h. Fleet owners of mobile construction equipment are subject to the California Air Resource Board (CARB) Regulation for In-use Off-road Diesel Vehicles (Title 13 California Code of Regulations, Chapter 9, § 2449), the purpose of which is to reduce diesel particulate matter (PM) and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles. For more information, please refer to the CARB website at www.arb.ca.gov/msprog/ordiesel/ordiesel.htm.
 - i. All commercial diesel vehicles are subject to Title 13, § 2485 of the California Code of Regulations, limiting engine idling time. Idling of heavy-duty diesel construction equipment and trucks during loading and unloading shall be limited to five minutes; electric auxiliary power units should be used whenever possible.
9. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

G. Prior to Certificate of Occupancy. Prior to issuance of the Certificate of Occupancy for the on-site subdivision improvements, 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. **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.
4. **Evidence of Private Driveway Maintenance Agreement Recordation.** Evidence shall be provided to the Community Development Department, Planning Division that the private driveway *Agreement for Shared Maintenance* required in Section E.2 “Requirements Prior to Permit Issuance” has 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 Lot Frontage Modifications shall terminate three (3) years from the date of the approval, per Santa Barbara Municipal Code §30.205.120, 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.

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 (SBMC §30.205.120):

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 11th day of April, 2019 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 0 ABSTAIN: 0 ABSENT: 2 (Wiscomb, Thompson)

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.