



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 014-19

11 ANACAPA STREET

MODIFICATION AND COASTAL DEVELOPMENT PERMIT

SEPTEMBER 5, 2019

APPLICATION OF EDWARD DEVICINTE, ARCHITECT FOR HANNAH BEACHSIDE LLC, PROPERTY OWNER, 11 ANACAPA STREET, APN 033-112-010, OC/SD-3 ZONE, LOCAL COASTAL PROGRAM LAND USE PLAN DESIGNATION: OCEAN-ORIENTED COMMERCIAL (PLN2017-00009)

The project consists of the renovation and adaptive re-use of an existing 11,201 net square foot multi-tenant commercial building. Specific improvements include, but are not limited to: converting 2,500 net square feet on the ground floor to a restaurant use; converting 1,291 net square feet on the ground floor to a retail use; a new deck for outdoor restaurant seating; accessibility upgrades; a new transformer; a new trash enclosure; a reconfigured parking lot; and new landscaping.

The discretionary applications required for this project are:

1. A Modification to provide fewer than the required number of parking spaces (SBMC §28.92.110); and
2. A Coastal Development Permit (CDP2018-00019) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44.060).

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 thirteen people appeared to speak and the following exhibits were presented for the record:

1. Staff Report with Attachments, August 30, 2019
2. Site Plans
3. Correspondence received:
 - a. Rick Closson, Santa Barbara CA
 - b. Anna Marie Gott
 - c. William Rehling, 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. ENVIRONMENTAL REVIEW

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

B. PARKING MODIFICATION (SBMC §28.92.110.A)

The modification is consistent with the purposes and intent of the zoning ordinance, and will not cause an increase in the demand for parking space or loading space in the immediate area, as described in Section VI.A.1 of the Staff Report.

C. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)

1. The project is consistent with applicable policies of the California Coastal Act, as described in Section VI.B.1 of the Staff Report.
2. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code, as described in Section VI.B.2 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. Record any required documents (see Recorded Conditions Agreement section).
4. 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 September 5, 2019 consists of the renovation and adaptive re-use of an existing

11,201 net square foot multi-tenant nonresidential building. The project will demolish 1,310 net square feet of second floor and mezzanine floor area and the resultant building will have 9,891 net square feet of nonresidential floor area. Specific improvements include converting 2,500 net square feet of warehouse on the ground floor to a restaurant use; a new restaurant patio of approximately 1,698 square feet; converting 2,100 net square feet of warehouse on the ground floor to a retail use; accessibility upgrades; a new transformer; a new trash enclosure; a reconfigured parking area that includes a total of 39 striped parking spaces, of which 22 are dedicated for use by development at 29 E. Cabrillo; a valet parking operation for the site at all times when the restaurant is open to the public or is in use for a private event; and improvements and increases to parking lot landscaping; 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. **Use Limitations.** Due to the parking modification approval, which was based upon a parking demand study of the specific uses existing and proposed at the time of approval, uses other than those documented with this application are not permitted without further City staff review and/or Planning Commission review and approval. Prior to initiating a change of use, the Owner shall submit a letter to the Community Development Director detailing the proposal, and the Community Development Director, in consultation with the Public Works Director, shall determine the appropriate review procedure and notify the Owner.
3. **Valet Operation.**
 - a. **Use of Public Facilities.** Valet parking, vehicle storage, pickup, drop-off, or vehicle movements shall not use any street, alley, or City-owned parking facilities, or interfere with any right-of-way without approval of the Public Works Director. Valet parking shall not remove or interfere with automobile or bicycle parking required for any use.
 - b. **Valet Parking Operation.** A parking attendant shall be on duty at all times the restaurant is open to the public or is in use for a private event, and sufficient staff and facilities shall be provided to ensure that automobiles are moved promptly. Any changes to the operation require approval by the Public Works Department.
 - c. **Valet Charge.** Valet parking shall be offered free of charge.
4. **Alternative Transportation.** The following alternative mode incentives shall be incorporated into the project to minimize impacts related to parking and traffic caused by the project. Owner shall be responsible for ensuring that all tenants comply.
 - a. **Bus Routes and Schedules Posted.** Notice of MTD bus routes and schedules shall be placed and maintained up-to-date in a central location accessible to the public and to employees.
 - b. **Bicycle Parking.** Twelve (12) bicycle parking spaces shall be provided and maintained.
5. **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.
6. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.

7. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. 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 ABR, the owner is responsible for its immediate replacement.
 8. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state and in accordance with the Storm Water BMP Guidance Manual and Operations and Maintenance Procedure Plan approved by the Creeks Division. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit and/or Coastal Development Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.
 9. **BMP Training.** Training on the implementation of Best Management Practices (BMPs) shall be provided to every employee by the property owner/management in order to prevent or reduce the discharge of pollutants to storm water from buildings and ground maintenance. The training shall include using good housekeeping practices, preventive maintenance and spill prevention and control at outdoor loading/ unloading areas in order to keep debris from entering the storm water collection system.
 10. **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 Architectural Board of Review (ABR). The ABR shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.
1. **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 landscape plan shall be preserved, protected, and maintained, in accordance with the Tree Protection Plan, if required, and/or any related Conditions of Approval.
 - b. **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s), as determined by the ABR.
 - c. **During Construction.**
 - (1) All trees within 25 feet of proposed construction activity shall be fenced three feet outside the dripline for protection.

- (2) No grading shall occur within three feet of the dripline(s) of the existing tree(s), except as indicated on the grading / site plan.
 - (3) A qualified Arborist shall be present during any excavation beneath the dripline(s) of the tree(s) which are required to be protected. All excavation within the dripline(s) of the tree(s) 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).
2. **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 ABR.
 3. **Location of Dry Utilities.** Dry utilities (e.g. above-ground cabinets) shall be placed on private property unless deemed infeasible for engineering reasons. If dry utilities must be placed in the public right-of-way, they shall be painted "Malaga Green," and if feasible, they shall be screened as approved by ABR.
 4. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.

Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.
- D. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.
1. **Public Works Department.**
 - a. **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.
 - b. **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.
 - c. **Valet Parking Plan.** Provide a detailed description of valet parking operations, which shall be subject to review and approval by the Public Works Director. Include a copy of the approved Plan on the plans submitted for a building permit.

- d. **Bicycle Parking.** A minimum of 12 bicycle parking spaces shall be provided on site. Their size, rack type, and location shall be approved by the Public Works Director.
- e. **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. **Drainage and Water Quality.** The project must comply with Tier 2 post-construction requirements as detailed in the City’s Storm Water BMP Guidance Manual. After certificate of occupancy is granted, all installed storm water improvements must be maintained, pursuant to Santa Barbara Municipal Code Chapter 22.87. In addition, they will be subject to water quality testing by City Staff to ensure they are performing as designed and are operating in compliance with the City’s Storm Water MS4 Permit.
- c. **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.
- 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 reference or note reference to verify condition compliance. The following statement shall be signed prior to issuance of and 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. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) and

telephone number(s) to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. 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.

2. **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.
3. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

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

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

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

- F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
 1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Complete Public Improvements.** Public improvements, as shown in the public improvement plans or building plans, shall be completed.

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, 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. Said approval is subject to the following time Limits:

A. NOTICE OF MODIFICATION APPROVAL TIME LIMITS:

The Planning Commission action approving the Conditional Use Permit, Modification, Performance Standard Permit, or Variance shall terminate three (3) years from the effective date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

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

B. NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:

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

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

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

If a project requires multiple discretionary permits or approvals, the expiration date shall be measured from date of final action of the City on the longest discretionary approval permit or approval related to the application (excluding design review approval), unless otherwise specified by State or federal law.

This motion was passed and adopted on the 5th day of September, 2019 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 ABSTAIN: 0 ABSENT: 1 (Jordan)

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.

Heidi Reidel, 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