



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 008-20

2814 SERENA ROAD

CONDITIONAL USE PERMIT AMENDMENT, LOT LINE ADJUSTMENT, AND LOT AREA MODIFICATIONS SEPTEMBER 10, 2020

**APPLICATION OF STEVE WELTON, SUZANNE ELLEDGE PLANNING AND PERMITTING,
OWNER OF 2814 SERENA ROAD, APN: 051-212-017, ZONE: RS-7.5/USS; LAND USE
DESIGNATION: LOW DENSITY RESIDENTIAL (5 DU/AC); (PLN2019-00645)**

Proposal to amend the Conditional Use Permit (Resolution No. 44) for an existing commercial parking lot located on a residential lot to reduce the commercial parking from 20 to 13 spaces. The 13 parking spaces would be permanently assigned to the adjacent commercial development at 2801 De la Vina Street (APN: 051-212-016). Three lots underlie the project site, and the project includes a voluntary lot merger and a Lot Line Adjustment to place the residence and parking lot on separate parcels. Lot Area Modifications are requested for the 6,381-square-foot proposed Lot 1 (parking lot) and the 7,008-square-foot proposed Lot 2 (residential lot) because they would be less than the 7,500-net-square-foot minimum required for the zone district. Physical improvements include replacing 586 square feet of paving with landscaping, re-striping the parking lot, ADA improvements, and constructing an 8-foot tall perimeter fence between the parking lot and the residence. An Alternative Landscape Design for the parking lot is requested pursuant to Santa Barbara Municipal Code §30.175.080.E.

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

WHEREAS, no one appeared to speak and the following exhibits were presented for the record:

1. Staff Report with Attachments, September 3, 2020
2. Project Plans

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

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

A. CONDITIONAL USE PERMIT FINDINGS (SBMC §30.215.070)

1. The proposed use is allowed with a Conditional Use Permit within the applicable zone district and complies with all specific requirements for the Conditional Use Permit, as well as all other applicable provisions of this Title and all other titles of the municipal code;

Within the Residential Single Unit Zone, public and private parking areas for nonresidential uses are allowed, subject to the issuance of a Conditional Use Permit (SBMC Table 30.20.020). The City issued a Conditional Use Permit for the nonresidential parking lot in 1969, and this request amends the Conditional Use Permit to provide fewer nonresidential parking spaces within the residential zone, thereby reducing the nonresidential use of the property and improving the residential character. Additionally, through approval of an Alternative Landscape Design pursuant to SBMC §30.175.080.E, the project will comply with the Parking Area Landscape and

Fence standards of Title 30. There are no additional specific requirements for a nonresidential parking lot in a Residential Single Unit zone.

2. The proposed use and development is deemed essential or desirable to the public convenience or welfare and is consistent with the General Plan and any applicable specific plan;

The Conditional Use Permit Amendment will reduce the area and intensity of a nonresidential use of a residentially-zoned property, while providing dedicated nonresidential parking for the adjacent commercial building at 2801 De la Vina Street. The proposed amendment will formally tie use of the nonresidential parking lot to the adjacent commercial development, which will make that commercial development more conforming to its parking requirement. Additionally, creating a buffer from the residential use and more formal delineation for the nonresidential parking lot will improve the residential character of the subject parcel. A reduction in the nonresidential use of a residentially zoned property and the improvement of the residential character is consistent with the General Plan.

3. The proposed use and development will not be adverse to the public health, safety, or general welfare of the community, nor be materially detrimental to surrounding properties or improvements;

The Conditional Use Permit Amendment will not affect the existing use of the single-family residence or the commercial parking lot. However, the intensity of the commercial parking lot will be reduced by eliminating seven parking spaces. As a result, and in conjunction with the proposed fence and landscaping to physically separate the residence from the commercial parking lot, there will be less potential nuisance to the residential use from the parking lot use (e.g. noise and headlight glare).

Additionally, the Conditional Use Permit Amendment will formally dedicate the nonresidential parking to the adjacent commercial building at 2801 De la Vina Street, thereby ensuring availability of off-street parking for adjacent uses and making that development more conforming to its parking requirement.

4. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided;

The Conditional Use Permit Amendment will create setbacks and physical barriers, including a new fence, between the nonresidential parking lot and the existing residential development to the west. Proposed landscape design improvements in the nonresidential parking lot will also improve the character of the parking lot. The proposed development will not have a detrimental impact on the surrounding properties and will enhance the residential character of the adjacent residential development while dedicating the nonresidential parking lot to serve the adjacent commercial development at 2801 De la Vina Street.

5. The design and operation of the project and its components, including hours or manner of operation, outdoor lighting and noise generating equipment, will not be a nuisance to the use of property in the area, particularly residential use;

The existing parking lot serves existing commercial uses and does not generate excessive noise, lighting or other nuisances to the surrounding community. The Amendment to the Conditional Use Permit will improve setbacks and physical barriers between the parking lot and the neighboring residential use to the west, thereby reducing noise and light impacts generated by the existing parking lot to that adjacent residential use.

6. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time; and

The Conditional Use Permit Amendment will ensure that the off-street parking provided on the property is dedicated to the adjacent commercially-developed property, which is currently under-parked. The parking lot does not generate any parking demand, but instead provides additional nonresidential parking that would not otherwise be available in the area. Therefore, the Amendment will allow off-site parking that does not alter the character of the public street in the area.

7. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the structures, location of parking areas, landscaping, open space and other features is compatible with the character of the area.

The project has been reviewed by the Architectural Board of Review for compatibility with applicable standards and City policies. The Conditional Use Permit Amendment includes landscape design improvements that will help the property be more conforming with the character of the neighborhood by creating a stand-alone parcel for the adjacent residence and a separate parcel for the non-residential parking lot, the use of which will be tied to the adjacent commercially-developed property at 2801 De la Vina Street.

B. LOT AREA MODIFICATION FINDINGS (SBMC §30. 250.060.F)

The applicant proposes two lot area modifications in conjunction with the Lot Line Adjustment and Voluntary Lot Merger. For the purpose of the findings section below, the two lot area modifications are discussed in unison.

The lot area modifications will facilitate the physical separation of an existing residential use from a commercial use. The subject parcel is zoned residential and is developed with a single-family residence. However, the parcel is also encumbered by a 20-space commercial parking lot approved under a Conditional Use Permit in 1969. The proposed lot area modifications, in conjunction with the requested Lot Merger and Lot Line Adjustment/, will separate the conditional commercial parking use from the principally permitted residential use currently on the same property. As a condition of project approval, the commercial lot will be restricted to use by the adjacent commercially developed lot at 2801 De la Vina Street. This will allow the 2801 De la Vina parcel to become more conforming to

parking requirements.

Two of the three lots underlying the subject parcel are non-conforming to lot size and the resulting two lots will also be non-conforming to lot size. As such, the project will yield no net change to the number of non-conforming lots relative to lot size. However, upon approval of the lot area modifications in combination with the Lot Line Adjustment/Voluntary Lot Merger, the two existing lots that are non-conforming to street frontage will become conforming.

Additionally, the physical separation of the two uses will enhance the livability of the residential lot by minimizing potential nuisances created by an adjacent commercial parking lot. Lastly, with partial removal of parking areas near the existing residence, the project will also establish a formally delineated 1,613-square-foot open yard to serve the residence where no defined open yard currently exists.

The unique characteristics of the three underlying parcels coupled with the existing physical improvements make it challenging to create two lots that conform to the required minimum lot area. The siting of the residential improvements coupled with the size, configuration and location of the commercial parking area restricts where a new parcel boundary could logically be positioned that would allow the construction of a fence and installation of the required (new) perimeter landscaping planters for the parking lot. The Modifications were also requested to avoid the need for a reciprocal landscape easement on the parking lot parcel as a consequence of creating an irregular parcel boundary to meet the minimum lot size for the parcel with the residence. Additionally, the parcel is a “bulbous” corner lot that imposes a front setback around the perimeter fronting Serena Road and Vernon Road. Further, the existing parcels are encumbered by a street easement to the City, which eliminates square footage from the overall net lot area calculation. Without the City easement, the residentially improved parcel could meet the necessary net lot size to conform to the required lot size.

As such, the Modifications will allow the creation of a standalone parcel for the existing residence that is as near as practical to conforming (except for the easement) with respect to lot size and that is large enough to provide adequate separation and landscape screening between it and the commercial parking lot parcel. The Modifications will also allow the creation of a parcel that is developed with commercial parking that serves as required parking for an adjacent commercial development, but that is an appropriate size to be developed with a residential use if, in the future, the commercial parking is no longer needed by the adjacent commercial development.

C. LOT LINE ADJUSTMENT FINDINGS (SBMC §27.40.040 AND GOVERNMENT CODE §66412)

The parcels resulting from the proposed lot line adjustment will conform to the general plan, any applicable coastal plan, and the zoning and building ordinances.

As described in Section VII of the Staff Report, the proposed Lot Line Adjustment is appropriate for the area, and, with approval of the lot area modifications, the parcels resulting will conform to the requirements and policies of the City’s General Plan and Building and Zoning Ordinances.

II. Said approval is subject to the following conditions:

- A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:
1. Obtain all required design review approvals.
 2. Pay Land Development Team Recovery Fee (30% of all planning fees, as calculated by staff) at time of building permit application.
 3. Record any required documents (see Recorded Conditions Agreement section).
 4. Permits.
 - a. Submit an application for and process a lot line adjustment that includes the voluntary lot merger.
 - b. Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.
 - c. 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 and Community Development Director, and 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 10, 2020 is limited to amendment of the Conditional Use Permit (Resolution No. 44) for an existing commercial parking lot on a residential lot to reduce the commercial parking from 20 to 13 spaces and permanently assign the 13 parking spaces to the adjacent commercial development at 2801 De la Vina Street (APN: 051-212-016). Three lots underlie the project site, and the project includes a Lot Line Adjustment (LLA) to place the residence and parking lot on separate parcels. A voluntary lot merger would eliminate one of the three lots underlying APN 051-212-017, and then the LLA would amend the lot line as described above. Lot Area Modifications are requested for the 6,381-square-foot proposed Lot 1 (parking lot) and the 7,008-square-foot proposed Lot 2 (residential lot) because they would be less than the 7,500-net-square-foot minimum required for the zone district. Physical improvements include replacing 586 square feet of paving with landscaping, re-striping the parking lot, ADA improvements, constructing an 8-foot tall perimeter fence between the parking lot and the residence, 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. An Alternative Landscape Design for the parking lot will be requested from the Architectural Board of Review pursuant to Santa Barbara Municipal Code §30.175.080.E.
2. **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.

3. **Recreational Vehicle Storage Limitations.**
 - a. No recreational vehicles, boats, or trailers shall be stored on proposed Lot 1 (commercial parking lot).
 - b. No recreational vehicles, boats, or trailers shall be stored on proposed Lot 2 (residential lot) unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
 4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Architectural Board of Review (ABR) for the parking lot (Lot 1). 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.
 5. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state and in accordance with the Storm Water BMP Guidance Manual and Operations and Maintenance Procedure Plan approved by the Creeks Division. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.
 6. **Off-Site Parking Agreement.** The 13 parking spaces on Lot 1 shall be restricted as required parking for the commercial development located at 2801 De la Vina Street (APN: 051-212-016). An Off-Site parking Agreement shall be recorded documenting this requirement. The agreement shall comply with the provisions outlined in Santa Barbara Municipal Code Subsection 30.175.060.A, and is subject to review and approval by the City Attorney.
 7. **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). Once the Lot Line Adjustment has been recorded, only the parking lot will be subject to ABR; the residence will be subject to Single Family Design Board review, as applicable. 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 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 earthwork/grading shall occur within three feet of the driplines of the existing trees, except for the citrus tree indicated on the landscaping plan for hardscape removal and installation of the new curb and landscape buffer south of the ADA accessible parking space.
 - (3) All excavation within the dripline of the tree noted above 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.
 2. **Screened Backflow Device.** 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. **Signage.** Appropriate parking lot signage shall be installed on Lot 1 that identifies the parking lot for exclusive use by the commercial building at 2801 De la Vina Street.
- 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. **Lot Line Adjustment Required.** The Owner shall submit an executed *Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof* or

Declarations of Lot Line Adjustment to the Public Works Department. A surveyor licensed in the state of California shall prepare the legal description and required exhibits to attach to the subject Agreement or Declaration for the subject properties, which shall be recorded in the Office of the County Recorder.

- 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.

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 is required to comply with Tier 2 of the Storm Water BMP Guidance Manual, pursuant to Santa Barbara Municipal Code Chapter 22.87 (treatment, rate and volume). The Owner shall submit worksheets from the Storm Water BMP Guidance Manual for Post Construction Practices 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.
- c. **Evidence of Off-Site Parking Agreement Recordation.** Evidence shall be provided to the Community Development Director that the Off-Site Parking Agreement required in Section B “Recorded Conditions Agreement” has been recorded.
- d. **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.
- e. **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 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) 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 square feet, nor shall it exceed six feet in height from the ground if it is free-standing or placed on a fence.
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. **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.
4. **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.

G. **General Conditions.**

1. **Prior Conditions.** These conditions shall supersede the conditions identified in Planning Commission Resolution No. 44.
2. **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.
3. **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.
4. **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 CONDITIONAL USE PERMIT AMENDMENT APPROVAL TIME LIMITS:**

The Planning Commission action approving the Conditional Use Permit Amendment shall terminate three (3) years from the effective 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.

B. **NOTICE OF LOT LINE ADJUSTMENT TIME LIMITS:**

The Planning Commission action approving the Lot Line Adjustment shall expire 24 months from the date of approval. The applicant may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.40.100.

C. **NOTICE OF TIME LIMITS FOR PROJECTS WITH MULTIPLE APPROVALS (SBMC § 30.205.120):**

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 10th day of September, 2020 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.

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