



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 009-20

635 EAST GUTIERREZ STREET

DEVELOPMENT PLAN AND CONDITIONAL USE PERMIT

SEPTEMBER 17, 2020

APPLICATION OF TONY TOMASELLO, RRM DESIGN GROUP, AGENT FOR HUGHES LAND HOLDING TRUST, OWNER OF 635 E. GUTIERREZ STREET, APN: 031-293-012, ZONE: M-I, MANUFACTURING INDUSTRIAL; LAND USE DESIGNATION: INDUSTRIAL; (PLN2019-00522)

The project consists of a new one-story, 9,260-square-foot, 10-megawatt (MW)/40-megawatt hour (MWh) battery energy storage system (BESS) facility on a 14,713-square-foot (0.34-acre) lot at the corner of E. Gutierrez and N. Quarantina Streets. All existing structures would be demolished. The facility would contain lithium ion batteries stored on racks that would be seismically anchored to the building foundation and constructed with non-flammable aluminum and steel. The facility would contain medium voltage transformers and other electrical equipment. The facility would be unmanned and monitored remotely. The project includes a loading and turnaround area and no vehicular parking spaces. Grading quantities for the new facility include 6 cubic yards of cut and 1,040 cubic yards of fill. Connections to the Southern California Edison Substation located to the east would be required. The developer, esVolta, would operate the facility and Southern California Edison would purchase the stored energy from the developer over the life of the contract. Project requires approval of a Development Plan and Conditional Use Permit.

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

WHEREAS, two people appeared to speak and the following exhibits were presented for the record:

1. Staff Report with Attachments, September 10, 2020
2. Project Plans
3. Correspondence received:
 - a. Clean Coalition, 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. DEVELOPMENT PLAN (SBMC §30.230.060)

1. The proposed development complies with all applicable provisions of the Zoning Ordinance because the use is allowed in the Manufacturing Industrial zone subject to a Conditional Use Permit, the design complies with the Gutierrez street widening setback, and the building is consistent with the building height requirement, as described in Section V of the Staff Report.
2. The proposed development is consistent with the principles of sound community planning because the energy storage facility will store excess generated renewable energy that would

otherwise be wasted, and will assist the community and state’s transition to a carbon free electricity system, as described in Section V of the Staff Report.

3. The Architectural Board of Review concluded that the proposed development will not have a significant adverse impact upon the community’s aesthetics or character in that the size, bulk and scale of the development will be compatible with the neighborhood based on the Project Compatibility Analysis criteria found in SBMC §22.68.045, as described in Section VII of the Staff Report.
4. The proposed development is consistent with the policies of the City of Santa Barbara Traffic Management Strategy (as approved by City Resolution No. 13-010 dated as of March 12, 2013 and amended by Resolution No. 20-042 dated as of June 23, 2020) as expressed in the allocation allowances specified in SBMC §30.170.030, Traffic Management Strategy. The project site is located in the “Downtown” Traffic Development Area and as such qualifies for 1,000 square feet from the Minor Addition category and 2,000 square feet from the Small Addition category. Therefore, the project may be allocated 2,348 square feet, as described in Section V of the Staff Report.

B. CONDITIONAL USE PERMIT (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 the Zoning Ordinance and all other titles of the municipal code, as described in Section V of the Staff Report.
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 because it would provide storage for energy produced from renewable resources, as described in Section V of the Staff Report.
3. The proposed use and development will not be adverse to the public health, safety, or general welfare of the community, nor materially detrimental to surrounding properties or improvements because the project will comply with all Fire Department and Building & Safety Division requirements, as described in Sections V and VI of the Staff Report.
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 because the project will provide all required setbacks including the 10-foot-wide street widening setback along E. Gutierrez Street, as described in Section V of the Staff Report. Additionally, the Architectural Board of Review has reviewed the site plan and proposed development of the site and found it appropriate for the neighborhood, as described in Section VII of the Staff Report.
5. The design and operation of the project and its components, including hours and 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, because the facility will not generate any activity other than periodic maintenance and the noise report concluded that the rooftop HVAC equipment will not result in noise impacts to the surrounding areas, as described in Sections V and VI of the Staff Report.

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 because the facility will have no permanent employees and a driveway and loading area will be provided for the operational and maintenance personnel that visit the site, as described in Section V of the Staff Report.
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 because the Architectural Board of Review stated that the Compatibility Analysis Criteria generally have been met, as described in Section VII of the Staff Report.

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. Submit an application for and obtain a Building Permit (BLD) to demolish any structures/improvements and/or perform rough grading. Comply with condition E “Construction Implementation Requirements.”
 4. Record any required documents (see Recorded Conditions Agreement section).
 5. Permits.
 - a. Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.
 - b. Submit an application for and obtain a Public Works Permit (PBW) for all required public improvements and complete said improvements.

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

- B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
 1. **Approved Development.** The development of the Real Property approved by the Planning Commission on September 17, 2020 consists of a new one-story, 9,260-square-foot, 10-megawatt (MW)/40-megawatt hour (MWh) battery energy storage system (BESS) facility on a 14,713-square-foot (0.34-acre) lot at the corner of E. Gutierrez and N. Quarantina Streets. The facility would be unmanned and monitored remotely. The project includes a loading and turnaround area and no vehicular parking spaces. Grading quantities for the new facility include 6 cubic yards of cut and 1,040 cubic yards of fill. Connections to the Southern California Edison Substation located to the east would be required. The project

includes the demolition of approximately 8,193 square feet of existing structures, including 6,912 square feet of permitted nonresidential floor area, 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, and as described in the applicant letter dated September 2, 2020.

2. **Use Limitations.** Uses other than a battery energy storage system (BESS) facility are not permitted without further parking demand analysis, traffic analysis and consistency with the City's Traffic Management Strategy, environmental 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 Director shall determine the appropriate review procedure and notify the Owner.
3. **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.
4. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
5. **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.
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. **Emergency Contact.** An emergency contact number shall be provided on the building in a location visible to the public at all times, as long as the battery energy storage system facility is in operation.

- 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. **Screened Backflow Device.** The backflow devices for fire sprinklers and 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.
- D. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.
1. **Public Works Department.**
 - a. **Approved Public Improvement Plans.** Public Improvement Plans as identified in conditions D.1.c. “N. Quarantina Street Public Improvements” and D.1.d. “E. Gutierrez Street Public Improvements” shall be submitted to the Public Works Department for review and approval. Upon acceptance of completed public improvement plans, a Building Permit may be issued if the Owner has submitted the executed *Agreement to Construct and Install Improvements (Not a Subdivision)* and bonded for public improvements.
 - b. **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.
 - c. **N. Quarantina Street Public Improvements.** The Owner shall submit C-1 public improvement plans (inclusive of E. Gutierrez Street (condition D.1.d.)) for construction of improvements along the property frontage on N. Quarantina Street. The right-of-way improvements shall include a 6-inch-wide curb, 4-foot-wide parkway or tree well area, 6-foot-wide sidewalk and a 1-foot-6-inch-wide “frontage zone.” 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: minimum 140 linear feet of sidewalk, driveway apron modified to meet Title 24 requirements with a width of 12 feet, 140 linear feet of curb and gutter minimum, blended transition access ramp, 30-foot cross gutter and spandrel, 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, connection to City water main and utilities including interconnect to SCE Santa Barbara Substation at 702 E. Gutierrez Street (APN 031-361-005), public drainage improvements with supporting drainage calculations and/or hydrology report for installation, supply and install one (1) commercial City standard street light, coordinate with Public Works staff and Edison to retire light standard from existing utility pole, 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, three (3) new street trees per approval of the Parks and Recreation Commission, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

- d. **E. Gutierrez Street Public Improvements.** The Owner shall submit C-1 public improvement plans (inclusive of N. Quarantina Street (condition D.1.c.)) for construction of improvements along the property frontage on E. Gutierrez 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: minimum 30 linear feet of sidewalk, minimum 40 linear feet of curb and gutter, 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, connection to utilities including interconnect to SCE Santa Barbara Substation at 702 E. Gutierrez Street (APN 031-361-005), public drainage improvements, 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, two (2) new street trees per approval of the Parks and Recreation Commission, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.
- e. **Haul Routes Require Separate Permit.** Apply for a Public Works permit to establish the haul route(s) for all construction-related trucks with a gross vehicle weight rating of three tons or more entering or exiting the site.
- f. **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.
- g. **Agreement to Construct and Install Improvements (Not a Subdivision).** The Owner shall submit an executed *Agreement to Construct and Install Improvements (Not a Subdivision)*, prepared by the Engineering Division; an Engineer's Estimate, signed and stamped by a registered civil engineer and approved by Engineering Division Staff; and securities for construction of improvements.
- h. **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. **FMEA Report.** The Owner shall submit a Failure Mode Effects Analysis (FMEA) report subject to the review and approval of the Community Development Department and Fire Department.

- b. **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.
- c. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water BMP Guidance Manual, pursuant to Santa Barbara Municipal Code Chapter 22.87 (treatment, rate and volume). The Owner shall submit a hydrology report 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, or groundwater pollutants would result from the project.
- d. **Archaeological Contract for Field Survey.** Submit a contract with an archaeologist from the most current City Qualified Archaeologists List for the field survey and monitoring recommended in the Phase I Archaeological Resources Report (Dudek, March 2020). The contract shall be subject to the review and approval of the Environmental Analyst. The archaeologist’s contract shall include the provisions identified in condition E.1 below.
- e. **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.
- f. **Letter of Commitment for Neighborhood Notification Prior to Construction.** The Owner shall submit to the Planning Division a letter of commitment to provide the written notice specified in condition E.3 “Neighborhood Notification Prior to Construction” below. The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person(s) who compiled the mailing list shall be submitted to the Planning Division.
- g. **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 E.4 “Pre-Construction Conference” prior to disturbing any part of the project site for any reason.
- h. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the appropriate design review board and as outlined in Section C “Design Review,” and all elements/ specifications shall be implemented on-site.

- i. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. The following statement shall be signed prior to issuance of 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. **Field Survey.** Once pavement and existing structures have been removed, a thorough intensive field survey will be conducted by a City-qualified archaeologist. The results of this survey will be reported to the City and a supplemental memo will be provided to document the results.

If it is determined that fill soils are present to an extent that a surface survey would not be reliable, subsurface testing shall be employed to a point where native soils are encountered and the absence or presence of cultural material scan be determined.

If cultural material is observed, an Extended Phase I Archaeological Investigation may be necessary to delineate the absence/presence of cultural material within the Project site.

If the results of the survey/testing are negative, a City-qualified archaeologist will monitor all ground disturbing activities until such a time clear indication of the potential for identifying unknown cultural resources is unlikely to be encountered during ground disturbing construction activities.

Once, monitoring has been determined to no longer be necessary, the following measure is recommended to address any scenario that intact prehistoric archaeological resources are encountered during proposed ground disturbance activities.

- a. If archaeological resources are encountered or suspected, work shall be halted immediately, and the City Environmental Analyst shall be notified. A city qualified archaeologist shall be retained to assess the nature, extent and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation with a Barbareño

Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List (in the unlikely case that the resource is prehistoric), etc.

- b. 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.
 - c. If the discovery consists of possible prehistoric or Native American artifacts, materials, or human remains, 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.
 - d. The archaeologist shall determine the need for any other actions, including collecting a representative sample of prehistoric or historic remains, consistent with a Phase 3 Data Recovery excavation as defined in City MEA Guidelines for Archaeological Resources and Historic Structures and Sites criteria.
2. **Hazardous Materials.** Project shall comply with the recommendations of the Report of Subsurface Soil, Groundwater, and Soil Vapor Investigation (TRAK, August 20, 2020) and direction from the Santa Barbara County Public Health Department, Environmental Health Services Division. The project shall excavate and dispose of all soil containing elevated concentrations of lead and other metals, and shall incorporate a vapor mitigation system into the development. Oversight of the project shall occur with EHS's Voluntary Remedial Oversight Program, the Central Coast Regional Water Quality Control Board, or the Department of Toxic Substances Control.
 3. **Neighborhood Notification Prior to Construction.** At least twenty (20) days prior to commencement of construction, the contractor shall provide written notice to all property owners, businesses, and residents within 300 feet of the project area. The notice shall contain a description of the project, the construction schedule, including days and hours of construction, the name and phone number of the Contractor(s), site rules and Conditions of Approval pertaining to construction activities, and any additional information that will assist Building Inspectors, Police Officers and the public in addressing problems that may arise during construction.
 4. **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, 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, Archaeologist, Architect, Landscape Architect, Project Engineer, Contractor and each Subcontractor.
 5. **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 feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet.

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

7. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Public Works Director with a Public Works permit.
8. **Construction Parking.** During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Public Works Director.
9. **Air Quality and Dust Control.** The following measures shall be shown on grading and building plans and shall be adhered to throughout grading, hauling, and construction activities:
- During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used

whenever possible. However, reclaimed water should not be used in or around crops for human consumption.

- 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.
- j. Diesel construction equipment meeting the California Air Resources Board (CARB) Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting CARB Tier 2 or higher emission standards should be used to the maximum extent feasible.
- k. Diesel powered equipment shall be replaced by electric equipment whenever feasible.
- l. If feasible, diesel construction equipment shall be equipped with selective catalytic reduction systems, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California.

- m. Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
- n. All construction equipment shall be maintained in tune per the manufacturer's specifications.
- o. The engine size of construction equipment shall be the minimum practical size.
- p. The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time. Construction worker trips should be minimized by requiring carpooling and by providing for lunch onsite.

F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

- 1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
- 2. **Complete Public Improvements.** Public improvements, as shown in the public improvement plans or building plans, shall be completed.
- 3. **Archaeological Monitoring Report.** A final report on the results of the archaeological monitoring shall be submitted to the Planning Division within 180 days of completion of the monitoring or prior to the issuance of the Certificate of Occupancy or Final Inspection, whichever is earlier.

G. **General Conditions.**

- 1. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
- 2. **Approval Limitations.**
 - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
 - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission.
 - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
- 3. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's

Agents”) from any third party legal challenge to the City Council’s denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively “Claims”). Applicant/Owner further agrees to indemnify and hold harmless the City and the City’s Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City’s sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City’s Agents from independently defending any Claim. If the City or the City’s Agents decide to independently defend a Claim, the City and the City’s Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

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

A. NOTICE OF CONDITIONAL USE PERMIT APPROVAL TIME LIMITS:

The Planning Commission action approving the Conditional Use Permit 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 DEVELOPMENT PLAN TIME LIMITS:

The Planning Commission action approving the Development Plan shall expire four (4) years from the date of approval per Santa Barbara Municipal Code §30.205.120, unless:

1. A building or grading permit for the work authorized by the development plan is issued prior to the expiration date of the approval.
2. The Community Development Director grants an extension prior to the expiration of the approval.

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 17th day of September, 2020 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

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