



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 053-06 822 N. VOLUNTARIO STREET TENTATIVE SUBDIVISION MAP AUGUST 30, 2006

APPLICATION OF JESSICA GRANT, AGENT FOR GREG AND DEBORAH TICE, OWNERS, 1102 E. CANON PERDIDO & 822 N. VOLUNTARIO STREETS, APN 031-060-042, R-2: TWO-FAMILY RESIDENTIAL ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 12 UNITS PER ACRE (MST2005-00140)

The project consists of a two-lot subdivision, which would result in a 14,592 square foot lot (Lot 1 – 1102 E. Canon Perdido) with one existing 2,108 square foot single-family residence and attached garage, and a 19,384 square foot lot (Lot 2 – 822 N. Voluntario) with an existing duplex. The project also includes a one-lot subdivision of proposed Lot 2, where the existing duplex and an existing detached garage would be demolished and two new condominiums would be constructed. The new units would be three-bedroom units and would be 2,033 square feet and 2,749 square feet with two attached two-car garages and a swimming pool. A total of 417 cubic yards of grading is proposed.

The discretionary applications required for this project are:

1. A Tentative Subdivision Map to allow the division of one parcel into two lots (SBMC 27.07); and
2. A Tentative Subdivision Map for a one-lot subdivision of Lot 2 to create two (2) residential condominium units (SBMC 27.07 and 27.13).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301 (demolition of individual small structures), Section 15303 (new construction of small structures), and Section 15315 (minor land divisions).

WHEREAS, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, one person appeared to speak in favor of the application, and three people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, August 30, 2006.
2. Site Plans
3. Correspondence received in support of the project:
 - a. Mary Morales, 970 Medio Road, Santa Barbara, CA 93103

4. Correspondence received in opposition to the project:
 - a. Doug McElwain, 824 N. Voluntario Street, Santa Barbara, CA 93103
 - b. Mark Trueblood, 820 N. Voluntario Street, Santa Barbara, CA 93103
 - c. Tom Overnack, 1017 E. De La Guerra, Santa Barbara, CA 93103

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer:

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

A. The Tentative Map for the Two-Lot Subdivision (SBMC §27.07.100)

The Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara. The site is physically suitable for the proposed development, the project is consistent with the variable density provisions of the Municipal Code and the General Plan, and the proposed use is consistent with the vision for this neighborhood of the General Plan. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems.

B. The Tentative Map for the One-Lot Subdivision (SBMC §27.07.100)

The Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara. The site is physically suitable for the proposed development, the project is consistent with the variable density provisions of the Municipal Code and the General Plan, and the proposed use is consistent with the vision for this neighborhood of the General Plan. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems.

C. The New Condominium Development (SBMC §27.13.080)

1. There is compliance with all provisions of the City's Condominium Ordinance.
2. The project complies with density requirements. Each unit includes laundry facilities, separate utility metering, adequate unit size and storage space, and the required private outdoor living space.
3. The proposed development is consistent with the General Plan of the City of Santa Barbara.
4. The project can be found consistent with policies of the City's General Plan. The project will provide infill residential development that is compatible with the surrounding neighborhood.
5. The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources.

6. The project is an infill residential project proposed in an area where residential development is a permitted use. The project is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts. The design has been reviewed by the City's design review board, which found the architecture and site design appropriate.

II. Said approval is subject to the following conditions:

In consideration of the project approval granted by the Staff Hearing Officer 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. **Recordation Contingent upon Recordation of Two-Lot Parcel Map.** Recordation of this Parcel Map shall not occur until the Two-Lot Parcel Map that establishes the lot is recorded.
- B. **Recorded Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property", which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
 1. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural water courses, conduits and any access road, as appropriate. 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.
 2. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats or trailers shall be stored on the Real Property.
 3. **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.
 4. **Maintenance of Drainage System.** Owner shall be responsible for maintaining the private drainage system in a functioning state. Should any of the project's surface or subsurface drainage structures fail 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 applicant 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.

5. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on August 30, 2006 is limited to two (2) dwelling units and the improvements shown on the Tentative Subdivision Map signed by the chairman of the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
6. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:
 - a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium parcels.
 - b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
 - c. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
 - d. **Trash and Recycling.** Adequate space shall be provided and maintained for trash and recycling purposes.
 - e. **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.
7. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance and most currently adopted Energy Code. No floodlights shall be allowed. Exterior lighting shall be shielded and directed toward the ground.
8. **Oak Tree Protection.** The existing oak trees shown on the Landscape Plan shall be preserved, protected and maintained in accordance with the recommendations contained in the arborist's report prepared by Westree, received on June 20, 2006. A copy of this report shall be attached to the recorded conditions as an exhibit. During construction, protection measures shall be provided, including but not limited to fencing of the area surrounding

the trees The following provisions shall apply to any oak trees to remain on the property:

- a. No irrigation systems shall be installed within the drip line of any oak tree.
- b. The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.

9. **Storm Water Pollution Control Systems Maintenance.** The Owner(s) shall maintain the private drainage system, storm drain water interceptor and other storm water pollution control devices in accordance with the Operations and Maintenance Procedure Plan approved by the Building Official and/or the Public Works Director.

C. **Design Review.** The following is subject to the review and approval of the Architectural Board of Review ABR:

1. **Tree Removal and Replacement.** All trees removed, except fruit trees and street trees approved for removal without replacement by the Parks Department, shall be replaced on-site as described in the arborist's report:

- a. 10 five-gallon oak tree or like size volunteers; and
- b. Two specimen olive trees at driveway entrance.

2. **Tree Protection Measures.** The landscape plan shall include the following tree protection measures:

- a. Fence off all trees from construction at the critical root zone or where practical with 6' chain link or orange construction fence with metal stakes.
- b. No activities or storage of construction materials shall be allowed within the fenced areas unless approved by the project arborist.
- c. Any root disturbance to any of the protected trees shall be done by hand and the project arborist alerted.
- d. All roots encountered shall be cut cleanly with a sharp saw to allow for new root regeneration, backfilled immediately or kept moist to prevent drying out and dying
- e. Any tree affected by the construction process shall be deep-root fertilized to promote better health and vigor.
- f. Compaction of the root zone shall be avoided by spreading 3-4" of mulch. If necessary plywood or equivalent shall be placed on top.
- g. During hot, dry periods the foliage may need to be washed with high pressure water to remove construction dust.

- h. Project arborist shall be notified prior to any activities within the critical root zone.
- i. Include a note on the plans that recommendations/conditions contained in the arborist's report prepared by Westree, dated June 20, 2006, shall be implemented.
- j. **Oak Tree Protection Measures.** In addition to the measures listed above, the following provisions shall apply to existing oak trees on site:
 - (1) No grading shall occur under any oak tree dripline, except as indicated on the drainage and grading plan. Grading within the dripline during construction of this area shall be minimized and shall be done with light (one ton or less) rubber-tired equipment or by hand. If use of larger equipment is necessary within the dripline of any oak, it shall only be operated under the supervision and direction of a qualified Arborist.
 - (2) A qualified Arborist shall be present during any grading or excavation adjacent to or beneath the dripline of any oak tree. Any roots encountered shall be cleanly cut and sealed with a tree-seal compound. Any thinning or root pruning and trimming shall be done under the direction of a qualified Arborist.
 - (3) Landscaping provided under the oak tree shall be compatible with preservation of the trees as determined by the ABR. No irrigation system shall be installed under the dripline of any oak tree.
 - (4) Oak trees greater than four inches (4") in diameter at four feet (4') above grade removed as a result of the project shall be replaced at a five to one (5:1) ratio, at a minimum five (5) gallon size.
 - (5) 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.
- 3. **Existing Tree Preservation.** The existing trees shown on the approved Landscape Plan to be saved shall be preserved and protected and fenced during construction.
- 4. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Exterior lighting shall be shielded and directed toward the ground.

5. **Permeable Paving.** Incorporate permeable paving and building materials into the site design.

D. **Public Works Submittal Prior to Parcel Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Parcel Map for the project:

1. **Parcel Map.** The Owner shall submit to the Public Works Department for approval, a Parcel Map prepared by a licensed land surveyor or registered Civil Engineer. The Parcel Map shall conform to the requirements of the City Survey Control Ordinance.

2. **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. Said agreement will be prepared by Engineering Division Staff for the Owner's signature.

3. **Required Private Covenants.** The Owner shall submit a copy of the recorded private covenants, reciprocal easement agreement, or similar private agreements required for the project.

4. **Drainage Calculations.** The Owner shall submit drainage calculations justifying that the existing on-site and proposed on-site drainage system adequately conveys a minimum of a 25-year storm event.

An increase in run-off shall be retained on-site and filtered using structural BMPs, such as detention basins, bioswales (vegetated filters) and mechanical BMPs, such as manufactured filters. These systems shall retain, at a minimum, the peak run-off differential from pre- and post-conditions for a 25 year storm, if feasible and practical for the site. If these methods are not feasible or practical, the project shall retain excess water with underground tanks under the same above-mentioned criteria if feasible.

5. **County Storm Drain Protection.** Plans showing how post-construction site runoff will be conveyed to the County storm drain shall be submitted and approved by the Santa Barbara County Flood Control District. Plan check fee may be applied upon submittal of plans. Approved Plans shall be submitted to City Public Works Department.

6. **Voluntario Street Public Street Improvement Plans.** The Owner shall submit building plans for construction of improvements along the property frontage on Voluntario Street. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: driveway apron modified to meet Title 24 requirements, curbs, gutters, underground service utilities, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations for installation of drainage pipe, slot/trench drain, detention, erosion protection,

provide on-site storm water BMP plan, preserve and/or reset survey monuments and contractor stamps, on-site biofilter/swale sized per drainage calculations, and provide adequate positive drainage from site. Existing private sewer lateral serving the property shall be repaired before new dwellings are occupied. If existing sewer lateral is identified to be abandoned, lateral shall be disconnected at the sewer mainline connection. A licensed plumber shall verify if the property requires a backwater valve. If existing lateral already has a backwater valve, then it shall be inspected. The building plans, drainage calculations and hydrology report shall be prepared by a registered civil engineer or licensed architect. Any work in the public right of way requires a public works permit.

7. **Removal or Relocation of Public Facilities.** Removal or relocation of any public utilities or structures must be performed by the Owner or by the person or persons having ownership or control thereof.
 8. **Maintenance Agreement Required.** The Owner shall submit an Executed Agreement for Maintenance of the proposed driveway, subject to the review and approval of the Public Works Director and City Attorney.
 9. **Land Development Agreement.** The Owner shall submit an executed Agreement for Land Development Improvements, prepared by Engineering Division Staff, an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement.
- E. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.
1. **Recordation of Parcel Map Agreements.** After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department.
 2. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building permit.
- F. **Community Development Requirements Prior to Building or Public Works Permit Application/Issuance.** The following shall be finalized prior to, and/or submitted with, the application for any Building or Public Works permit:
1. **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 copy of the notice to the Planning Division.
 2. **Soils Report.** Submit to the Building and Safety Division a soils report.

- G. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.
1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Architectural Board of Review outlined in Section B above.
 2. **Post-Construction Erosion Control and Water Quality Plan.** Provide an engineered drainage plan that addresses the existing drainage patterns and leads towards improvement of the quality and/or rate of water run-off conditions from the site. The Owner shall install bioswales, catch basins, storm drainage interceptors or clarifiers on the Real Property, or other measures specified in the Erosion Control Plan, to intercept all sediment from the improved, hard-surfaced areas prior to discharge into the public storm drain system, including any creeks. All proposed interceptors or clarifiers shall be reviewed and approved by the Public Works Department and the Building and Safety Division. Maintenance of these facilities shall be provided by the Owner, as outlined in Condition A.4, above.
 3. **Technical Reports.** All recommendations of the geology, geotechnical, and soils reports, approved by the Building and Safety Division, shall be incorporated into the construction plans.
 4. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers shall be provided on the Real Property and screened from view from surrounding properties and the street.
 5. **Utilities.** Provide individual water, electricity, and gas meters, and sewer lateral for each residential unit. Service lines for each unit shall be separate until a point five feet (5') outside the building.
 6. **Water-Conserving Fixtures.** All plumbing fixtures shall be water-conserving devices in new construction, subject to the approval of the Water Resources Management Staff.
 7. **Conditions on Plans/Signatures.** The final Staff Hearing Officer Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is 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.

H. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field for the duration of the project construction.

1. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill.
2. **Construction-Related Truck Trips.** Construction-related truck trips 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.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.
3. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below:

New Year's Day	January 1st*
Martin Luther King's Birthday	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 Chief of Building and Safety 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 night 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.

4. **Construction Parking/Storage.** Construction parking and storage shall be provided as follows:
 - a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director.
 - b. Storage or staging of construction materials and equipment within the public right-of-way is prohibited.
5. **Water Sprinkling During Grading.** During site grading and transportation of fill materials, regular water sprinkling shall occur using reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph.
6. **Covered Truck Loads.** Trucks transporting fill material to and from the site shall be covered from the point of origin.
7. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
8. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractors telephone number, work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.
9. **Tree Protection.** All trees not indicated for removal on the site plan shall be preserved, protected and maintained, in accordance with the Tree Protection Plan and any related Conditions of Approval.

10. **Tree Protection.** Notes on the grading plan that specify the following:
 - a. No grading shall occur under the driplines of the existing trees.
 - b. A qualified Arborist shall be present during any excavation adjacent to or beneath the dripline of the trees which are required to be protected.
 - c. All excavation within the dripline of the trees shall be done with hand tools.
 - d. Any roots encountered shall be cleanly cut and sealed with a tree-seal compound.
 - e. No heavy equipment, storage of materials or parking shall take place under the dripline of the trees.
 - f. Any root pruning and trimming shall be done under the direction of a qualified Arborist.
11. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
12. **Unanticipated Archaeological Resources Contractor Notification.** 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 associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and an archaeologist from the most current City Qualified Archaeologists List shall be retained by the applicant. 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.

- I. **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 damaged public improvements caused by construction (curbs, gutters, sidewalks, etc.) subject to the review and approval of the Public Works Department. 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 improvement/building plans, including utility undergrounding and installation of street trees.
- J. **Litigation Indemnification Agreement.** In the event the Staff Hearing Officer approval of the Project is appealed to the Planning Commission, 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 Planning Commission’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.

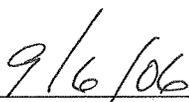
Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the Planning Commission denial of the appeal and approval of the Project. These commitments of defense and indemnification 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.

This motion was passed and adopted on the 30 day of August, 2006 by the Staff Hearing Officer of the City of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Staff Hearing Officer at its meeting of the above date.



Kathleen Goo, Staff Hearing Officer Secretary



Date

PLEASE BE ADVISED:

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
3. Subsequent to the outcome of any appeal action you next administrative step should be to apply for Architectural Board of Review (ABR) approval and then a building permit.
4. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
5. **NOTICE OF TENTATIVE SUBDIVISION MAP TIME LIMITS:**
The Staff Hearing Officer's action approving the Tentative Map shall expire two (2) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110 or the provisions of the California Subdivision Map Act.