City of Santa Barbara
California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 020-09
618 SAN PASCUAL STREET
MODIFICATION
MARCH 11, 2009

APPLICATION OF LISA PLOWMAN, AGENT FOR HABITAT FOR HUMANITY OF SOUTHERN SANTA BARBARA COUNTY, 618 SAN PASCUAL STREET, APN 037-102-023 , R-3 ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL – 12 UNITS PER ACRE (MST2008-00059)

The proposed project involves construction of four new attached residential condominium units price restricted to low-income households, including two 981 square foot two-bedroom units, one 1,127 square foot two-bedroom unit, and one 789 square foot one-bedroom unit. Each unit includes one attached single-car garage between 212 and 242 square feet. The public alley on the 500 block of W. Ortega Street would provide automobile access to the site. Proposed grading totals 1,830 cubic yards, with 1,821 cubic yards of cut and 9 cubic yards of fill.

The discretionary applications required for this project are:

1. Lot Area Modification to allow two bonus density units (SBMC §28.92.110);
2. Parking Modification to allow one covered space for each unit instead of the required one covered and one uncovered space for each unit (SBMC §28.92.110);
3. Fence/Wall Height Modification for fences and walls to exceed eight feet in height within the interior setback (SBMC §28.92.110);
4. Wall Height Modification for walls within ten feet of the front line to exceed 3½ feet in height (SBMC §28.92.110);
5. Front Setback Modification to allow a patio overhang to encroach 3½ feet into the ten foot front setback (SBMC §28.92.110);
6. Interior Setback Modification for the building to encroach one foot into the six foot interior setback (SBMC §28.92.110);
7. Rear Setback Modification for the building's second story to encroach 1¼ feet into the ten foot rear setback (SBMC §28.92.110); and
8. Tentative Subdivision Map for a one-lot subdivision to create four residential condominium units (SBMC Chapters 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 Guidelines Section 15332 (Infill Development Projects).

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

WHEREAS, no on people appeared to speak in favor or opposition of the application, and the following exhibits were presented for the record:

1. Staff Report with Attachments, February 17, 2009.
2. Staff Memo with Attachment, March 5, 2009.
3. Site Plans
4. Correspondence received addressing concerns of the project:
   a. Paula Westbury, 650 Miramonte Drive

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

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

A. **Lot Area Modification (SBMC §28.92.110)**

The requested lot area modification for increased density to allow three two-bedroom units and one one-bedroom unit is consistent with the purposes and intent of the Zoning Ordinance, including the City's Density Bonus Program, and is necessary to construct a housing development affordable to low-income households. The intent of the City's Density Bonus Program is to provide incentives for development of housing affordable to very-low, low, senior and other qualifying households and this project provides low income housing.

B. **Parking Modification (SBMC §28.92.110)**

The requested parking modification to allow one covered automobile parking space per unit is consistent with purposes and intent of the Zoning Ordinance and would not cause an increase in demand for parking or loading space in the immediate area. Automobile ownership will be limited to one automobile per household per Condition B.7.a. Further, bus service is available through MTD Line 17, which stops at the intersection of San Pascual and W. Ortega Streets. Additionally, a pedestrian and bicycle Highway 101 overcrossing extends downtown from W. Ortega Street on Wentworth Avenue.

C. **Fence/Wall Height Modification (SBMC §28.92.110)**

The requested fence and wall modification in the southern interior setback is consistent with the purposes and intent of the Zoning Ordinance and necessary to secure an appropriate improvement on the lot. The proposed fence and wall in the southern interior setback exceed the required eight foot height limit, due to the topography of the adjacent lot and proposed project grading. The wall would retain the grade of the adjacent lot and the fence is necessary for safety and mandated by the building code.

D. **Wall Height Modification (SBMC §28.92.110)**

The requested wall height modification in the front setback is consistent with the purposes and intent of the Zoning Ordinance and necessary to secure an appropriate improvement on the lot. The proposed stepped planters and retaining wall located within ten feet of the front lot line is necessary due to the existing topography of the site and proposed project grading and furthermore, no curb cuts are located adjacent to the planters or retaining wall, therefore it would not impede sight distance for automobiles entering San Pascual St.

E. **Interior Setback Modification (SBMC §28.92.110)**

The requested interior setback modification for the garage and second story of the proposed building is consistent with the purposes and intent of the Zoning Ordinance and is necessary to construct a housing development affordable to low-income households. The proposed setback provides adequate separation between the project site and neighboring development. The required six foot interior setback is intended to provide at least 12 feet between neighboring residential buildings. The distance between the proposed building and the existing retaining wall and parking lot on the adjacent lot exceeds 18 feet.

F. **Front Setback Modification (SBMC §28.92.110)**

The front setback modification for the proposed patio overhang is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The proposed patio overhang is an architectural detail which provides a front entry on Unit 1 and additional detailing on the front façade.

G. **Rear Setback Modification (SBMC §28.92.110)**

The requested rear setback modification for the second story portion of the building is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The proposed setback provides adequate separation between the subject property and the property to the east. These two properties have a recorded reciprocal easement affecting the area on either side of the rear property line. This easement effectively precludes residential development for a distance of 16¼ feet from the rear wall of the proposed structure, providing building relief for the neighbor at this location.

H. **Tentative Subdivision Map (SBMC §27.07.100)**

As conditioned and with all other approvals, the Tentative Subdivision Map complies with all requirements and conditions imposed by the Subdivision Map Act and the City's Municipal Code. As discussed in Section VI.B of the staff report, dated February 17, 2009 the proposed map is consistent with the City's General Plan. The site is physically suitable for the type and density of the proposed development. The design of the project and type of development is not likely to cause substantial environmental damage, substantially and unavoidably injure fish or wildlife in their habitat, or cause

serious public health problems. The design of the development would not conflict with public easements for access through or use of the property.

I. **New Condominium Development (SBMC §27.13.080)**

There is compliance with the provisions of Municipal Code Chapter 27.13 (Residential Condominium Development).

With the proposed modifications, the project complies with all provisions of the City's Condominium Ordinance including the Physical Standards for Condominiums contained in SBMC §27.13.060. Each unit includes laundry facilities, separate utility metering, adequate unit size and storage space, and the required private outdoor living space. The proposed conditions are consistent with the requirements contained in SBMC §27.13.050.

The proposed development is consistent with the General Plan of the City of Santa Barbara.

The project is consistent with policies of the City's General Plan including the Land Use, Housing, and Noise Elements as discussed in Section VI.B of the staff report dated February 17, 2009. The project will provide infill residential development that is compatible with the surrounding neighborhood.

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.

The project is an infill residential project proposed in an area where multiple-family residential development is a permitted use. The project, as conditioned, is adequately served by public streets, would not cause an increase in the demand for parking in the immediate area, and will not result in traffic impacts. The design has been reviewed by the City's Architectural Board of Review, which indicated that the architecture and site design were appropriate for the neighborhood.

II. Said approval is subject to the following conditions:

III. 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. **Design Review.** The project is subject to the review and approval of the Architectural Board of Review (ABR). ABR shall not grant preliminary approval of the project until the following Staff Hearing Officer land use conditions have been satisfied.

1. **Minimize Visual Effects of Paving.** Textured or colored pavement shall be used in paved areas of the project to minimize the visual effect of the expanse of paving, create a pedestrian environment, and provide access for all users.

2. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public views.

B. **Recorded Conditions 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. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on March 11, 2009 is limited to construction of four new attached residential condominium units price restricted to Low-Income Households, consisting of two 981 sf two-bedroom units, one 1,127 sf two-bedroom unit, and one 789 sf one-bedroom unit, four attached single-car garage between 212 and 242 sf; grading totaling 1,830 cu yds, with 1,821 cu yds of cut and 9 cu yds of fill; and the improvements shown on the Tentative Subdivision Map signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.

2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted 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 Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.

4. **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 ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. 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 intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) in a functioning state (and in accordance with the Operations and Maintenance Procedure Plan prepared in accordance with the Storm Water Management Plan BMP Guidance Manual). 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 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. 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. **Ownership Unit Affordability Restrictions.** The dwelling units designated as Unit 1, 2, 3 and 4 on the Tentative Subdivision Map shall be designated as Affordable Low-Income Units and sold only to households who, at the time of their purchase, qualify as Low-Income Households as defined in the City's Affordable Housing Policies and Procedures.

   The Affordable Units shall be sold and occupied in conformance with City Agreement No. 22463B and required replacement covenants. The resale prices of the Affordable Units shall be controlled by means of replacement covenants executed by the Owners and the City to assure continued affordability for at least forty-five (45) years from the initial sale of each affordable unit. No affordable unit may be rented prior to its initial sale.

7. **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. **Vehicle Registration Restriction.** A covenant that restricts each unit household to ownership of one vehicle and requires yearly monitoring by Habitat for Humanity of Southern Santa Barbara County to ensure no more than one vehicle is registered at each address. Habitat for Humanity of Southern Santa Barbara County shall maintain records of vehicle ownership and produce those records to the City upon request within two working days.

   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. **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 units.

d. **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.

e. **Trash and Recycling.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the landscaping or be hauled off site by the landscaping maintenance company. If no green waste containers are provided for common interest developments, include an item in the CC&Rs stating that the green waste will be hauled off site.

f. **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.

g. **Bicycle Parking**. A minimum of four bicycle parking spaces shall be provided on site in a lockable and covered location.

8. **Residential Permit Parking Program Restriction.** Residents shall not participate in the Residential Permit Parking Program.

9. **Notice to Property Owner.** The City has identified 45 dBa Ldn as the maximum acceptable indoor noise exposure level for multiple family residences. To achieve interior noise levels below 45 dB Ldn for the projected 2025 noise environment, exterior windows must be closed.

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

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 in an *Agreement Assigning Water Extraction Rights*. Engineering Division staff will prepare said agreement for the Owner's signature.

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

4. **Drainage Calculations.** The Owner shall submit drainage calculations prepared by a registered civil engineer or licensed architect demonstrating that the new

development will not increase runoff amounts above existing conditions for a 25-year storm event. Any increase in runoff shall be retained on-site.

5. **Drainage and Water Quality.** Project drainage shall be designed, installed, and maintained such that stormwater runoff from the first inch of rain from any storm event shall be retained and treated onsite in accordance with the City's NPDES Storm Water Management Program. Runoff should be directed into a passive water treatment method such as a bioswale, landscape feature (planter beds and/or lawns), infiltration trench, etc. Project plans for grading, drainage, stormwater treatment methods, and project development, shall be subject to review and approval by City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants, or groundwater pollutants would result from the project. The Owner shall maintain the drainage system and storm water pollution control methods in a functioning state.

   The Owner shall provide an Operations and Maintenance Procedure Plan (describing replacement schedules for pollution absorbing pillows, etc.) for the operation and use of the storm drain surface pollutant interceptors. The Plan shall be reviewed and approved consistent with the Storm Water Management Plan BMP Guidance Manual.

6. **San Pascual Street Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on San Pascual Street. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: 6.5-foot wide sidewalk and 5.5-foot wide parkway to match adjacent sidewalk and parkway; saw-cut and replace +/-6 feet of damaged curb & gutter; crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20-feet beyond the limit of all trenching, underground service utilities; connection to City water and sewer mains; public drainage improvements with supporting drainage calculations curb drain outlets; preserve and/or reset survey monuments and contractor stamps; supply and install directional/regulatory traffic control signs per the 2006 MUTCD w/ CA supplements; storm drain stenciling; new street trees as determined by the City Parks Commission, and City Arborist; and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

7. **Land Development Agreement.** The Owner shall submit an executed Agreement for Land Development Improvements, prepared by the Engineering Division, an Engineer's Estimate, signed, and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement.

D. **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 and 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.

3. **W. Ortega Street Public Improvements.** The owner shall provide $2,500 payable to the City of Santa Barbara. The funds will be accepted at the City Public Works counter in lieu of construction of Title 24 ADA one-way access ramps to connect the existing sidewalks on both sides of the alley known as "Alley 500 block W. Ortega Street".

E. **Community Development Requirements with the Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit:

1. **Easement Document.** Submit to the Planning Division a recorded easement agreement demonstrating the applicant's right to construct all proposed development on the property known as APN 037-102-021.

2. **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.

3. **Soils Report.** Submit to the Building and Safety Division a soils report and implement the recommendations outlined in the report.

4. **Recorded Affordability Covenant.** Submit to the Planning Division a copy of an affordability control covenant that has been approved as to form and content by the City Attorney and Community Development Director, and recorded in the Office of the County Recorder, which includes the following:

   a. **Initial Sale Price Restrictions.** The dwelling units designated as Units 1, 2, 3 and 4 on the Tentative Subdivision Map shall be designated as Affordable Low-Income Units and sold only to households who, at the time of their purchase, qualify as Low-Income Households as defined in the City's Affordable Housing Policies and Procedures.

   b. **Resale Restrictions.** The Affordable Units shall be sold and occupied in conformance with City Agreement No. 22463B and required replacement covenants. The resale prices of the Affordable Units shall be controlled by means of a recorded replacement covenant executed by Owner and the City to assure continued affordability for at least forty-

five (45) years from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.

F. **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 A 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 rate of water run-off conditions from the site by capturing, infiltrating, and/or treating drainage and preventing erosion. The Owner shall employ passive water quality methods, such as bioswales, catch basins, or storm drain on the Real Property, or other measures specified in the Erosion Control Plan, to intercept all sediment and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) from the parking lot areas and other improved, hard-surfaced areas prior to discharge into the public storm drain system, including any creeks. All proposed methods shall be reviewed and approved by the Public Works Department and the Community Development Department. Maintenance of these facilities shall be provided by the Owner, as outlined in Condition C.5, above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.

3. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.

   Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.

4. **Bicycle Parking.** A minimum of four bicycle parking spaces shall be provided on site in a lockable and covered location.

5. **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.

G. **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.

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. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met.

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. **Haul Routes.** 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, shall be approved by the Transportation Manager.

4. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 a.m. and after 5:00 p.m.; Saturday before 9:00 a.m. and after 5:00 p.m.; and all day Sunday; 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
Cesar Chavez Day	March 31st*
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 Sunday, the following Monday 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.

5. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows:

   a. During construction, free parking spaces for construction workers and construction vehicles shall be provided on-site or off-site in a location subject to the approval of the Public Works Director. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.

   b. Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project.

   c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.

6. **Water Sprinkling During Grading.** The following dust control measures shall be required, and shall be accomplished using recycled water whenever the Public Works Director determines that it is reasonably available:

   a. Site grading and transportation of fill materials.

b. Regular water sprinkling; during clearing, grading, earth moving or excavation.

c. Sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied on-site to prevent dust from leaving the site.

d. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

e. Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement on-site 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.

7. **Expeditious Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used, as directed by the Building Inspector.

8. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.

9. **Street Sweeping.** The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.

10. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.

11. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.

12. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.

H. **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 (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. 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 building plans, including utility service undergrounding and installation of street trees.

3. **Noise Measurements.** Submit a final report from a licensed acoustical engineer, verifying that interior and exterior living area noise levels are within acceptable levels as specified in the Noise Element. In the event the noise is not mitigated to acceptable levels, additional mitigation measures shall be recommended by the noise specialist and implemented subject to the review and approval of the Building and Safety Division and the Architectural Board of Review (ABR).

4. **Ownership Affordability Provisions Approval.** For all dwelling units subject to affordability conditions obtain from the Community Development Director, or Director's designee in the City's Housing Programs Division, written approval of the following: (a) the Marketing Plan as required by the City's Affordable Housing Policies and Procedures; (b) the initial sales prices and terms of sale (including financing); (c) the eligibility of the initial residents; and (d) the recorded replacement covenants in a form acceptable to the City Attorney signed by the initial purchasers which assure continued compliance with the affordability conditions.

5. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section B.7 have been recorded.

I. **Litigation Indemnification Agreement.** In the event the Staff Hearing Officer 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 the City Council 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.

NOTICE OF APPROVAL TIME LIMITS:

The Staff Hearing Officer's action approving the Modifications shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued within and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
3. The approval has not been discontinued, abandoned or unused for a period of six months following the earlier of (a) an Issuance of a Certificate of Occupancy for the use, or (b) two (2) years from granting the approval.

If multiple discretionary applications are approved for the same project, the expiration date of all discretionary approvals shall correspond with the longest expiration date specified by any of the discretionary applications, unless such extension would conflict with state or federal law. The expiration date of all approvals shall be measured from date of the final action of the City on the application, unless otherwise specified by state or federal law.

This motion was passed and adopted on the 11th day of March, 2009 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.

Gloria Shafer, Staff Hearing Officer Secretary

3-16-2009
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 the scope of work exceeds the extent described in the Modification request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. 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.
4. Subsequent to the outcome of any appeal action your next administrative step should be to apply for Architectural Board of Review (ABR) approval and then a building permit.
5. **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.