



# City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 005-10  
1006 & 1008 CHINO STREET  
TENTATIVE SUBDIVISION MAP  
JANUARY 27, 2010

**APPLICATION OF KEN KRUGER, ARCHITECT FOR D.B. PARTNERS, 1006 & 1008 CHINO STREET, APN 039-242-015, R-2 ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 12 UNITS PER ACRE / MAJOR HILLSIDE (MST2007-00646)**

The proposed project consists of demolition of a 928 sf single-family residence, 418 sf single-family residence, and 532 sf detached garage; construction of three two-story, three-bedroom residential condominiums varying in size from 1,132-1,232 sf with attached garages; new landscaping; public improvements; and archaeological monitoring during ground disturbance. Total grading is estimated to be 258 cubic yards with 20 cubic yards of cut, 238 cubic yards of fill, and 218 cubic yards of imported material.

The discretionary application required for this project is a Tentative Subdivision Map for a one-lot subdivision to create three (3) residential condominiums (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 Sections 15303 (New Construction of Small Structures) and 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**, no 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, January 15, 2010.
2. Site Plans

**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 (SBMC §27.07.100)**

As conditioned, 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 January 15, 2010, 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 are 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.

**B. The New Condominium Development (SBMC §27.13.080)**

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

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 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 and Conservation Elements as discussed in Section VI.B of the staff report dated January 15, 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 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:**

**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. **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 view or included in the exterior wall of the building.
2. **Permeable Paving.** Incorporate a permeable paving system for the project driveway and walkways that will allow a portion of the paved area runoff to percolate into the ground, except as necessary to meet Fire Department weight requirements. Materials in driveways and parking areas must be approved by the Public Works Director/Transportation Manager.

- 3 **Second Story Decks.** Locate and screen second story decks to minimize the loss of privacy for adjacent properties.
- 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 January 27, 2010 is limited to three residential condominium units 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 the 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. **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 units.
- 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.** 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.
- 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.

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, 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. **Dedication.** Easements as shown on the approved Tentative Subdivision Map and described as follows, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:
  - a. All street purposes along Chino Street in order to establish variable width public right-of-way as shown on the approved tentative subdivision map.
3. **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.
4. **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.
5. **Drainage Calculations.** The Owner shall submit drainage calculations prepared by a registered civil engineer 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.
6. **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.
7. **Chino Street Public Improvements.** The Owner shall submit C-1 public improvement plans for construction of improvements along the property frontage on Chino Street. Public Works C-1 plans shall be submitted separately from plans submitted for a Building Permit. As determined by the Public Works Department, the improvements shall include the following: *five-foot wide sidewalk to the centerline of Chino, two driveway aprons modified to meet Title*

*24 requirements, +/-50 linear feet of curb & gutter, asphalt concrete pavement on aggregate base to complete the second half of the existing 1/2 width cul-de-sac to the 2006 or latest adopted version of the Greenbook Specifications, City Standards, crack seal previously constructed portion of cul-de-sac, and pave the entire surface of the entire cul-de-sac, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations for installation of drainage pipe & curb drain, supply and install one residential Dome Style City standard street light near the terminus of the cul-de-sac, preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs per the 2006 MUTCD w/CA supplements during construction, new street trees, the number, box-size and species as specified by the City Arborist and Parks Commission, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.*

8. **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, and prior to recordation of the Parcel Map.
- 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 prior to issuance of building permits for individual parcels.
- 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. **Archaeological Monitoring Contract.** A draft contract with the archaeologist from the most current City Qualified Archaeologists List shall be reviewed and approved by the Environmental Analyst and proof of final contract approval and execution shall be submitted prior to issuance of any building permit. Said contract shall provide, at a minimum, the following:
    - a. A City-qualified archaeologist and a Barbareño Chumash representative from the most current City-qualified Barbareño Chumash Site Monitors List shall be retained to monitor ground disturbances during construction.
    - b. If substantial cultural resources are encountered beyond the very low density shellfish fragments previously identified, work shall be halted immediately and the City Environmental Analyst shall be notified. The

- archaeologist shall 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 Chumash Site Monitors List (if the resource is prehistoric), etc.
- c. The contract shall clearly state that the archaeologist and/or Barbareño Chumash monitor shall have the authority to halt construction.
  - d. 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.
  - e. 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 the City MEA Guidelines for Archaeological Resources and Historic Structures and Sites criteria.
  - f. Costs which result because of any delays due to archaeological findings and investigation shall be borne by the owner and/or construction contractor.
2. **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 the Building Inspectors, Police Officers and the public in addressing problems that may arise during construction. 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.
  3. **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.

- 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 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 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.6, above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.
  3. **Emergency Evacuation Plan.** Provide an emergency evacuation plan subject to approval by the Fire Department.
  4. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.
  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 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: (look at longer or shorter hours and Saturday construction, depending on project location)

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 31 <sup>st</sup> *
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.

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 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.** The new cul-de-sac, shall be paved as soon as possible and prior to issuance of any Building Permits for on-site improvements. 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 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), 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 if in a multi-family or commercial zone or six square feet if in a single family zone.
  12. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
  13. **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. **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 issuance of the Certificate of Occupancy.
  2. **Inclusionary Housing Fee.** Evidence shall be submitted that the Owner has paid the required inclusionary housing fee to the Community Development Department. The City's Inclusionary Housing Ordinance requires that Residential Development projects of greater than one unit and less than ten units are required to pay an inclusionary housing fee. As of the date of project approval the inclusionary housing fee is \$18,000 for each unit in the project. For new construction projects of two, three or four units not involving condominium conversions, the first unit is exempt from the fee requirement. For this project, two units are subject to the inclusionary fee, and a 20% reduction in the inclusionary fee applies since the average unit size is between 1,100 and 1,399 sf. The required inclusionary fee is therefore \$28,800.
  3. **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.
  4. **Complete Public Improvements.** Complete all public improvements, as shown in the separate C-1 improvement plans, including utility service undergrounding and installation of public sidewalk.
  5. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
  6. **Manholes.** Raise all sewer and water manholes on easement to final finished grade.
  7. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.
  8. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section C have been recorded.

- I. **Litigation Indemnification Agreement.** In the event the 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 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. Notwithstanding the time limit specified in Santa Barbara Municipal Code §27.07.110.D, the time limit for the Tentative Map may be extended for up to a total of six (6) years pursuant to Government Code §66452.6(e).

This motion was passed and adopted on the 27th day of January, 2010 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

1-29-2010  
\_\_\_\_\_  
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.
6. **NOTICE OF APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Performance Standard Permit or Modifications shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
  - a. A building permit for the construction authorized by the approval is issued within twenty four months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;
  - b. The approved use has been discontinued, abandoned or unused for a period of six months following the earlier of:
    - i. an Issuance of a Certificate of Occupancy for the use, or;
    - ii. one (1) year from granting the approval.