



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 029-10

512 BATH STREET

MODIFICATIONS

JUNE 16, 2010

APPLICATION OF LISA PLOWMAN, AGENT FOR THE HOUSING AUTHORITY OF THE CITY OF SANTA BARBARA, 512 BATH STREET, APN 037-161-035, R-3 AND R-4 ZONES, GENERAL PLAN DESIGNATIONS: RESIDENTIAL, 12 UNITS PER ACRE, BUFFER/STREAM (MST2009-00469)

The project consists of the demolition of an existing two-story, ten-unit apartment building and carport, and the construction of a two and three-story apartment complex on a 1.10 acre lot by the Housing Authority of the City of Santa Barbara. The proposal includes 53 studio efficiency apartments ranging in size between 320 and 445 sf, affordable to very low- and low-income households to be occupied by tenants with special needs and downtown workers, one two-bedroom 921 sf managers apartment, two 138 sf laundry rooms, a 610 sf recreation room, and a 1,432 sf community center, 13 covered and 17 uncovered automobile parking spaces, and 29 covered and 6 uncovered bicycle parking spaces. The project also includes a transfer of funds from the Housing Authority to the City of Santa Barbara for construction of a portion of the Lower Mission Creek Flood Control Project.

The discretionary applications required for this project are:

1. Lot Area Modification to allow additional dwelling units pursuant to the City's Density Bonus Program (SBMC §28.21.080, §28.87.400, §28.92.110);
2. Parking Modification to allow less than the required number of parking spaces (SBMC §28.90.100, §28.92.110);
3. Distance Between Buildings Modifications to allow less than the required 15 ft separation between each pair of adjacent buildings (eight total Distance Between Buildings Modifications required) (SBMC §28.21.070, §28.92.110); and
4. Interior Setback Modification for the trash enclosure to encroach into interior setback (SBMC §28.21.060, §28.92.110).

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

1. Staff Report with Attachments, June 9, 2010.

2. Site Plans
3. Correspondence received in opposition to the project:
 - a. Paula Westbury, 650 Miramonte Dr., Santa Barbara, Ca
 - b. Paul Zink, via e-mail.

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)

As described in Section IV.A above, the requested lot area modification for increased density to allow additional dwelling units 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 containing affordable units rented in the manner provided for in the City's Affordable Housing Policies and Procedures. The proposed development is consistent with the intent of the R-3 & R-4 Zones to provide multiple-family dwellings and a suitable residential development. The development is also consistent with the intent of the City's Density Bonus Program to provide incentives for development of housing affordable to qualifying households.

B. Parking Modification (SBMC §28.92.110)

The requested parking modification to allow less than the required number of parking spaces is consistent with purposes and intent of the Zoning Ordinance because adequate parking is provided for the new development and the project will not cause an increase in demand for parking or loading space in the immediate area as described in Section IV.A above.

C. Distance Between Buildings Modifications (SBMC §28.92.110)

The eight requested distance between buildings modifications are consistent with the purposes and intent of the Zoning Ordinance and necessary to construct a housing development containing affordable dwelling units rented or owned and occupied in the manner provided for in the City's Affordable Housing Policies and Procedures, because the architecture and site design provide substantial open space and adequate spatial relationships between building masses, as described in Section IV.A above.

D. Interior Setback Modification (SBMC §28.92.110)

The modification of the interior setback to allow encroachment of the trash enclosure is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The location of the trash enclosure is sensitive to the neighboring school and development as described in Section IV.A above.

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. **Project Design.** The project shall comply with the Mission Creek development restrictions contained in SBMC Section 28.87.250.
 2. **North Elevation Fenestration and Landscaping.** Study the fenestration on the north elevation considering the privacy of the neighboring apartment units and outdoor living spaces in relation to the type, placement, and size of windows and landscaping.
 3. **Tree Replacement.** Provide three significant specimen trees to replace the removed Shamel Ash tree. At least two of the trees shall be provided on the project site. If the ABR deems it to be infeasible to locate the third tree on the project site outside of the creek setback area given site constraints, then the third tree can be placed off-site in the proposed pocket park on the corner of Ortega and Bath Streets.
 4. **Riparian Restoration.** The landscape plan shall include a Riparian Buffer Restoration and Enhancement Plan, prepared by a qualified biological or resource specialist, and reviewed and approved by the City Environmental Analyst. The Riparian Buffer Restoration and Enhancement Plan shall include revegetation, restoration, and maintenance measures. Prior to implementation of the Lower Mission Creek Flood Control Project, creek bank stabilization and revegetation and restoration efforts shall consist of removal of non-native plants, and the use of native grasses, shrubs, and trees common to the riparian zones of the City for revegetation. Species that shall be considered, among others, include blackberry, western ragweed, California brome, mugwort, giant ryegrass, deer grass, meadow barley, and quailbush.
 5. **Minimize Visual Effects of Paving.** A textured and/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.
 6. **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.
 7. **Perimeter Planter .** The ABR shall review the required perimeter planter adjacent to the parking area pursuant to the Zoning Ordinance parking landscaping standards (SBMC §28.90.050).
- 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 *a written instrument*, prepared by Community Development staff, 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 June 16, 2010 is limited to 54 dwelling units and the improvements shown on the plan sheets 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. **Rental Housing Restrictions.** For the 53 studio dwelling units, the rent will not exceed the rent limit specified in the City's Affordable Housing Policies and Procedures (AHP&P) for low-income units targeted to sixty percent (60%) of Area Median Income (AMI).

The Affordable Units shall be rented and occupied in conformance with the City's adopted AHP&P. The rental rates and tenant selection of the Affordable Units shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure continued affordability for at least ninety (90) years from the initial occupancy of the project.

The two-bedroom unit intended for use by a resident property manager shall not be subject to income or rent restriction.

7. **Residential Parking.** 30 automobile parking spaces will be provided for use by the residents, manager and guests. Assignment of parking spaces to residents will be strictly monitored by the Housing Authority by implementing a program to limit tenant parking, including access to DMV records and on site observations. Residents who choose to own cars and require a parking space on site will be required to pay a parking fee resulting in higher monthly rent.
 8. **Residential Permit Parking Program.** Residents shall not participate in the Residential Permit Parking Program.
 9. **Downtown Employer Boundaries.** To the extent allowed by law, Owner shall require that any prospective tenant who is gainfully employed, be employed by a "downtown employer" as described herein as a condition of occupancy. In addition, Owner shall ensure that any qualified tenant who is gainfully employed shall continue to be employed by a "downtown employer" as a condition of continued occupancy in the Project or Owner shall relocate such tenant to another housing project operated by the City Housing Authority or offered a housing subsidy under the Section 8 Housing Choice Voucher Program. [For purposes of this condition, "downtown employer" shall be defined as the location to which the tenant regularly reports for work and one that is located within the City of Santa Barbara generally bounded by U.S. Highway 101, Castillo Street, Cabrillo Boulevard, Milpas Street, Anapamu Street, Garden Street, Constance Avenue, and Alamar Avenue.]
 10. **Pesticide or Fertilizer Usage Near Creeks.** The use of pesticides or fertilizer shall be prohibited in the Mission Creek development limitation area.
 11. **BMP Training.** Employee training shall be provided on the implementation of Best Management Practices (BMPs) in order to prevent or reduce the discharge of pollutants to storm water from buildings and ground maintenance. The training shall include using good housekeeping practices, preventive maintenance and spill prevention and control at outdoor loading/ unloading areas in order to keep debris from entering the storm water collection system.
- C. **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. **Dedication(s).** Easements described as follows, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:

The Owner shall, in anticipation of the proposed Lower Mission Creek Corridor Project, execute and return to City the following described instruments prepared for such purposes, subject to approval as to form by the City Attorney and content by the Public Works Director and the Community Development Director, and *cause to be recorded by separate instrument, easements irrevocably offered to the Santa Barbara County Flood Control and Water Conservation District (FCD), for acceptance by FCD at any time, at its sole discretion, the following described easements located on portions of the real property:*

- a. An executed easement deed for a non exclusive perpetual easement to the FCD from the northerly property line of subject property to a point 10-feet from the southerly face of future Mission Creek wall and parallel to the wall, on the subject property side of the creek for the excavation, removal, demolition, remediation and alteration of Mission Creek and adjacent topography, and for the construction, reconstruction, replacement, repair, use and maintenance of various improvements and landscaping as required in connection with the proposed Mission Creek project, and subsequently, for water flowage, flood control and all related purposes for Mission Creek located on the real property, as existing or may be altered pursuant to the currently available preliminary design plans prepared for the proposed Mission Creek project, and;

- b. A temporary right of entry and agreement for a temporary easement, ten-feet (10') wide, in addition to the perpetual easement stated above, intended for the exclusive, joint and cooperative use by the United States Army Corps of Engineers, the FCD, the County of Santa Barbara, and the City of Santa Barbara, and for all their respective employees, consultants, contractors and assignees, as appropriate, for all activities necessary related to the survey, inspection, excavation, removal, relocation, demolition, remediation, alteration, construction, repair and replacement of existing topography and improvements, as required in connection with the proposed Mission Creek project, which temporary easement shall begin upon actual commencement of construction activities on the proposed Mission Creek project, and continue until the completion of said project, which is anticipated for a construction period of approximately twenty four (24) months, but said temporary construction easement shall finally expire on January 1, 2030. FCD shall install a temporary protective fence along the southerly line of this temporary construction easement and the fence shall be removed at the completion of this phase of the Mission Creek Improvement Project.

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. **Final Hydrology Report.** The Owner shall submit a final hydrology report, 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.
4. **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 Permit. 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.
5. **Bath Street Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Bath Street. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: *saw-cut and replace all cracked and uplifted sidewalk, construct one new commercial style driveway apron modified to meet Title 24 requirements, saw-cut and replace all damaged curb & gutters, crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limits of all trenching, connection to City water and sewer mains, public drainage improvements with final hydrology report for installation of curb drain outlets, preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs per the 2006 MUTCD during construction, supply and install four new *Stenocarpus sinuatus* (Firewheel) street trees, minimum 24" box size, evenly spaced in 5x8-ft tree wells with tree grates subject to approval by the City's Street Tree Advisory Committee, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.*
6. **Encroachment Permits.** Any encroachment or other permits from County Flood Control District for any construction of improvements (including any required appurtenances) within their rights of way (easement).
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. **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.
 9. **Traffic Control Plan.** A traffic control plan shall be submitted, as specified in the 2006 CA MUTCD and the City of Santa Barbara Traffic Control Guidelines. Traffic Control Plans are subject to approval by the Public Works Director/Transportation Manager. Construction and storage in the public right-of-way is prohibited during Fiesta in the affected areas (around McKenzie Park, Downtown and Waterfront) and during the Holiday Shopping Season (between Thanksgiving Day and New Years Day) in all commercial shopping areas, including but not limited to Upper State Street, the Mesa shopping area, Downtown and Coast Village Road.
- D. **Community Development Requirements with Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit and finalized prior to Building or Public Works Permit issuance:
1. **Development Along Creeks Approval.** Pursuant to SBMC Section 28.87.250, submit to the Building Official for review of any proposed development within 25 ft of the existing and future Mission Creek top of bank.
 2. **Park Commission Tree Removal Approval.** Submit to the Planning Division verification of approval from the Park Commission for the removal of trees 1, 2 and 3 as noted on the Conceptual Landscape Plan (Sheet L-1).
 3. **MTD Bus Stop Improvements.** Provide bus stop improvements consistent with current MTD bus stop standards as part of the project for the two bus stops on Haley Street near the intersection with Bath Street. To the extent physically possible, provide benches, trash receptacles, shelters with night lighting, and concrete pads to meet ADA requirements.
 4. **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.
 5. **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.

6. **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:

Owner shall sign and cause to be recorded against the Property an affordability control covenant, in a form approved by the City Attorney, which requires compliance with the requirements for low income rental units as specified in the City's Affordable Housing Policies and Procedures, with rents targeted as follows:

- (1) For 53 of the units, the target income percentage shall be sixty percent (60%) of the Area Median Income.
- (2) The covenant shall require that the land be owned by a not-for-profit public benefit corporation and the buildings be owned by either a not-for-profit public benefit corporation or a tax-credit partnership. The covenant shall include an assignment of rents whereby the owner(s) assign to the City all rents collected in violation of the covenant. The covenant shall also require the owner(s) make periodic reports to the City to verify compliance with the covenant.

7. **Tenant Displacement Assistance Ordinance Compliance.** Submit evidence of compliance with the Tenant Displacement Assistance Ordinance (SBMC Chapter 28.89).

- E. **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. **Construction Timing/Steelhead Migration.** Construction work within a 25 foot construction buffer area measured from the existing top of bank shall not occur during the period of December 1 through June 1 to avoid disturbance to migrating steelhead. Prior to construction operations in the construction buffer area, a qualified biologist shall survey the stream channel at the project site to determine if steelhead are present. Should it be determined that steelhead are present, the applicant shall contact the California Department of Fish and Game and the National Marine Fisheries Service to determine the appropriate course of action. No work shall occur within the stream channel within the 25 foot construction buffer area measured from the existing top of bank until it is determined that steelhead are not present.
3. **Nesting Birds.** Construction and demolition activity shall occur outside the bird nesting season (February 1 – August 15), unless a clearance survey for nesting

birds is provided to the satisfaction of the City Environmental Analyst and, if nesting bird species are identified, the affected area is avoided.

4. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division 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 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 Planning Division 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 Planning Division grants authorization.

5. **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 B.5, above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.
6. **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 reviewed by the Architectural Board of Review.

Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.

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., Archaeologist contract submitted to Community Development 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:

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Property Owner		Date
<hr/>		
Contractor	Date	License No.
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Architect	Date	License No.
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Engineer	Date	License No.

- F. **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. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be salvaged and sent to the City Corporation Annex Yard.

3. **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.
4. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Transportation Manager
5. **Haul Routes.** The haul route(s) for all construction-related trucks with a gross vehicle weight rating (GVWR) of three tons or more, entering or exiting the site, shall be approved by the Transportation Manager.
6. **Traffic Control Plan.** All elements of the approved Traffic Control Plan shall be carried out by the Contractor.
7. **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 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 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 that is answered by a person, not a machine.

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

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

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.

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

9. **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.
10. **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.
11. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.
12. **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.

13. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
14. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
15. **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.
16. **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 the applicant shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

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

1. **Lower Mission Creek Channel Improvements.** The Housing Authority of Santa Barbara has offered to contribute \$200,000 to the City of Santa Barbara (City) to be used towards the construction of the Lower Mission Creek Channel improvements along or immediately adjacent to the subject property. These funds shall be deposited with the City prior to issuance the Certificate of Occupancy.
 2. **Recorded Easements.** Provide a copy of each of the recorded easements to the Flood Control and Water Conservation District for temporary construction of the future Mission Creek project, and a perpetual easement for access and maintenance of Mission Creek.
 3. **Riparian Restoration.** A Riparian Buffer Restoration and Enhancement Plan shall be implemented prior to issuance of the Certificate of Occupancy.
 4. **Complete Public Improvements.** Public improvements, as shown in the building plans, including utility service undergrounding and installation of street trees.
 5. **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.
 6. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
 7. **Rental Affordability Provisions Approval.** Obtain from the Community Development Director, or Director's designee in the City's Housing Programs Division, written approval of the of the following: (a) the recorded affordability covenant as approved by the City Attorney, (b) the process for selecting the initial residents of the affordable rental units, (c) the eligibility of the initial residents, and (d) the form of the rental agreement used. Since this project includes restrictions on the number of motor vehicles per resident, obtain from the Community Development Director, or Director's designee in the City's Housing Programs Division, written approval of the recorded implementing document, which assures compliance with the restrictions on the number of motor vehicles owned, used, possessed or stored by residents.
 8. **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.
- H. **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 APPROVAL TIME LIMITS:

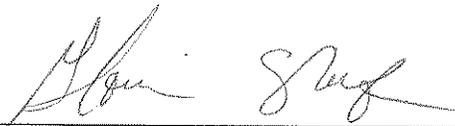
The Staff Hearing Officer's action approving the Modifications shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

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 24 months 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 16th day of June, 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

6-23-2010

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.

