



# City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 056-14

1135 SAN PASCUAL

MODIFICATION AND TENTATIVE SUBDIVISION MAP

OCTOBER 1, 2014

**APPLICATION OF RICH RIDGEWAY, AGENT FOR 1135 SAN PASCUAL LLC, 1135 SAN PASCUAL STREET, APN 039-201-003, R-3 LIMITED RESIDENTIAL ZONE, GENERAL PLAN DESIGNATION: MEDIUM HIGH DENSITY RESIDENTIAL (MST2013-00377)**

The proposed project is a four-unit condominium development on an 11,250 square foot lot located at the southwest corner of West Anapamu and San Pascual Streets. The project site is currently developed with a single-family residence and detached garage, which are proposed to remain. Proposed construction includes a new two-story building containing three (3) 1,294 square foot three-bedroom residential units, each with an attached one-car garage. The existing one-story, 1,152 square foot two-bedroom residence and 385 square foot garage would be rehabilitated, and a 300 square foot bedroom addition is proposed for the residence. Driveway access to the existing and proposed garages would be from W. Anapamu Street via three curb cuts (one existing and two new). The project site is adjacent to Old Mission Creek, and the project includes a Habitat Restoration and Enhancement Plan.

The discretionary applications required for this project are:

1. A Modification to allow the side yard deck (which is greater than ten inches above grade) to encroach into the required six-foot interior setback (SBMC §28.87.062 and 28.92.026.A); and
2. A Tentative Subdivision Map for a one-lot subdivision to create four (4) 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 Act Guidelines Section 15183.

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

**WHEREAS**, no one appeared to speak either in favor or in opposition of the application thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, September 24, 2014.
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. ENVIRONMENTAL REVIEW**

The project has been found to be consistent with the General Plan. Therefore, the project qualifies for an exemption from further environmental review under CEQA Guidelines Section 15183, based on the City staff analysis and the CEQA Certificate of Determination on file for this project.

**B. INTERIOR SETBACK MODIFICATION**

The Interior Setback Modification for the deck to encroach into the six-foot interior setback is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The proposed deck serves as an outdoor living space for residents of the development, provides a barrier between residents and the contaminated soil below, and is designed to protect the existing oak trees. Given that the deck is less than 24 inches above existing grade, and a portion of the grade of the adjacent property to the south is higher than the subject property, the deck is not anticipated to adversely impact the adjacent neighbor to the south.

**C. THE TENTATIVE MAP (SBMC §27.07.100)**

As described in Section VI of the Staff Report, the Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara because it provides for four condominium units, creek restoration, and an adequate setback from the top of bank of Old Mission Creek. The site is physically suitable for the proposed development because sufficient lot area is available away from the creek for the proposed development. The project is consistent with the Average Unit-Size Density provisions of the Municipal Code and the General Plan because the average units size is less than 1,360 square feet, and the proposed use is consistent with the vision for this neighborhood of the General Plan because it provides multi-family units at a density of approximately 16 units per acre in the Medium-High density (15–27 units/acre) residential area. The design of the project will not cause substantial environmental damage because the project is required to include construction and post-construction storm water management best management practices, habitat restoration and monitoring, and associated improvements will not cause serious public health problems.

**D. NEW CONDOMINIUM DEVELOPMENT (SBMC §27.13.080)**

1. There is compliance with all provisions of the City's Condominium Ordinance, as described in Section VI.B of the Staff Report.
2. The project complies with density requirements, and each unit includes laundry facilities, separate utility metering, adequate unit size and storage space, and the required outdoor living space, as described in Section VI of the Staff Report.
3. The proposed development is consistent with the General Plan of the city of Santa Barbara because it provides three net new residential units, an adequate creek setback, and creek restoration, as described in Section VI of the Staff Report.

4. The project can be found consistent with policies of the City's General Plan including the Housing Element, Environmental Resources Element, and Land Use Element. The project will provide infill residential development that is compatible with the surrounding neighborhood, with measures to protect and restore the riparian corridor, consistent with City policies, as described in Section VI.C of the Staff Report.
5. The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources because an appropriate creek setback is provided, adequate parking is provided, and the two-story development is compatible with surrounding development, as described in Section VI of the Staff Report.
6. The project is an infill residential project proposed in an area where residential development is a permitted use. The project is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts because, once the minimal number of new trips (AM and PM peak hour) are added to the street network, there will not be an impact at any of the City's identified year 2030 impacted intersections. The design has been reviewed by the City's Architectural Board of Review, which found the architecture and site design appropriate, as described in Section VIII of the Staff Report.

**II.** Said approval is subject to the following Conditions of Approval:

- A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:
  1. Obtain all required design review approvals.
  2. Pay Land Development Team Recovery Fee (30% of all planning fees, as calculated by staff) at time of building permit application.
  3. Submit an application for and obtain City Council approval of the Parcel Map and Agreement(s) and record said documents.
  4. Permits following recordation of Parcel Map (details on implementation of these steps are provided throughout the conditions of approval):
    - a. Submit an application for and obtain a Building Permit (BLD) for construction of approved development.
    - b. Submit an application for and obtain a Public Works Permit (PBW) for all required public improvements.

- 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 concurrent with the Parcel Map, and shall include the following:
1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on October 1, 2014 is limited to a four (4) unit residential condominium project comprised of the existing one-story 1,152 square foot unit with a 300 square foot addition and its existing one-car garage and three new two-story units of 1,294 square feet each, each with an attached one-car garage, 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. The project includes a Habitat Restoration and Enhancement Plan for the area adjacent to Old Mission Creek.
  2. **Uninterrupted Water Flow.** The Owner shall provide for the continuation of any historic 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. **Tree Protection.** The five existing oak trees and two acacia trees shown on the Tentative Subdivision Map shall be preserved, protected, and maintained. The following provisions shall apply to any oak trees to remain on the property:
    - a. No irrigation systems shall be installed within three feet of the drip line of any oak tree.
    - b. The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.
  5. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.
  6. **Pesticide or Fertilizer Usage Near Creeks.** The use of pesticides or fertilizer shall be prohibited within the Habitat Restoration/Enhancement Area (as shown on the Landscape Plan), which drains directly into Old Mission Creek.

7. **Required Private Covenants, Conditions and Restrictions (CC&Rs).** The Owners shall record in the official records of Santa Barbara County either private covenants, conditions and restrictions, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for 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. **Parking Space Assignment.** Parking spaces within the project shall be allocated to each condominium unit in accordance with SBMC §28.90.100.G.3.e.
  - 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. Such plan shall not be modified unless prior written approval is obtained from the appropriate design review board. If said landscaping is removed for any reason without approval by the appropriate design review board, the owner is responsible for its immediate replacement.
  - 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. **Public Improvement Districts.** A covenant that includes a waiver to protest formation of public improvement districts.
  - g. **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.
8. **Residential Parking Permit Program.** If the Residential Parking Permit Program is extended to include the subject property, neither Owners nor residents of the units shall be eligible to participate in the Program.

- 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. **Agreement to Secure Public Improvements.** The Owner shall either 1) complete public improvements, as required by these conditions of approval, prior to recordation of the one lot subdivision map for condominium purposes, or 2) enter into an *Agreement for Land Development Improvements*, that is prepared by the Engineering Division and subject to review by the City Attorney, and provide security acceptable to the City per the Santa Barbara Municipal Code.
  2. **Dedication(s).** 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. The subdivision map shall, as required by the City Engineer, dedicate land at the corner of West Anapamu Street and San Pascual Street for the future installation of Dual Directional or Diagonal Access Ramp per Public Works Construction Standard Details.
  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 prepares 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, concurrently with the Parcel Map.
  5. **Drainage and Water Quality.** The project is required to comply with Tier 2 of the Storm Water BMP Guidance Manual, pursuant to Santa Barbara Municipal Code Chapter 22.87. Project plans for grading, drainage, stormwater facilities and treatment methods, and project development, shall be subject to review and approval by the City Building Division and Public Works Department. Adequate measures shall be employed to ensure that no unpermitted construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants, or groundwater pollutants would result from the project.
  6. **Public Improvements.** The Owner shall submit C-1 public improvement or Public Works plans for construction of improvements. Plans shall be submitted separately from plans submitted for a Building Permit, and shall be prepared by a licensed civil engineer registered in the State of California. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards:
    - a. Streets – The Owner shall:
      - Retire the two existing Edison cobra head street lights on wood poles at the property frontage along Anapamu Street and replace with two new Edison street lights per City Standard Type B-08. One light

shall be located at or near the intersection of San Pascual and W. Anapamu Streets with a 150 Watt lamp and the other shall be a mid block 70 Watt lamp located as approved by the City Engineer based on the location of adjacent street lights.

- Install new residential City standard driveways in substantial conformance to those shown on the approved tentative map;
- Install new street trees of size, type and species per the direction of the City Arborist as follows: two new street trees (Acacia melonoxylon) on W. Anapamu Street; new tree(s) on San Pascual only if, prior to approval of the public improvement plans, the species is changed (from Platanus acerifolia) to a tree that requires less parkway space; and
- Install new curb and gutter per City standard along the entire frontage of San Pascual Street.

b. Water – The Owner shall:

- Install new water meters and box per current City standard for all new and existing residential units; and
- Install new fire line for fire sprinkler purposes in substantial conformance with that shown on the approved tentative map. The fire line shall include a backflow prevention device located onsite.

c. Storm Drain

- Private storm drain laterals shall include a junction box at property line prior to private lateral termination at face of curb.

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

1. **Tree Removal and Replacement.** All trees removed, except oak trees, fruit trees and street trees approved for removal without replacement by the Parks Department, shall be replaced on-site on a one-for-one basis with minimum 15 gallon size tree(s) of an appropriate species or like species, in order to maintain the site's visual appearance and reduce impacts resulting from the loss of trees.

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

a. **Tree Protection.** All trees not indicated for removal on the approved Tentative Subdivision Map shall be preserved, protected, and maintained, in accordance with any related Conditions of Approval.

b. **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s), as determined by the ABR.

- c. **Oak Trees.** The following additional provisions shall apply to existing oak trees on site:
  - (1) No irrigation system shall be installed within three feet of the dripline of any oak tree.
  - (2) Any oak trees greater than four inches (4") in diameter at four feet (4') above grade that are removed as a result of the project shall be replaced at a three to one (3:1) ratio, at a minimum five (5) gallon size, from South Coastal Santa Barbara County Stock.
  - (3) No storage of heavy equipment or materials shall take place within five (5) feet of the dripline of any oak tree.
  - (4) Oak seedlings and saplings less than four inches (4") at four feet (4') above the ground that are removed during construction shall be transplanted where feasible. If transplantation is not feasible, replacement trees shall be planted at a minimum one to one (1:1) ratio. Replacement trees shall be a minimum of one (1) gallon size derived from South Coastal Santa Barbara County stock.
- d. **During Construction.**
  - (1) A qualified Arborist shall be present during any excavation beneath the dripline(s) of the tree(s) which are required to be protected. All excavation within the dripline(s) of the tree(s) shall be minimized and shall be done with hand tools.
  - (2) Any roots encountered shall be cleanly cut and sealed with a tree-seal compound.
  - (3) Any root pruning and trimming shall be done under the direction of a qualified Arborist.
  - (4) No heavy equipment, storage of materials or parking shall take place under the dripline of the tree(s).
  - (5) All trees within 25 feet of proposed construction activity shall be fenced three feet outside the dripline, or as far as physically possible away from the tree trunk, for protection.
- 3. **Riparian Habitat Restoration and Enhancement Plan.** The Riparian Habitat Restoration and Enhancement Plan shall be prepared by a City-approved biologist and the species, spacing and sizes of plants shall be reviewed and approved by the ABR.
- 4. **Screened Backflow Device.** The backflow devices for fire sprinklers, pools, spas and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building, as approved by the ABR.
- 5. **Location of Dry Utilities.** Dry utilities (e.g. above-ground cabinets) shall be placed on private property unless deemed infeasible for engineering reasons. If dry utilities must be placed in the public right-of-way, they shall be painted "Malaga Green," and if feasible, they shall be screened as approved by ABR.

E. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any Permit for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.

1. **Public Works Department.**

- a. **Approved Public Improvement Plans.** Public Improvement Plans as identified in condition C.8 “Public Improvements” shall be submitted to the Public Works Department for review and approval. Upon acceptance of conceptual public improvement plans, a Building permit may be issued if the Owner has bonded for public improvements and executed the *Agreement for Land Development Improvements*.
- b. **Grading & Drainage.**
  - (1) Grading plan shall be designed and stamped by a licensed engineer and shall incorporate all the recommendations of the soils report.
  - (2) The proposed grading plan shall be certified as reviewed and conforming to the recommendations of the soils report and any addendums by the soils engineer.
  - (3) The grading plan record drawings shall be certified by the soils engineer. The certification shall state that the work was completed in accordance with all the recommendation of the soils report and any addendums and that certification is based on field inspections.
  - (4) The grading plan design and drainage design shall not provide for any un-drained surfaces or increase flows and/or changes in flow direction toward southerly existing residence.
  - (5) The grading design and construction of this project in the area of 100 year flood inundation shall be completed such that there is no gross fill of the area of inundation within this property. This shall be verified by note on the record drawings.
- c. **Haul Routes Require Separate Permit.** Apply for a Public Works Permit to establish the haul route(s) for all construction-related trucks with a gross vehicle weight rating of three tons or more, entering or exiting the site.
- d. **Construction-Related Truck Trips.** Construction-related truck trips for trucks with a gross vehicle weight rating of three tons or more shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) in order to help reduce truck traffic on adjacent streets and roadways.

2. **Community Development Department.**

- a. **Recordation of Parcel Map and Agreements.** After City Council approval, the Owner shall provide evidence of recordation of the map and agreements to the Community Development Department prior to issuance of building permits.
- b. **Arborist Report.** Submit an Arborist Report that provides recommendations addressing the removal of the four eucalyptus trees on the property within the creek setback area to ensure that removal of the trees does not jeopardize the structural integrity of the remaining trees on the adjacent parcel. If the Report concludes that it is possible to remove the trees without damaging trees on the adjacent parcel, then the trees must be removed. If the Report concludes that removal will negatively affect the trees on the adjacent parcel, then those trees do not need to be removed. The City's Environmental Analyst reserves the right to require a peer review of the Arborist Report.
- c. **Arborist Contract for Monitoring.** A contract with an Arborist for monitoring during construction activities, to ensure the health of all trees to be preserved and to ensure compliance with required conditions of approval related to preservation of the trees, shall be submitted to staff for review and approval.
- d. **Biological Monitoring Contract.** Submit a contract with a qualified biologist acceptable to the City for on-going monitoring of the project (following issuance of a certificate of occupancy) in accordance with the Monitoring Plan (Amendment to 1135 San Pascual Riparian Habitat Restoration and Enhancement Plan) prepared by Watershed Environmental and dated July 28, 2014. Should the monitoring identify any remedial actions necessary in order to meet the performance standards or success criteria, then those remedial actions shall be implemented on site. If the performance standards or success criteria are not met at the end on the third year of monitoring, the monitoring period may be extended by the City as necessary to ensure compliance with the Plan.
- e. **Tenant Displacement Assistance Ordinance Compliance.** Submit evidence of compliance with the Tenant Displacement Assistance Ordinance (SBMC Chapter 28.89), including displacement assistance and right of first refusal.
- f. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the appropriate design review board and as outlined in Section D "Design Review," and all elements/specifications shall be implemented on-site.
- g. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by

any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

_____		_____
Property Owner		Date
_____		
Contractor	Date	License No.
_____		
Architect	Date	License No.
_____		
Engineer	Date	License No.

- h. **Access to Deck.** The deck within the interior setback shall be directly accessible from the living area of Units 1 and 2.
- i. **Storage in Garage.** Construction plans shall identify an area in the garage for storage that does not conflict with required vehicle parking or bicycle storage. This storage could be overhead storage.

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, including demolition and grading.

- 1. **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.
- 2. **Construction Hours.** Construction (including preparation for construction work) shall only be permitted Monday through Friday excluding the following holidays:

New Year's Day	January 1st*
Martin Luther King, Jr. Day	3rd Monday in January
Presidents' Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

\*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the City to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out said construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

3. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Transportation Engineer with a Public Works permit.
4. **Nesting Birds.** Birds and their eggs nesting on or near the project site are protected under the Migratory Bird Treaty Act and pursuing, hunting, taking, capturing, killing, or attempt to do any of the above is a violation of federal and state regulations. No trimming or removing brush or trees shall occur if nesting birds are found in the vegetation. All care should be taken not to disturb the nest(s). Removal or trimming may only occur after the young have fledged from the nest(s).
5. **Air Quality and Dust Control.** The following measures shall be shown on grading and building plans and shall be adhered to throughout grading, hauling, and construction activities:
  - a. During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used whenever possible. However, reclaimed water should not be used in or around crops for human consumption.
  - b. Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.
  - c. If importation, exportation and stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.
  - d. Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
  - e. After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
  - f. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary,

to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading of the structure.

- g. All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.
- h. Fleet owners of mobile construction equipment are subject to the California Air Resource Board (CARB) Regulation for In-use Off-road Diesel Vehicles (Title 13 California Code of Regulations, Chapter 9, § 2449), the purpose of which is to reduce diesel particulate matter (PM) and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles. For more information, please refer to the CARB website at [www.arb.ca.gov/msprog/ordiesel/ordiesel.htm](http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm).
- i. All commercial diesel vehicles are subject to Title 13, § 2485 of the California Code of Regulations, limiting engine idling time. Idling of heavy-duty diesel construction equipment and trucks during loading and unloading shall be limited to five minutes; electric auxiliary power units should be used whenever possible.

6. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: 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. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner 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.

A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

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. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
2. **Complete Public Improvements.** Public improvements, as shown in the public improvement plans or building plans, shall be completed.
3. **Inclusionary Housing Fee.** Submit evidence that the Owner has paid the required inclusionary housing fee of \$37,200.00 to the Community Development Department.
4. **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.
5. **Riparian Habitat Restoration and Enhancement Plan Installation Confirmation.** A City-approved biologist shall prepare an as-built monitoring report identifying any changes to the approved Plan with photo-documentation of the completed installation.
6. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided to the Community Development Department, Planning Division that the private CC&Rs required in Section B “Recorded Conditions Agreement” have been recorded.

H. **General Conditions.**

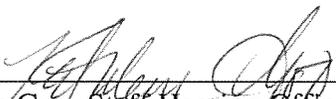
1. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
2. **Approval Limitations.**
  - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.

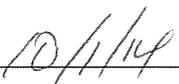
- b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Staff Hearing Officer.
  - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
3. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

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

This motion was passed and adopted on the 1<sup>st</sup> day of October, 2014 by the Staff Hearing Officer of the City of Santa Barbara.

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

  
\_\_\_\_\_  
Kathleen Goo, Staff Hearing Officer Secretary

  
\_\_\_\_\_  
Date

**PLEASE BE ADVISED:**

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If 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 MODIFICATION APPROVAL TIME LIMITS:**

The Staff Hearing Officer action approving the Modification 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 and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
7. **NOTICE OF TENTATIVE SUBDIVISION MAP (INCLUDING NEW CONDOMINIUMS AND CONDOMINIUM CONVERSIONS) TIME LIMITS:**

The Staff Hearing Officer 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.
8. **NOTICE OF TIME LIMITS FOR PROJECTS WITH MULTIPLE APPROVALS (S.B.M.C. § 28.87.370):**

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 land use 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 longest discretionary land use approval related to the application, unless otherwise specified by state or federal law.