



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 033-09

124 LOS AGUAJES AVENUE

MODIFICATION AND TENTATIVE SUBDIVISION MAP

SEPTEMBER 3, 2009

APPLICATION OF PETE EHLEN, AGENT FOR MARK EDWARDS, 124 LOS AGUAJES AVENUE, APN 033-041-007, R-3/SD-3 MULTI-FAMILY RESIDENTIAL AND COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: HOTEL AND RESIDENTIAL (MST2004-00725)

Project consists of the demolition of an existing 884 square foot, single-family residence and 440 square foot detached garage, and the construction of three new residential condominium units in the Appealable Jurisdiction of the Coastal Zone. The proposed structure would be three stories with a maximum building height of 29' 7", consisting of 3,856 square feet of residential floor area above 1,143 square feet of garage floor area on a 6,000 square foot lot located adjacent to Mission Creek. The project includes two two-car garages, a one-car garage, and one unenclosed covered parking space, a two-bedroom unit and two one-bedroom residential units. The project proposes 25 cubic yards of cut and 135 cubic yards of fill outside the main building footprint. Grading under the main building footprint would involve 110 cubic yards of cut. The project also includes landscaping changes, bioswales and retention basin adjacent to the proposed residences. On April 16, 2009, this project was reviewed and continued by the Planning Commission.

The discretionary applications required for this project are:

1. A Modification to allow the building to encroach into the front setback (SBMC §28.21.060 and §28.92.110.A.2);
2. A Modification to allow the entry stair and a support column to encroach into the interior setback to the east (SBMC §28.21.060 and §28.92.110.A.2);
3. A Coastal Development Permit (CDP2005-00021) to develop a three unit residential condominium project located in the Appealable Jurisdiction of the Coastal Zone. (SBMC §28.44.060)
4. A Tentative Subdivision Map for a one-lot subdivision to create three (3) residential condominium units (SBMC 27.07 and 27.13).

The Planning Commission will consider approved the Negative Declaration prepared for the project on April 16, 2009 pursuant to the California Environmental Quality Act Guidelines Section 15074.

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

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

1. Staff Report with Attachments, October 9, 2008; February 12, 2009; April 9, 2009 and August 27, 2009
2. Site Plans
3. Correspondence received in support of the project:
 - a. Jason Reeder, presented at hearing of April 16, 2009
4. Correspondence received in opposition to the project, or with concerns:
 - a. Caren Roger, President, Pearl Chase Society
 - b. Robert and Pamela Maxim, Santa Barbara, CA
 - c. Kellam de Forest, via email
 - d. Paula Westbury, Santa Barbara, CA

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission:

- I. Approved the subject application with the exception of the interior setback modification making the following findings and determinations:
 - A. **Front Setback Modification**

The front setback modification is consistent with the purpose and intent of the Zoning Ordinance, and is necessary to secure an appropriate improvement on a lot, because the lot is small and constrained by Mission Creek to the rear, and the front setback is consistent with the adjacent structures as discussed in Section IV of the Staff Report.
 - B. **Coastal Development Permit (SBMC §28.44.060)**

The project is consistent with the policies of the California Coastal Act, all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code, in that the land use is a replacement of an existing residential use in a residential neighborhood; the project is visually compatible with the character of the surrounding areas; the project is compatible with, and preserves the unique character of the West Beach neighborhood; and it would not have any effect on public access or public recreation. The project is consistent with Coastal Act Policy 30251, which requires new development to be visually compatible with the character of surrounding areas, as described in Section VI of the Staff Report.
 - C. **The Tentative Map (SBMC §27.07.100)**

With the approval of the front and interior setback modifications, the Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara, in that all General Plan policies and zoning requirements are met, as described in Section V of the Staff Report. The site is physically suitable for the proposed development because it is compatible with the neighborhood, and is located a sufficient distance from Mission Creek; the project is consistent with the variable

density provisions of the Municipal Code and the General Plan as described in Section V of the Staff Report; and the proposed use is consistent with the vision for this neighborhood of the General Plan because it is a residential project in a predominantly residential neighborhood, as described in Section VI.F. of the Staff Report. The design of the project will not cause substantial environmental damage because it compatible with the surrounding residential neighborhood, and is located a sufficient distance from Mission Creek, and associated improvements will not cause serious public health problems because the building has been designed to meet interior and exterior maximum noise levels, as described throughout the Staff Report.

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

1. The project complies with all provisions of the City's Condominium Ordinance, as described in section VI of the Staff Report.
2. The proposed development is consistent with the General Plan of the City of Santa Barbara, as it meets the land use, density, noise and other policies, as described in Section VII of the Staff Report.
3. 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, in that 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, and the project is compatible with the aesthetics of 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 Planning Commission land use conditions have been satisfied.

1. **Appropriate Plants within Development Limitation Area.** Special attention shall be paid to the appropriateness of the existing and proposed plant material within the riparian setback. All existing exotic or invasive plants shall be removed and replaced with appropriate plant material within the 25 foot development limitation area. (BIO-1)
2. **Architectural Style.** Prior to issuance of demolition or building permits, the applicant shall submit final plans that show that the architecture of the new construction is compatible and harmonious with the buildings of the West Beach Neighborhood in both massing and architectural style consistent with the guidance provided by ABR. (CR-5)

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 Planning Commission on September 3, 2009 is limited to a Coastal Development Permit for a 3 unit residential condominium project and the improvements shown on the Tentative Subdivision Map signed by the chairman of the Planning Commission 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 and Coastal Development 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. (W-2, 3)

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.
 7. **Pesticide or Fertilizer Usage Near Creeks.** The use of pesticides or fertilizer shall be prohibited within the Mission Creek setback area, which drains directly into Mission Creek.
 8. **Residential Permit Parking Program.** Residents shall not participate in the Residential Permit Parking Program.
- C. **Public Works Submittal Prior to Final/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 Final/Parcel Map and prior to the issuance of any permits for the project:
1. **Parcel Map.** The Owner shall submit to the Public Works Department for approval, a Parcel Map prepared by a licensed land surveyor or registered Civil

Engineer. The Parcel Map shall conform to the requirements of the City Survey Control Ordinance.

2. **Dedication(s).** Easements as shown on the approved Tentative Subdivision Map (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. A 4-foot wide easement for public utility purposes for 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 or licensed architect demonstrating that the new development will not increase runoff amounts above existing conditions for a 25-year storm event. Any increase in runoff shall be retained on-site.
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. (W-1)
7. **Storm Drain System Stenciling and Signage.** Within the project area, the applicant shall implement stenciling of all storm drain inlets and catch basins, and posting of signs at all public access points along channels and creeks, with language in English and Spanish and graphic icons prohibiting dumping, per approved plans. The applicant shall submit project plans to the satisfaction of Public Works Engineering that identify storm drain inlet locations throughout the project area, and specified wording and design treatment for stenciling of storm drain inlets and signage for public access points that prohibit dumping. The owners association shall maintain ongoing legibility of the stenciling and

signage for the life of the project, and shall inspect at least annually and submit report to City annually. (W-4)

8. **Los Aguajes Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Los Aguajes Avenue. As determined by the Public Works Department, the improvements shall include the following: driveway apron modified to meet Title 24 requirements, approximately 15 l.f. curb and gutter, asphalt concrete, crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limit of all trenching, underground service utilities, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations and/or hydrology report for installation of curb drain outlets, preserve and/or reset survey monuments and contractor stamps, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.
 9. **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.
 10. **Maintenance Agreement Required.** The Owner shall submit an Executed Agreement for Maintenance of the proposed (private road) (driveway), subject to the review and approval of the Public Works Director and City Attorney.
- 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 Agreements.** After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department.
 2. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building Permit.
- 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. **Project Environmental Coordinator Required.** Submit to the Planning Division a contract with a qualified representative for the Owner, subject to approval of the contract and the representative by the Planning Division, to act as the Project Environmental Coordinator (PEC). The PEC shall be responsible for assuring full compliance with the provisions of the Mitigation Monitoring and Reporting Program (MMRP) and Conditions of Approval to the City. The contract shall include the following, at a minimum:

- a. The frequency and/or schedule of the monitoring of the mitigation measures.
 - b. A method for monitoring the mitigation measures.
 - c. A list of reporting procedures, including the responsible party, and frequency.
 - d. A list of other monitors to be hired, if applicable, and their qualifications.
 - e. Submittal of weekly reports during demolition, excavation, grading and footing installation and biweekly reports on all other construction activity regarding MMRP and condition compliance by the PEC to the Community Development Department/Case Planner.
 - f. The PEC shall have authority over all other monitors/specialists, the contractor, and all construction personnel for those actions that relate to the items listed in the MMRP and conditions of approval, including the authority to stop work, if necessary, to achieve compliance with mitigation measures.
2. **Neighborhood Notification Prior to Construction.** At least 20 days prior to commencement of construction, the contractor shall provide written notice to all property owners and residents within 450 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 (Project Environmental Coordinator (PEC) and) 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. (N-2)
3. **Preservation Plan.** Prior to issuance of demolition permits, the applicant shall submit a Preservation Plan for review and approval by the City's Historian that shall include the following elements (CR-4):
- a. A site plan of the property as it exists, with the subject building clearly indicated, drawn to scale and with dimension given.
 - b. Floor plans drawn to scale.
 - c. Measured building elevation scaled drawings of the exterior and of significant, representative interior elevations. The Commission or Planning Staff may be consulted for a determination of what is significant.
 - d. Notation as to the buildings construction materials.

- e. Black and white photographic prints and negatives, taken with a large format (also known as a 4x5) camera, of all exterior elevations, interior rooms, and architectural details. The prints shall have identification labels on the back, with the subject clearly expressed, keyed to No. 2 above, and the photo date included. The City provides a list of photographic professionals for assistance in selecting a photographer capable of this specialized work.
- f. A detailed history of the building including the original construction date, the name of the original owner, the name of the original architect, if known, the builder and any factual information on subsequent alterations.
- g. The materials shall be collected in a presentation binder with the property address and assessor's Parcel Number identified on the front cover and the spine.

The recordation documentation listed above (a.-g.) shall become a part of the permanent archival collection of the City of Santa Barbara, and photocopies of the documentation shall be placed in the following local public archival repositories:

- (1) Gledhill Library of the Santa Barbara Historical Society;
 - (2) City of Santa Barbara/Urban Historian
- h. Prior to demolition the applicant will be required to offer and advertise the building at 124 Los Aguajes Avenue for sixty days. Submit proof of publication and the advertisement that clearly shows that the advertisement was run for a minimum of sixty (60) days.
 - i. If demolition occurs, then historic materials such as doors must be salvaged and offered for reuse.
4. **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.
5. **Archaeological Monitoring Contract.** Submit to the Planning Division a contract with an archaeologist from the most current City Qualified Archaeologists List for monitoring during all ground-disturbing activities associated with the project, including, but not limited to, grading, excavation, trenching vegetation or paving removal and ground clearance in the areas identified in the Phase I Archaeological Resources Report prepared for this site by Compass Rose Archaeological, Inc., dated December 2004. The contract shall be subject to the review and approval of the Planning Division.

The archaeologist's monitoring contract shall include the following provisions (CR-1):

- a. Extended Phase 1 Archaeological Survey and Monitoring. Prior to issuance of general grading and building permits for the project, a permit for demolition of existing structures and grading associated with a Extended Phase I and Construction Monitoring Plan shall be issued and final inspection completed. Said permit shall include (CR-1):
 - (1) Prior to issuance of any grading or demolition permits, the applicant shall submit for review and approval by the environmental analyst a contract and monitoring plan with a City Qualified Barbareño Chumash observer and qualified archaeologist to monitor all demolition and ground disturbing activities associated with the project and to conduct the Extended Phase I Archaeological Investigation.
 - (2) Following vegetation, and/or pavement removal and prior to earthwork or construction, an extended Phase 1 study of the project site shall be conducted by a City-qualified archaeologist. This study shall consist of a series of backhoe trenches, the examination of the exposed soil profiles, or any other methods of survey to reveal evidence of prehistoric and historical cultural resources. Based on results of the re-survey, the archaeologist shall recommend, City shall approve, and project shall implement any further monitoring, evaluation/ documentation of resources, or other mitigation measures necessary to ensure that no significant archaeological impacts would result.
 - (3) If potentially significant historical cultural resources are encountered or suspected, work shall be halted or redirected by the archaeologist immediately and the Planning Division shall be notified. The archaeologist shall prepare a work plan to assess the nature, extent and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment consistent with the City of Santa Barbara Master Environmental Assessment Guidelines for Archaeological Resources and historic Structures and Sites (January 2002). The significance assessment work plan shall be reviewed and approved by the City's Environmental Analyst and Archaeological Advisor. In the event that the discoveries are determined to be significant, the monitoring archaeologist shall prepare a Phase 3 mitigation program proposal including excavation and analysis methods to collect sufficient information to characterize the resource, and prepare a report consistent with the City of Santa Barbara Master Environmental Assessment Guidelines for Archaeologist Resources and Historic Structures and Sites (January 2002) for Phase 3 mitigation investigations.

The Phase 3 mitigation proposal shall be reviewed and approved by the City's Environmental Analyst and Archaeological Advisor. All costs of potential significance assessment and mitigation shall be borne by the project applicant.

- (4) If discoveries include Native American cultural remains, the significance assessment shall include consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, preparation of further site studies and/or mitigation.
- (5) If the discovery consists of possible human remains, the Owner shall contact the Santa Barbara County Coroner immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. The Owner shall retain a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List 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.
- (6) If the discovery consists of possible prehistoric or Native American artifacts or materials, the Owner shall retain a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List 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.
- (7) A report shall be prepared by the monitoring archaeologist 15 days after completion of all monitoring and Extended Phase I work. The report should include the results of the monitoring, determinations as to the significance of any remains found, and recommendations for any future work that is needed. The report shall be reviewed and approved by the City's Environmental Analyst prior to issuance of grading permits for the balance of the proposed project excavations and soil disturbance. If a Phase 3 recovery program becomes necessary, the archaeological data recovery reports resulting from the Phase 3 activities shall be submitted to the City's Environmental Analyst and Archaeological Advisor for review and approval within six (6) months of issuance of general grading and building permits for the project.
- (8) General Grading, Building and Public Work permits shall not be issued prior to completion of the Extended Phase I or any necessary Phase 2 or 3 work on the site.

- b. Project plans shall be designed to limit all construction-related ground disturbance to the maximum extent feasible (CR-2) .
- c. Discovery Procedures and Mitigation. Standard discovery measures shall be implemented per the City Master Environmental Assessment throughout grading and construction (CR-3) :
 - (1) 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 during any grading or construction on the site such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and a City-approved archaeologist shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, including but not limited to redirection of grading and/or excavation activities. If the findings are potentially significant, further analysis and/or other mitigation shall be prepared and accepted by the Environmental Analyst and the HLC, and implemented by the project Work in the area may only proceed after the Environmental Analyst grants authorization.
 - (2) If prehistoric or other Native American remains are encountered, a Native American representative shall be consulted, and the archaeologist and Native American representative shall monitor all further subsurface disturbances in the area of the find. If the discovery consists of potentially human remains, the Santa Barbara County Coroner and the California Native American Heritage Commission must also be contacted. 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 the issuance of final City permits.

F. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits:

- 1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Architectural Board of Review, outlined in Section A above.
- 2. **Mitigation Monitoring and Reporting Requirement.** Owner shall implement the Mitigation Monitoring and Reporting Program (MMRP) for the project's

mitigation measures, as stated in the Mitigated Negative Declaration for the project.

3. **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.

4. **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 ***, above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program. (W-3)

5. **Driveway Improvements.** The proposed driveway shall be constructed to the standards provided in the Subdivision Design and Improvement Standards and as approved by the Public Works Director.
6. **Disabled Accessibility.** Project circulation shall provide for disabled accessibility or equivalent facilitation in accordance with American Disabilities Act requirements. (T-3)
7. **Conditions on Plans/Signatures.** The final Planning Commission 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. **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) (and Project Environmental Coordinator's (PEC) name, contractor(s) and PEC'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. (N-2)
 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 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
Calle Cesar Chavez Day	March 31 st
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

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

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

4. **Construction Traffic.** The haul routes for all construction related trucks, three tons or more, entering or exiting the site, shall be approved by the Transportation Engineer. 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. and consider peak school traffic hours as well as surrounding area) to help reduce truck traffic and noise on adjacent streets and roadways. The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods. **(T-1)**
5. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows **(T-2)**:
- 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. **Minimized Disturbed Area/Reduced Speed.** Minimize the amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less. (AQ-1)
7. **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 (AQ-2):
 - 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.
8. **Tarping.** Trucks transporting fill material to and from the site shall be covered from the point of origin. (AQ-3)
9. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads. (AQ-4)
10. **Stockpiling.** If importation, exportation and stockpiling of fill material are involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. (AQ-5)
11. **Disturbed Area Treatment.** After clearing, grading, earth moving or excavation is completed, the entire area of disturbed soil shall be treated to prevent wind pickup of soil. This may be accomplished by: (AQ-6)

- a. seeding and watering until grass cover is grown;
 - b. spreading soil binders;
 - c. sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind; and
 - d. other methods approved in advance by the Air Pollution Control District.
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. (AQ-7)
 13. **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. (AQ-8)
 14. **Portable Construction Equipment.** All portable diesel powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit. (AQ-9)
 15. **Fleet Owners.** Fleet owners are subject to sections 2449, 2449.2, and 2449.3 in Title 13, Article 4.8, Chapter 9, of the California Code of regulations (CCR) to reduce diesel particulate matter (and criteria pollutant emissions from in-use off-road diesel-fueled vehicles. See <http://www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf>. (AQ-10)
 16. **Engine Size.** The engine size of construction equipment shall be the minimum practical size. (AQ-11)
 17. **Equipment Numbers.** The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time. (AQ-12)
 18. **Equipment maintenance.** All construction equipment shall be maintained in tune per the manufacturer's specifications. (AQ-13)
 19. **Catalytic Converters.** Catalytic converters shall be installed on gasoline-powered equipment, if feasible. (AQ-14)
 20. **Diesel Construction Equipment.** Diesel construction equipment meeting the California Air Resources Board (CARB) Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting CARB Tier 2 or higher emission standards should be used to the maximum extent feasible. (AQ-15)
 21. **Engine Timing and Diesel Catalytic Converters.** Other diesel construction equipment, which does not meet CARB standards, shall be equipped with two to four degree engine timing retard or pre-combustion chamber engines. Diesel

catalytic converters, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California shall be installed, if available. (AQ-16)

22. **Diesel Replacements.** Diesel powered equipment shall be replaced by electric equipment whenever feasible. (AQ-17)
 23. **Idling Limitation.** Idling of heavy-duty diesel trucks during loading and unloading shall be prohibited; electric auxiliary power units shall be used whenever possible. (AQ-18)
 24. **Construction Equipment Mufflers and Shields.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices. Sound control devices and techniques, such as noise shields and blankets, shall be employed as needed to reduce the level of noise to surrounding uses. A noise control plan shall be submitted prior to any building permit issuance that shows how construction noise will be reduced for surrounding uses. The plan shall include, but not be limited to, the use of sound control devices and techniques, such as noise shields and blankets. (N-4)
 25. **Portable Equipment.** Where portable power generation or air compressors are required on the site, locate these noise sources as far away from the property line as possible. Where required because of proximity to residential areas, utilize a three or four sided enclosure which is lined with a sound absorbing material. Locate portable equipment where the noise shielding provided by remaining building structure will be beneficial. Another approach is to utilize very quiet power generation and air compressors, similar to those utilized in the motion picture industry on location. (N-5)
- H. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements caused by construction (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility service undergrounding and installation of street trees.
 3. **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 the issuance of the Certificate of Occupancy.

4. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section D have been recorded.
5. **Noise Measurements.** Submit a final report from a licensed acoustical engineer, verifying that interior and exterior living area noise levels are within acceptable levels as specified in the Noise Element. In the event the noise is not mitigated to acceptable levels, additional mitigation measures shall be recommended by the noise specialist and implemented subject to the review and approval of the Building and Safety Division and the Architectural Board of Review (ABR). (N-1)

- I. **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 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 COASTAL DEVELOPMENT PERMIT TIME LIMITS:

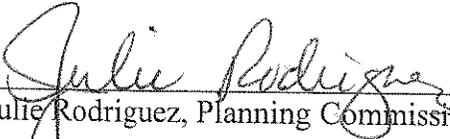
Pursuant to Section 28.44.230 of the Santa Barbara Municipal Code, work on the approved development shall commence within two years of the final action on the application, unless a different time is specified in the Coastal Development Permit. Up to three (3) one-year extensions may be granted by the Community Development Director in accordance with the procedures specified in Subsection 28.44.230.B of the Santa Barbara Municipal Code.

PLANNING COMMISSION RESOLUTION No. 033-09
124 LOS AGUAJES AVENUE
SEPTEMBER 3, 2009
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This motion was passed and adopted on the 3rd day of September, 2009 by the Planning Commission of the city of Santa Barbara, by the following vote:

AYES: 4 NOES: 3 (Jacobs, Larson, Lodge) ABSTAIN: 0 ABSENT: 0

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Planning Commission at its meeting of the above date.



Julie Rodriguez, Planning Commission Secretary



Date

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.