

DRAFT



City of Santa Barbara Planning Division

PLANNING COMMISSION MINUTES

February 3, 2011

CALL TO ORDER:

Chair Bartlett called the meeting to order at 1:00 P.M.

I. ROLL CALL

Chair Bruce Bartlett, Vice-Chair John Jostes, Commissioners Charmaine Jacobs, Mike Jordan, Stella Larson, Sheila Lodge, and Deborah L. Schwartz.

STAFF PRESENT:

Danny Kato, Senior Planner
Susan Reardon, Senior Planner and Staff Hearing Officer
N. Scott Vincent, Assistant City Attorney
Dan Gullett, Associate Planner
Julie Rodriguez, Planning Commission Secretary

II. PRELIMINARY MATTERS:

A. Nominations and election of Chair and Vice Chair.

MOTION: Schwartz/Larson

Nomination of Commissioner John Jostes as Chair and Commissioner Sheila Lodge as Vice Chair.

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0. Absent: 0

The Commission thanked Chair Bartlett for his year of service.

B. Action on the review of the following Draft Minutes and Resolutions:

1. Draft Minutes of December 16, 2010
2. Resolution 019-10
1032 E. Mason Street

MOTION: Lodge/Bartlett

Approve the minutes as corrected.

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

MOTION: Lodge/Larson

Approve resolution 019-10 as corrected.

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

- C. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

None.

- D. Announcements and appeals.

None.

- E. Comments from members of the public pertaining to items not on this agenda.

Chair Jostes opened the public hearing at 1:04 P.M. and, with no one wishing to speak on matters not on the agenda, closed the hearing at 1:07 P.M.

III. STAFF HEARING OFFICER APPEAL:

ACTUAL TIME: 1:07 P.M.

RECUSALS: To avoid any actual or perceived conflict of interest, Commissioner Bartlett recused himself from hearing this item due to owning commercial property within 500' of the project.

Commissioner Bartlett left the dais at 1:07 P.M.

APPEAL BY PATRICK FOURMY OF THE STAFF HEARING OFFICER'S DENIAL OF THE APPLICATION OF PATRICK FOURMY FOR COMPASSION CENTER OF SANTA BARBARA COUNTY, 2915 DE LA VINA STREET, APN 051-202-007, C-2 AND SD-2 ZONES, GENERAL PLAN DESIGNATION: GENERAL COMMERCE/BUFFER (MST2009-00497)

The proposed project involves permitting of an existing Medical Marijuana Storefront Collective Dispensary within a 1,060 square foot commercial building located at 2915 De la Vina Street.

The discretionary application required for this project is a Medical Marijuana Storefront Collective Dispensary Permit (SBMC §28.80.030).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15301 (Existing Facilities).

Case Planner: Daniel Gullett, Associate Planner
Email: DGullett@SantaBarbaraCA.gov

Phone: 805-564-5470, ext. 4559

Daniel Gullett, Associate Planner, gave the Staff presentation. Susan Reardon, Staff Hearing Officer and Captain Armando Martel, Santa Barbara Police Department were also available to answer any Planning Commission questions.

Gilbert Gaynor, Attorney for Appellant/Applicant Patrick Fourmy for the Compassion Center of Santa Barbara County, gave the appellant presentation.

Chair Jostes opened the public hearing at 2:07 P.M.

The following people spoke in support of the appeal:

1. Austin MacRae submitted a speaker slip but had to leave early.
2. Mona Mansfield-Erhardt submitted a speaker slip but had to leave early
3. Ruth Hammett
4. Jim Coleman
5. Paul Noleman
6. David Bearman, M.D.
7. Gregory Franks
8. Stephen Hosea, M.D.
9. Bill Dods

With no one else wishing to speak, the public hearing was closed at 2:26 P.M.

A majority of Commissioners indicated that the application did not meet the Criteria for Issuance for a dispensary permit. With regard to Issuance Criterion 12, a majority of Commissioners stated that sufficient information was not provided by the applicant in support of applicant's claim that the dispensary was currently operating legally, as provided in the Municipal Code.

MOTION: Jordan/Jacobs

Assigned Resolution No. 001-11

Denied the appeal and upheld the decision of the Staff Hearing Officer.

This motion carried by the following vote:

Ayes: 4 Noes: 2 (Lodge, Schwartz) Abstain: 0 Absent: 1(Bartlett)

Chair Jostes announced the ten calendar day appeal period.

Commissioner Schwartz left the dais at 2:47 P.M.

IV. **ADMINISTRATIVE AGENDA**

ACTUAL TIME: 2:48 P.M.

- A. Committee and Liaison Reports.
1. Staff Hearing Officer Liaison Report
Commissioner Larson reported on the Staff Hearing Officer meeting held on January 26, 2011.
 2. Other Committee and Liaison Reports
 - a. Commissioner Larson reported on the Historic Landmarks Commission meeting of February 2, 2011.
 - b. Commissioner Lodge reported on the Water Committee meeting of January 10, 2011.
 - c. Commissioner Lodge reported on the Airport Commission meeting of January 19, 2011.
 - d. Commissioner Jacobs reported on the Highway 101 Improvements Design Subcommittee.
 - e. Commissioner Jordan reported on the Creeks Committee meeting of January 19, 2011.
 - f. Commissioner Jordan announced First Thursday events taking place.
- B. Appointment of 2011 Primary and Alternate Liaisons to the City Boards and Commissions made in B.1 of this agenda.

Airport Commission

Sheila Lodge
Stella Larson – Alternate

Architectural Board of Review

Bruce Bartlett
Stella Larson – Alternate

**Creeks Restoration & Water Quality Improvement
Program Citizen Advisory Committee**

Mike Jordan
Deborah L. Schwartz. – Alternate

Downtown Parking Committee

Deborah L. Schwartz
Mike Jordan- Alternate

Harbor Commission

Mike Jordan.
Deborah L. Schwartz – Alternate

Highway 101 Improvements Design Subcommittee

Bruce Bartlett
Charmaine Jacobs
Deborah L. Schwartz - Alternate

Historic Landmarks Commission

Stella Larson
Sheila Lodge – Alternate

Housing Policy Steering Committee

Bruce Bartlett
John Jostes
Charmaine Jacobs – Alternate

Mission Creek Design Subcommittee

John Jostes
Sheila Lodge
Stella Larson – Alternate

Park and Recreation Commission

Charmaine Jacobs
Deborah L. Schwartz - Alternate

Plan Santa Barbara Subcommittee

John Jostes
Bruce Bartlett
Sheila Lodge

Single Family Design Board

Mike Jordan
Charmaine Jacobs - Alternate

Staff Hearing Officer/ Modification Liaison

Stella Larson
Sheila Lodge – Alternate

Sustainability Council Committee

Stella Larson
Mike Jordan – Alternate

Transportation and Circulation Committee

Deborah L. Schwartz
Bruce Bartlett – Alternate

Water Commission

Sheila Lodge
John Jostes – Alternate

MOTION: Larson/Jordan

Approved the 2011 Planning Commission Liaison Appointments

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 0 Absent: 2 (Bartlett, Schwartz)

VII. ADJOURNMENT

Chair Jostes adjourned the meeting at 3:01 P.M.

Submitted by,

Julie Rodriguez, Planning Commission Secretary

DRAFT



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 001-11

2915 DE LA VINA STREET

MEDICAL MARIJUANA STOREFRONT COLLECTIVE DISPENSARY PERMIT

FEBRUARY 3, 2011

APPEAL BY PATRICK FOURMY OF THE STAFF HEARING OFFICER'S DENIAL OF THE APPLICATION OF PATRICK FOURMY (HEREINAFTER THE "APPLICANT" OR THE "APPELLANT") FOR A PERMIT TO OPERATE THE "COMPASSION CENTER OF SANTA BARBARA COUNTY" AT 2915 DE LA VINA STREET, APN 051-202-007, C-2 AND SD-2 ZONES, GENERAL PLAN DESIGNATION: GENERAL COMMERCE/BUFFER (CITY APPLICATION MST2009-00497)

The proposed storefront medical marijuana dispensary project involves the permitting of an existing Medical Marijuana Storefront Collective Dispensary within a 1,060 square foot commercial building located at 2915 De la Vina Street under the authority of Santa Barbara Municipal Code Chapter 28.80;

The discretionary application required for this project is a Medical Marijuana Storefront Collective Dispensary Permit (SBMC §28.80.030).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15301 (Existing Facility).

WHEREAS, the Planning Commission conducted a site visit at the Applicant's existing dispensary facility on Monday, January 31, 2011 and viewed both the exterior of the premises upon which the existing dispensary is located and the interior of the Facility.

WHEREAS, the Planning Commission has held the required public hearing on the above application on February 3, 2011, where the Applicant/Appellant and his attorney, Gilbert Gaynor, were present and allowed the opportunity to make a comprehensive Powerpoint and video presentation to the Commission in support of and to explain the application.

WHEREAS, seven people appeared at the Commission hearing in order to speak in favor of the appeal, and no one appeared to speak in opposition to the appeal, and the following documents and exhibits were presented for the record:

1. Staff Report with Attachments, January 27, 2011.
2. Site Plans for the Application
3. Correspondence received in support of the appeal:
 - a. Gilbert Gaynor, Santa Barbara, CA attorney for the Appellant
 - b. Dr. David Bearman, Goleta, CA
4. Correspondence received in opposition to the appeal:
 - a. Paula Westbury, Santa Barbara, CA

NOW, THEREFORE BE IT RESOLVED that the Santa Barbara City Planning Commission finds and determines as follows with respect to the subject appeal by the Applicant:

- I. The Commission denies the subject appeal and upholds the decision of the Staff Hearing Officer to not issue the requested storefront dispensary permit under SBMC Chapter 28.80 based on the following evidentiary findings and land use determinations and considerations:
 - a. The Applicant has apparently engaged in the improper operation of a storefront collective medical marijuana dispensary at 2915 De La Vina Street in violation of the Santa Barbara Municipal Code since April 2009 after the Applicant's dispensary at De La Vina Street location ceased to be a pre-existing legal nonconforming dispensary under section three of City Ordinance No. 5449 because it was discontinued in operation during 2008 for a period of time well in excess of thirty (30) days.
 - b. The loss of pre-existing legal non-conforming status for Applicant's 2915 De La Vina dispensary is established, in part, by the Applicant's own written admission under penalty of perjury that, between November 1, 2007 and April 2009, he and his brother operated a music store known as the "Harmonic Alliance" at the 2915 De La Vina store location and, as a result, the Commission concludes that the Applicant apparently discontinued the dispensary operation at the De La Vina Street location for a substantial period of time and, instead, operated a music store at the De La Vina location.
 - c. The discontinuance of the Applicant's dispensary operation at 2915 De La Vina location between November 1, 2007 and April 2009 is, in the Commission's view, further supported by the Applicant's admission to the Commission during the February 3, 2011 public hearing (as well as in written materials the Applicant submitted to the Staff Hearing Officer in support of his application), that, during this same period of time, he opened and operated a medical marijuana dispensary located at 3532 State Street, which dispensary was also not operated pursuant to the required City dispensary permit and, thus, in apparent violation of Santa Barbara City Ordinance No. 5436 and Ordinance No. 5449.
 - d. The apparent discontinuance of the Applicant's dispensary operation at 2915 De La Vina location between November 1, 2007 and April 2009 is, in the Commission's view, further supported by evidence provided to the City by representatives of the federal Drug Enforcement Administration indicating that the DEA personally inspected the Applicant's De La Vina dispensary location on two occasions (November 21, 2007 and January 9, 2008) and did not find the dispensary to be in operation at that location during those inspections and by an inspection by conducted by a City Code Enforcement officer on September 22, 2008 who only found a music store operating at the 2915 De La Vina location.
 - e. The Commission also believes that the Applicant, when questioned by Planning Commissioners Schwartz and Jacobs at the Commission's public hearing about his asserted continuous operation of the De La Vina Street dispensary during 2008, did not provide credible or believable explanations for why he was, by his own admission, operating a music store at the De La Vina location or why, by his own admission, he also opened a dispensary at 3532 State Street during this same 2008 period of time. In addition, the Applicant provided no good explanation for why he opened a dispensary at 3532 State Street without having obtained a City permit to do so.
 - f. The Commission also finds that the Applicant failed to provide any good or reasonable explanation of why he apparently negligently stored a substantial amount of medical marijuana

in a locked container made of wood and chicken wire within a public storage facility on Carrillo Street and, as a result, of the Applicant's apparent negligent storage, approximately 50 pounds of this marijuana (worth, according to the Applicant, approximately \$400,000) was easily stolen and presumably then became available to others for illegal use in a manner contrary to state law.

- g. The Commission also finds that the Applicant's inability and unwillingness to present the City with adequate non-confidential dispensary business or "qualified patient" records in support of his claim of he did not discontinue the operation of a storefront dispensary at 2915 De La Vina Street during 2008 leads the Commission to conclude that the operation was probably, in fact, discontinued and leads the Commission to further question the Applicant's trustworthiness and credibility. It also bring into question the Applicant's ability and willingness to maintain appropriate collective dispensary records in future as would be required pursuant to Subsection 28.80.080.H of the Santa Barbara Municipal Code.

Consequently, based on the above-stated evidentiary findings, the Planning Commission upholds the decision of the Staff Hearing Officer on this application, denies the Applicant the requested storefront dispensary permit and concludes that the Applicant and his Application does not merit the issuance of a City dispensary permit under the SBMC Section 28.80.070 subsection (B) criteria as follows:

1. The Applicant's apparently willful attempt to conceal and obscure the true nature of the dispensary business operations at the 2915 De La Vina Street location and his operations at the 3532 State Street location in the past brings into serious question whether he would fully and appropriately comply with any dispensary permit conditions which might be imposed by City on a permit to be issued under SBMC Chapter 28.80 for the lawful operation of a storefront collective dispensary and this conclusion results in the Commission not being able to find that Criteria No. 11 and Criteria No. 9 are properly satisfied by this Application and by the Applicant's proposed dispensary operation.
2. The negligent storage and theft of a substantial amount of marijuana in the possession of the Applicant causes the Planning Commission to seriously question whether the Applicant would properly secure medical marijuana in a permitted dispensary in order to prevent unintended and unlawful diversion of medical marijuana in the future and this causes the Commission to be concerned that this Applicant and his proposed dispensary operation will not be able to and does not properly satisfy Criteria No. 8, Criteria No. 10 and Criteria No. 12 of the City's Ordinance.
3. The Applicant's admitted opening and operation of a second storefront collective dispensary at 3532 State Street, without the benefit of a valid City permit at a time when such a permit was required, also causes the Planning Commission to question whether the Applicant would comply with the City's prohibition against transferring a permit location (as specified in Subsection 28.80.130.A of the Santa Barbara Municipal Code) and whether the Applicant would fully and consistently comply with other permit conditions of approval. For these reasons, the Commission finds this Application also does not meet Criteria No. 10 and Criteria No. 12.

This motion was passed and adopted on the 3rd day of February, 2011 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 4 NOES: 2 (Lodge, Schwartz) ABSTAIN: 0 ABSENT: 1 (Bartlett)

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.

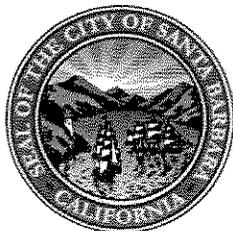
Julie Rodriguez, Planning Commission Secretary

Date

PLEASE BE ADVISED:

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

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City of Santa Barbara

Planning Division

PLANNING COMMISSION MINUTES

February 17, 2011

CALL TO ORDER:

Chair Jostes called the meeting to order at 1:04 P.M.

I. ROLL CALL

Chair John Jostes, Vice Chair Sheila Lodge, Commissioners Bruce Bartlett, Charmaine Jacobs, Stella Larson, and Deborah L. Schwartz.

Absent: Mike Jordan,

STAFF PRESENT:

Danny Kato, Senior Planner
 N. Scott Vincent, Assistant City Attorney
 Allison De Busk, Project Planner
 Julie Rodriguez, Planning Commission Secretary

II. PRELIMINARY MATTERS:

A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

None.

B. Announcements and appeals.

Mr. Kato announced that the Planning Commission's decision on the 2915 De la Vina appeal heard on February 3, 2011 has been appealed to City Council and will be heard on April 12, 2011.

C. Comments from members of the public pertaining to items not on this agenda.

Chair Jostes opened the public hearing at 1:05 P.M. and, with no one wishing to speak, closed the hearing.

III. CONSENT ITEM:

ACTUAL TIME: 1:06 P.M.

APPLICATION OF AMY VON PROTZ, AGENT, FOR RON AND CHRISTINE SAUER, 1519 SHORELINE DRIVE, 045-182-006, E-3/S-D-3 ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL 5 UNITS PER ACRE (MST2010-00315)

The project consists of a remodel of an existing two-story single-family residence, including permitting existing, unpermitted floor area. Specifically, the project includes: 1) demolition and reconstruction of the 394 square foot as-built sunroom (proposed dining room) on the first floor, 2) permitting an as-built 325 square foot tool room with half-bath and converting it to a bedroom and bathroom, 3) adding 19 square feet to the first floor to provide an internal connection from the newly converted bedroom (former tool room) to the house, 4) addition of 180 square feet to the existing 303 square foot second floor deck, including a new outdoor fireplace, 5) an interior remodel, 6) construction of a new site wall and gate (27 linear feet) at the front of the residence, and 7) replacement of all windows and doors.

The discretionary application required for this project is a Coastal Development Permit (CDP2011-00001) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.45.009).

The Environmental Analyst has determined that the project is exempt from environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301, Existing Facilities.

Case Planner: Allison De Busk, Project Planner
Email: ADebusk@SantaBarbaraCA.gov

Phone: 805-564-5470, ext. 4552

Commission Bartlett requested that the Planning Commission waive the Staff Report.

MOTION: Bartlett/Lodge

Waive the Staff Report

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Jordan)

Amy Von Protz and David DeLorie, Agents for the Applicant, made themselves available to answer any questions on behalf of the Applicant.

Chair Jostes opened the public hearing at 1:09 P.M., and with no one wishing to speak closed the public hearing.

MOTION: Lodge/Schwartz

Assigned Resolution No. 002-11

Approved the project, making the findings for the Coast Development Permit as outlined in the Staff Report, subject to the Conditions of Approval in Exhibit A of the Staff Report.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Jordan)

Chair Jostes announced the ten calendar day appeal period.

IV. ADMINISTRATIVE AGENDA

ACTUAL TIME: 1:11 P.M.

A. Committee and Liaison Reports.

1. Staff Hearing Officer Liaison Report
None was given.
2. Other Committee and Liaison Reports
 - a. Commissioner Larson reported on the Historic Landmarks Commission meeting held February 16, 2011.
 - b. Commissioner Schwartz reported on the Downtown Parking Committee meeting held February 10, 2011.
 - c. Commissioner Barlett reported on the Architectural Board of Review meeting held February 14, 2011.
 - d. Danny Kato announced that there would be a joint meeting held with the Historic Landmarks Commission on April 22, 2011.
 - e. Commissioner Lodge reported on the Water Commission meeting held February 14, 2011.

VII. ADJOURNMENT

MOTION: Bartlett/Lodge

Adjourn meeting.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Jordan)

Chair Jostes adjourned the meeting at 1:28 P.M.

Submitted by,

Julie Rodriguez, Planning Commission Secretary





City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 002-11
1519 SHORELINE DRIVE
COASTAL DEVELOPMENT PERMIT
FEBRUARY 17, 2011

**APPLICATION OF AMY VON PROTZ, AGENT, FOR RON AND CHRISTINE SAUER,
1519 SHORELINE DRIVE, 045-182-006, E-3/S-D-3 ZONES, GENERAL PLAN DESIGNATION:
RESIDENTIAL 5 UNITS PER ACRE (MST2010-00315)**

The project consists of a remodel of an existing two-story single-family residence, including permitting existing, unpermitted floor area. Specifically, the project includes: 1) demolition and reconstruction of the 394 square foot as-built sunroom (proposed dining room) on the first floor, 2) permitting an as-built 325 square foot tool room with half-bath and converting it to a bedroom and bathroom, 3) adding 19 square feet to the first floor to provide an internal connection from the newly converted bedroom (former tool room) to the house, 4) addition of 180 square feet to the existing 303 square foot second floor deck, including a new outdoor fireplace, 5) an interior remodel, 6) construction of a new site wall and gate (27 linear feet) at the front of the residence, and 7) replacement of all windows and doors.

The discretionary application required for this project is a Coastal Development Permit (CDP2011-00001) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.45.009).

The Environmental Analyst has determined that the project is exempt from environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301, Existing Facilities.

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

WHEREAS, no one 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, February 10, 2011.
2. Site Plans

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

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

Coastal Development Permit (SBMC §28.44.150)

The project is consistent with the policies of the California Coastal Act, the City's Local Coastal Plan, all implementing guidelines and all applicable provisions of the Code because the remodel is compatible with the existing neighborhood, would not be visible from the beach or impact views from public view corridors, would not impact public access, would not contribute to safety or drainage hazards on the site, including those related to seacliff retreat, and is not located on an archaeologically sensitive site. Refer to Section VI of the staff report for a complete discussion of these issues.

II. Said approval is subject to the following conditions:

- 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. Record any required documents (see Recorded Conditions Agreement section below).
 3. Pay Land Development Team Recovery Fee.
 4. Make application and obtain a Building Permit (BLD) for construction of approved development.

Details on implementation of these steps are provided throughout the conditions of approval.

- B. **Design Review.** The project is subject to the review and approval of the Single Family Design Board (SFDB). SFDB shall not grant project design approval of the project until the following Planning Commission land use conditions have been satisfied.

1. **Appropriate Plants on Bluff.** Special attention shall be paid to the appropriateness of the existing and proposed plant material on the bluff. All existing succulent plants that add weight to the bluff and/or contribute to erosion shall be removed in a manner that does not disturb the root system and replaced with appropriate plant material in a manner that does not increase the rate of erosion.
2. **Irrigation System.** The irrigation system shall be designed and maintained with the most current technology to prevent a system failure, and watering of vegetation on the bluff edge shall be kept to the minimum necessary for plant survival.
3. **Reduction of Future Water Use.** Identify native and drought tolerant plants as landscaping in place of the existing lawn area in the back yard. Calculate the water use for these native and drought tolerant plants and use this as a baseline for irrigation needs. The proposed landscaping shall maintain or reduce this baseline level in the backyard.

- C. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute a written instrument, 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 February 17, 2011 is limited to a remodel of an existing two-story single-family residence, including permitting of as-built space totaling approximately 720 net square feet, approximately 19 square feet of new building area, a 180 square foot addition to an existing second floor deck, an interior remodel, construction of a new site wall and gate totaling 27 lineal feet, replacement of all windows and doors, and the improvements shown on the plans 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 Limitation.** No recreational vehicles, boats, or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
4. **Zoning Compliance Declaration.** The Owner shall file a Zoning Compliance Declaration to assure that the residence shall remain a single family residence.
5. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. 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 SFDB, the owner is responsible for its immediate replacement.
6. **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 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 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.
7. **Coastal Bluff Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from waves during storms and erosion, retreat, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.
8. **Geotechnical Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from landslides, erosion, retreat, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.

D. **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. **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.
- b. **Drainage and Water Quality.** The project is required to comply with Tier 2 of the Storm Water Management Plan (treatment, rate and volume). The Owner shall submit worksheets from the Storm Water BMP Guidance Manual for Post Construction Practices demonstrating that the new development will comply with the City's Storm Water Management Plan. 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. 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.

2. **Community Development Department.**

- a. **Recordation of Agreements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in condition C "Recorded Conditions Agreement" to the Community Development Department prior to issuance of any building permits.

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

1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Single Family Design Board, outlined in Section B above.

2. **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.

3. **Post-Construction Erosion Control and Water Quality Plan.** Provide an engineered drainage plan that addresses the existing drainage patterns and leads towards improvement of the quality and rate of water run-off conditions from the site by capturing, infiltrating, and/or treating drainage and preventing erosion. The Owner shall employ passive water quality methods, such as bioswales, catch basins, or storm drain on the Real Property, or other measures specified in the Erosion Control Plan, to intercept all sediment and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) from the parking lot areas and other improved, hard-surfaced areas prior to discharge into the public storm drain system, including any creeks. All proposed methods shall be reviewed and approved by the Public Works Department and the Community Development Department. Maintenance of these facilities shall be provided by the Owner, as outlined in Condition C.5, above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.
4. **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., Archaeologist contract submitted to Community Development Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

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

F. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.

1. **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 Manager with a Public Works permit.
2. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
3. **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 and contractor(s) telephone number(s) to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. 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 six square feet.
4. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the applicant shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

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

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

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

1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.

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 Planning Commission.
 - 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. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid upon submittal for a building permit.
4. **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.

A. NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:

The Planning Commission's action approving the Coastal Development Permit shall expire two (2) years from the date of final action upon the application, per Santa Barbara Municipal Code §28.44.230, unless:

1. Otherwise explicitly modified by conditions of approval for the coastal development permit.
2. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.
3. The Community Development Director grants an extension of the coastal development permit approval. The Community Development Director may grant up to three (3) one-year extensions of the coastal development permit approval. Each extension may be granted upon the Director finding that: (i) the development continues to conform to the Local Coastal Program, (ii) the applicant has demonstrated due diligence in completing the development, and (iii) there are no changed circumstances that affect the consistency of the development with the General Plan or any other applicable ordinances, resolutions, or other laws.

This motion was passed and adopted on the 17th day of February, 2011 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 ABSTAIN: 0 ABSENT: 1 (Jordan)

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

PLEASE BE ADVISED:

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