



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 009-12

4151 FOOTHILL ROAD, 675 CIENEGUITAS ROAD AND 681 CIENEGUITAS ROAD  
ANNEXATION, GENERAL PLAN AMENDMENT, ZONING MAP AMENDMENT, ECONOMIC DEVELOPMENT  
DESIGNATION, DEVELOPMENT PLAN

JUNE 21, 2012

**APPLICATION OF STEVE FORT, SUZANNE ELLEDGE PLANNING & PERMITTING SERVICES,  
FOR FOOTHILL CENTRE, LP, 4151 FOOTHILL ROAD AND 681 CIENEGUITAS ROAD, APN 059-  
160-017 AND -023; SC (SHOPPING CENTER) ZONE (COUNTY), GENERAL PLAN DESIGNATION:  
NEIGHBORHOOD COMMERCIAL (COUNTY) (MST2008-00496)**

The project consists of the annexation of three parcels (4151 Foothill Road and 675 and 681 Cieneguitas Road) totaling 4.31 acres into the city of Santa Barbara, and detachment from the Goleta Water District, the Goleta Sanitary District, the Santa Barbara County Fire Protection District, County Service Area 3 and County Service Area 32. Upon annexation, a City General Plan designation of Commercial/Medium High Density Residential is proposed, with a zoning designation of Limited Commercial/Upper State Street Overlay (C-1/S-D-2).

Proposed development would include two new 37-foot tall two-story office buildings totaling 60,122 net sq. ft., constructed at 4151 Foothill Road and 681 Cieneguitas Road, for use by Sansum Clinic. A 225-space parking lot would be constructed, with access from Cieneguitas Road. The existing abandoned gas station would be demolished. The existing 2,500 sq. ft. building at 675 Cieneguitas Road, currently used as a veterinary hospital, would remain.

The discretionary applications required for this project are:

**Actions requiring a recommendation by the Planning Commission to the City Council, and subsequent approval by the City Council and LAFCO:**

1. Reorganization of APNs 059-160-017, -021 and -023, including Annexation to the city of Santa Barbara and Detachment from Goleta Water District, Goleta Sanitary District, Santa Barbara County Fire Protection District, County Service Area 3 (Goleta Valley - Multipurpose) and County Service Area 32 (Unincorporated Area - Law Enforcement);
2. A General Plan Amendment to designate the three parcels (APNs 059-160-017, -021 and -023) as Commercial/Medium High Density Residential upon annexation;
3. A Zoning Map Amendment to zone the three parcels (APNs 059-160-017, -021 and -023) C-1/S-D-2 (Limited Commercial and Upper State Street Overlay) upon annexation;

**Action requiring a recommendation by the Planning Commission to the City Council, and subsequent approval by the City Council:**

4. Final Economic Development Designation by the City Council for 13,526 square feet from the Economic Development category for a medical office/clinic on APNs 059-160-017 and -023 (SBMC 28.87.300); and

**Actions by the Planning Commission, contingent upon recommendation of the actions listed above:**

5. A Development Plan to allow the construction of 58,372 square feet of net new nonresidential development on APNs 059-160-017 and -023 (SBMC §28.87.300).

The Planning Commission will consider approval of the Mitigated Negative Declaration prepared for the project 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**, no one appeared to speak in favor of the application, and 6 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, June 14, 2012
2. Site Plans
3. Updated Conditions of Approval dated June 21, 2012
4. Correspondence received in opposition to the project or with concerns:
  - a. Patty Ferguson and Ron Lopez, via email
  - b. David Jones, via email
  - c. Ray and Colleen Evans, via email
  - d. Richard Battles for Michael D. Rittenberg, Foothill Pet Hospital, via email
  - e. Paula Westbury, Santa Barbara, CA

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

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

**A. FINAL MITIGATED NEGATIVE DECLARATION ADOPTION**

1. The Planning Commission has considered the proposed Final Mitigated Negative Declaration, dated June 11, 2012 for the 4151 Foothill Road Project (MST2008-00496) and comments received during the public review process.
2. In the Planning Commission's independent judgment and analysis based on the whole record (including the initial study and comments received), there is no substantial evidence that the Project will have a significant effect on the environment.
3. The location and custodian of documents or other material which constitute the record of proceedings upon which this decision is based is the City of Santa Barbara Community Development Department, 630 Garden Street, Santa Barbara, CA 93101.
4. Mitigation measures identified in the Mitigated Negative Declaration that would avoid or reduce all potentially significant impacts to less than significant levels have been included in the project or made a condition of approval. Additional mitigation measures to minimize adverse but less than significant environmental effects have also been included as conditions of approval. A Mitigation Monitoring and Reporting Program,

prepared in compliance with the requirements of Public Resources Code § 21081.6, is included in the Final Mitigated Negative Declaration for the Project and is hereby adopted.

**B. DEVELOPMENT PLAN (SBMC §28.87.300.D)**

1. The proposed development complies with all provisions of Title 28.

*As identified in Section VI.A of the staff report, the project complies with all provisions of the City's Zoning Ordinance (Title 28).*

2. The proposed development is consistent with the principles of sound community planning.

*The project is an infill project proposed in an area where commercial and residential development are permitted uses. The project site has been previously developed, and has been undergoing remediation for many years. Redevelopment of the site would eliminate an unkempt, essentially vacant lot with a new commercial/office development that has been found to be compatible with surrounding development and with the City's aesthetic criteria. As identified in the Mitigated Negative Declaration, the project will have no significant unmitigated environmental impacts. The project is adequately served by public streets, public transportation and utilities.*

3. The proposed development will not have a significant adverse impact upon the neighborhood's aesthetics/character in that the size, bulk or scale of the development will be compatible with the neighborhood.

*As described in Section VIII of the staff report, the design has been reviewed by the City's Architectural Board of Review, which found the architecture and site design appropriate, and found the project consistent with applicable Design Guidelines and compatible with the architectural character of the City and the surrounding neighborhood. Additionally, the Mitigated Negative Declaration prepared for the project analyzed the project's aesthetic and view impacts and found that the project would not have a significant environmental impact on aesthetics. The immediate neighborhood contains a mixture of one and two-story residential developments.*

*Final review of the project, including architectural details, outdoor lighting, mechanical equipment and landscaping will be provided by the Architectural Board of Review.*

4. The proposed development will not have a significant unmitigated adverse impact upon City and South Coast affordable housing stock.

*The project includes development of a medical office complex for use by Sansum Clinic. The proposed new offices would result in the consolidation of several offices currently used by Sansum. It is estimated that the Foothill Centre development project will result in 25-30 new employees on the south coast, which represents a very small increase in area employees. The project does not include the demolition of any housing, nor does it include construction of new housing. The applicant prepared a Housing Mitigation Calculation based on the Regional Growth Impact Study (1980), which estimated that the Foothill Centre development would generate a demand for 10 low to moderate income housing units. The project developer has recently constructed 200 residential units in Goleta (Sumida Gardens), of*

*which 34 were designated for low-income homebuyers. The project will not have an adverse impact on affordable housing stock.*

5. The proposed development will not have a significant unmitigated adverse impact on the City's water resources.

*As described in Section VII of the staff report and in more detail in the project's Mitigated Negative Declaration, adequate City services, including water, are currently available to the project site. Water resource impacts are not anticipated as a result of the construction of the Foothill Centre development.*

6. The proposed development will not have a significant unmitigated adverse impact on the City's traffic.

*As identified in Section VII of the staff report and in more detail in the project's Mitigated Negative Declaration, the project will not generate substantial traffic and will not significantly impact any area intersections.*

7. Resources will be available and traffic improvements will be in place at the time of project occupancy.

*The project site is adequately served by existing public streets and utilities. Traffic improvements proposed as part of the project (extension of left turn lane on Cieneguitas Road) and required sidewalk improvements must be completed prior to project occupancy, as outlined in the project's conditions of approval.*

#### **C. RECOMMENDATIONS TO CITY COUNCIL:**

##### **1. ANNEXATION**

The proposed annexation is appropriate since the project site is within the City's Sphere of Influence, and is identified in the Land Use Element as an area that should be annexed to the City. The project site is surrounded on two sides by property currently within the City's jurisdiction. A City maintained road (Cieneguitas Road) serves the site and some City services are currently provided to the site.

##### **2. GENERAL PLAN AMENDMENT**

The proposed General Plan designation of Commercial / Medium High Density Residential is consistent with the existing County General Plan designation and with the proposed zoning designation. This land use designation would be consistent and compatible with surrounding development and land uses in this neighborhood.

##### **3. ZONING MAP AMENDMENT**

The proposed rezone from Santa Barbara County Shopping Center zoning to the City zoning designation of Limited Commercial and Special District 2 "Upper State Street Area" (C-1/SD-2) Zone is compatible with the surrounding neighborhood zoning. This zoning designation would also be consistent with the proposed General Plan designation of Commercial/Medium High Density Residential. The uses allowed under this designation would also be compatible with surrounding development and would provide a buffer between Highway 154 and existing residential development.

##### **4. ECONOMIC DEVELOPMENT FINDINGS**

As discussed in Section VI.A.2 of the staff report, the proposed development qualifies as an Economic Development Project because it will enhance the standard of living (defined as wages, employment, environment, resources, public safety, housing, schools, parks and recreation, social and human services, and cultural arts) for City and South Coast residents and strengthen the local or regional economy by creating new permanent employment opportunities. It will also support diversity and balance in the local and regional economy by providing services (outpatient surgery center and medical clinic) that are currently in limited supply both locally and regionally.

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 additional land use approvals. Refer to condition B "Approval Contingent upon Annexation, Adoption of General Plan and Zoning Map Amendments, and Final Economic Development Allocation."
  2. Pay Fish and Game fee immediately upon project approval by City Council. Delays in payment will result in delays in filing the required Notice of Determination.
  3. Submit DRAFT LAFCO Annexation Map to Public Works.
  4. Obtain LAFCO Approval and Complete Annexation.
  5. Abate nonconforming pole sign on 675 Cieneguitas Road within 180 days of annexation completion.
  6. Obtain all required design review approvals.
  7. Pay Land Development Team Recovery Fee at time of first permit application.
  8. Make application and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform rough grading. Comply with condition G "Construction Implementation Requirements."
  9. Make application to the Public Works counter to process a Voluntary Merger prior to issuance of any Building Permits or other Public Works permits.
  10. Record any required documents (see Recorded Conditions Agreement section).
  11. Permits.
    - a. Make application and obtain a Building Permit (BLD) for construction of approved development.
    - b. Make application and obtain a Public Works Permit (PBW) for all required public improvements.

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

- B. **Approval Contingent Upon Annexation, Adoption of General Plan and Zoning Map Amendments, and Final Economic Development Allocation.** Approval of the subject project is contingent upon approval of the Annexation, General Plan and Zoning Map Amendment, and

Final Economic Development Allocation by the City Council and Local Agency Formation Commission (as applicable), and completion of the annexation.

- C. **Recorded Conditions Agreement (APNs 059-160-017 and -023).** The Owner of APNs 059-160-017 and -023 shall execute a *written instrument*, which shall be prepared by Planning staff, 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 June 21, 2012 is limited to annexation of these parcels into the City, and merger and development of those lots. The merged lots will be developed with the Foothill Centre, which includes approximately 60,122 net square feet of building area contained in two, two-story buildings, 225 parking spaces, 24 bike parking spaces, and the improvements described in the Final Mitigated Negative Declaration and 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 continuation of any historic uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
  3. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
  4. **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, including any tree protection measures. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.
  5. **Tree Protection.** The four existing oak tree(s) and one stone pine shown on the Landscape Plan as to be protected, shall be preserved, protected, and maintained.
  6. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.
  7. **Transportation Demand Management.** The following alternative mode incentives, which were proposed in the parking study prepared by Associated Transportation

Engineers dated February 2, 2012, are included as part of the approved project to minimize potential parking and traffic impacts caused by the project. The Transportation Demand Management (TDM) Program shall consist of a combination of the following, based on coordination with employees and which programs prove to be the most effective. The effectiveness of the TDM Program will be reviewed annually and adjustments may be made based on the success of the individual components. Any proposed changes to the Program will require approval by the City. Owner shall be responsible for ensuring that all tenants comply with the provisions of the approved TDM Program.

- a. **TDM Administrator.** The Owner shall appoint a TDM Administrator responsible for the alternative mode incentives. The TDM Administrator shall coordinate with Traffic Solutions or successor agency for training and assistance in administrating their program in order to maximize the effectiveness of the programs offered. The TDM Administrator will also be in charge of parking monitoring and will be the designated contact person for the public to reach concerning any parking/circulation issues in the adjacent neighborhood.

For the first three years of operation, the TDM Administrator shall provide an annual report to the Community Development Director and the Transportation Manager illustrating the number of users, describing the marketing techniques and program results, including successes and failures.

- b. **Carpool Parking Spaces.** Preferential parking spaces for carpools/rideshares shall be provided and designated by "Carpool Permit Parking Only" signs. Carpool permits shall be issued to those employees who carpool and are eligible.
- c. **Commuter Bus And MTD Subsidies.** The employer shall pay for a portion (50%) of the costs for employees who use the Clean Air Express and Coastal Express commuter bus programs and local Metropolitan Transit District (MTD) bus routes. Notice of these incentives shall be provided to existing employees and new employees when they are hired. MTD Line 10 directly serves the Foothill site. The existing bus stop on Pesetas Lane currently serves the Clean Air and Coastal Express commuter lines and MTD Line 8. A shuttle system shall be tied into this program in order to transport employees from the existing bus stop at the Pesetas Lane site to and from the Foothill site.
- d. **TDM Incentives Posted.** Employer shall post the incentives offered and any other applicable and pertinent information related to alternative transportation options in a central (public) location accessible to employees.
- e. **Bus Routes and Schedules Posted.** Notice of MTD bus routes and schedules shall be placed and maintained up-to-date in a central (public) location accessible to employees.
- f. **Bicycle Use.** Employer will creatively offer incentives to support those who bike and encourage those who might, by offering secure bicycle parking on site, including new bicycle lockers.

- g. **Shower and Locker Facilities.** Male and female employee shower and locker facilities shall be provided and maintained as approved by the Transportation Manager. The showers shall be available for use before and during work hours. Notice of these facilities shall be provided when employees are hired.
  - h. **Ride-Sharing / Carpooling Program.** Employees shall be made aware of the Ride-Sharing Program or similar successor programs administered by Traffic Solutions or successor agency. The Owner and/or all employers shall have all employees registered with the Traffic Solutions ride matching Program to encourage ridesharing and carpooling.
  - i. **Employee Lunch Room.** An employee lunchroom shall be provided in the building, including the following amenities: refrigerator, microwave oven, sink, food preparation area, tables and chairs. Hot and cold drinks and cold foods shall be made available for purchase to employees.
  - j. **Guaranteed Ride Home.** In the event of an emergency or work requirement that interferes with the normal transportation arrangement of any employee using mass transportation, a carpool, rideshare or a vanpool to get to work, the Owner or employer shall provide cab fare, a company car, or other means to guarantee a free ride home.
8. **Off-Site Parking Agreement.** An off-site parking agreement, or similar equivalent legal arrangement subject to acceptance by the City, shall be prepared by the Applicant in order to provide for the five parking spaces located on APN 059-160-021.
9. **Areas Available for Parking.** All parking areas and access thereto shall be kept open and available in the manner in which it was designed and permitted.
- D. **Recorded Conditions Agreement (APN 059-160-021).** The Owner of APN 059-160-021 shall execute a *written instrument*, which shall be prepared by Planning staff, 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 June 21, 2012 is limited to annexation of the parcel into the City, and the improvements described in the Final Mitigated Negative Declaration and 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. **Pole Sign.** The existing pole sign located at 675 Cieneguitas Road must be brought into conformance with the City's Sign Ordinance within 180 days of completion of the annexation (as evidenced by Notice of Completion from LAFCO). This requires removal or approval of an exception to SBMC §22.70.080, pursuant to SBMC §22.70.080.C.3.
  - 3. **Uninterrupted Water Flow.** The Owner shall provide for the continuation of any historic uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
  - 4. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.



5. **Areas Available for Parking.** All parking areas and access thereto shall be kept open and available in the manner in which it was designed and permitted.
- E. **Design Review.** The Foothill Centre development project, including public improvements, is subject to the review and approval of the Architectural Board of Review (ABR). The ABR shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.
1. **Tree Removal and Replacement.** All trees removed, except fruit trees and street trees approved for removal without replacement by the Parks Department, shall be replaced on-site on a one-for-one basis with minimum 15 gallon size tree(s) of an appropriate species or like species, in order to maintain the site's visual appearance and reduce impacts resulting from the loss of trees.
  2. **Tree Protection Measures.** The landscape plan and grading plan shall include the following tree protection measures:
    - a. **Tree Protection.** All trees not indicated for removal on the approved landscape plan shall be preserved, protected, and maintained, in accordance with any related Conditions of Approval.
    - b. **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s), as determined by the ABR.
    - c. **Oak Trees.** The following additional provisions shall apply to existing, protected oak trees on site:
      - (1) No irrigation system shall be installed within three feet of the dripline of any oak tree, unless comparable oak protection measures are approved by the Planning Division and ABR.
      - (2) Oak trees greater than four inches (4") in diameter at four feet (4') above grade removed as a result of the project shall be replaced at an eight to one (8:1) ratio, at a minimum five (5) gallon size, from South Coastal Santa Barbara County Stock.
      - (3) The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.
      - (4) No storage of heavy equipment or materials, or parking shall take place within five (5) feet of the dripline of any oak tree.
    - d. **During Construction.**
      - (1) All trees proposed to remain within 25 feet of proposed construction activity shall be fenced three feet outside the dripline for protection.
      - (2) A qualified Arborist shall be present during any excavation beneath the dripline(s) of the tree(s) which are required to be protected. All excavation within the dripline(s) of the tree(s) shall be minimized and shall be done with hand tools.
      - (3) Any roots encountered shall be cleanly cut and sealed with a tree-seal compound.

- (4) Any root pruning and trimming shall be done under the direction of a qualified Arborist.
    - (5) No heavy equipment, storage of materials or parking shall take place under the dripline of any tree(s), or within five (5) feet of the dripline of any oak tree.
    - (6) Oak seedlings and saplings less than four inches (4") at four feet (4') above the ground that are removed during construction shall be transplanted where feasible. If transplantation is not feasible, replacement trees shall be planted at a minimum one to one (1:1) ratio. Replacement trees shall be a minimum of one (1) gallon size derived from South Coastal Santa Barbara County stock.
  3. **Screened Backflow Device.** The backflow devices for fire sprinklers, solar panels, all commercial buildings and irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building, as approved by the ABR.
  4. **Project Directory.** A project directory listing all units on-site shall be indicated on the project plans. This directory shall be lit sufficiently for readability for site visitors and placed in a location or locations acceptable to the Fire Department, shall meet current accessibility requirements, and is subject to Design Review Approval.
  5. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.

Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.
  6. **Covered Parking.** Applicant to consider some inclusion of covered parking with solar benefits.
  7. **Storm Water Capture.** Applicant to consider parking lot improvements incorporating storm water capture.
- F. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.
  1. **Public Works Department.**
    - a. **Approved Public Improvement Plans.** Public Improvement Plans as identified in conditions F.1.g "Foothill Road Public Improvements" and E.1.g "Cieneguitas Road Public Improvements" shall be submitted to the Public Works Department for review and approval separately from the Building Plans. Upon acceptance of approximately 60% complete (at a minimum) public improvement plans, a

Building permit may be issued after the Owner has submitted securities for public improvements and executed the *Agreement to Construct and Install Improvements (Not a Subdivision)*.

- b. **Dedication.** Offer and Dedication of Easements, as shown on the approved site plan and described as follows, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:
- (1) Offer a Sidewalk Easement to the City of Santa Barbara along the Foothill Road property frontage in order to establish an additional 4.9-foot wide public sidewalk.
- c. **Water Rights Assignment Agreements.**
- (1) Prior to issuance of any permit for development on APNs 059-160-017 or -023, the Owner of APNs 059-160-017 and -023 shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff prepares said agreements for the Owners' signatures.
  - (2) **Water Rights Assignment Agreements.** Within 180 days of annexation, or prior to issuance of any permit for development on APN 059-160-021, whichever is sooner, the Owner of APN 059-160-021 shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff prepares said agreements for the Owners' signatures.
- d. **Drainage and Water Quality.** The Foothill Centre development project is required to comply with Tier 3 of the Storm Water Management Plan (treatment, rate and volume). The Owner shall submit a hydrology report including worksheets from the Storm Water BMP Guidance Manual for Post Construction Practices, prepared by a registered civil engineer 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 (including, but not limited to trash, hydrocarbons, fertilizers, bacteria, etc.), or groundwater pollutants would result from the project.
- The Owner shall provide an Operations and Maintenance Procedure Plan (describing replacement schedules for pollution absorbing pillows, etc.) for the operation and use of the storm drain surface pollutant interceptors. The Plan shall be reviewed and approved consistent with the Storm Water Management Plan BMP Guidance Manual.

- e. **Lot Merger Required.** Following annexation, and prior to issuance of any permits, the Real Property known as APN 059-160-017 and APN 059-160-023 shall be merged into one (1) lot, following the procedure in Santa Barbara Municipal Code Chapter 27.30.
- f. **Encroachment Permit.** In addition to City construction permits, an Encroachment Permit shall be obtained from the State of California (Caltrans) by the Owner, for construction of improvements, striping and re-striping (*including any required appurtenances*) within their rights of way.
- g. **Foothill Road Public Improvements.** The Owner of APNs 059-160-017 and -023 shall submit C-1 public improvement or building plans for construction of improvements along the property frontage on Foothill Road. Public Works C-1 plans shall be submitted to the Public Work counter separately from plans submitted for a Building Permit, and shall be prepared by a licensed civil engineer registered in the State of California. As determined by the Public Works Department and the State of California (Caltrans), the improvements shall include the following to City standards:
  - (1) Coordinate with Goleta Water District to abandon and remove the existing water meter and water service line (near abandoned gas station).
  - (2) Construct (N) twelve-foot wide sidewalk, nine (N) tree wells [4-ft x 5-ft] along entire property frontage, and City staff recommends that the applicant supply and install eight (N) street trees (*Acrocarpus fraxinifolius*, Pink Cedar Tree) per approval of the Parks & Recreation Commission (if applicable) and ABR. Maintenance of these street trees and applicable public improvements along Foothill Road shall be borne by the applicant as implemented through a Maintenance Agreement.
  - (3) Remove four (E) driveway aprons and construct (N) curb and gutter where (E) driveway aprons are removed.
  - (4) Construct (N) MTD shelter on Foothill Road subject to MTD, ABR and Caltrans approval.
  - (5) Slurry seal to the centerline of Foothill Road along entire subject property frontage, and slurry seal a minimum of 20 feet beyond the limits of all trenching, subject to Caltrans approval.
  - (6) Re-stripe existing pavement delineations following slurry seal per Caltrans recommendations.
  - (7) Replace existing residential fire hydrant located in front of 4120-4134 Foothill Road with a commercial fire hydrant and install Fire Hydrant Guard Post (if required) in accordance with City Standards.
  - (8) Supply and install four commercial height 200 watt City standard Dome Style street lights approximately 200-feet apart. Install one (N) meter pedestal, and coordinate with Public Works Inspector and Edison to energize all (N) street lights.

- (9) Preserve and/or reset survey monuments (if any), protect and relocate existing contractor stamps to tree wells (if any), and supply and install directional/regulatory traffic control signs per the CA MUTCD during construction.
- (10) Provide adequate positive drainage from site.
- (11) Any work in the public right-of-way requires a Permit.

h. **Cieneguitas Road Public Improvements.** The Owner of APNs 059-160-017 and -023 shall submit C-1 public improvement plans for construction of improvements along the property frontage on Cieneguitas Road. Public Works C-1 plans shall be submitted to the Public Work counter separately from plans submitted for a Building Permit, and shall be prepared by a licensed civil engineer registered in the State of California. As determined by the Public Works Department, the improvements shall include the following to City standards:

- (1) Coordinate with Goleta Water District to abandon and remove the existing water meter and water service line. Coordinate with City to install two (N) 2-inch copper water service lines, two 2-inch water meters, two (N) fire lines (size TBD), one (N) irrigation meter, and connect to City water main.
- (2) Remove two (E) driveway aprons and construct two (N) commercial driveway aprons modified to meet Title 24 requirements with a maximum width of 20-feet each.
- (3) Construct six-foot sidewalk and six-foot parkway along the entire subject property frontage, and supply and install eleven new street trees (*Olea europaea* 'Swan Hill') per approval of the Parks & Recreation Commission (if applicable) and ABR. Provide five-foot wide minimum sidewalk connection to existing sidewalk fronting APN 059-160-021.
- (4) Construct new curb and gutter along entire subject property frontage and transition to match (E) curb and gutter in front of APN 059-160-021.
- (5) Extend existing left turn lane to approximately 125' with a 60' bay taper, per ATE recommendations, subject to the approval of the City Transportation Engineer.
- (6) Construct new bus stop to MTD standards subject to MTD and ABR approval.
- (7) Slurry seal to centerline and a minimum of 20 feet beyond the limits of all trenching.
- (8) Construct +/-310 L.F. of new eight inch City sewer main, two (N) private sewer laterals, and connect to City sewer main.
- (9) Replace (E) residential fire hydrants FH-A03-005 and FH-A03-006 with a commercial fire hydrant and Fire Hydrant Guard Post (if required), in accordance with City Standards.

- (10) Public drainage improvements shall be consistent with hydrology report for installation of four (N) curb drain outlets and to connect to existing City storm drain.
  - (11) Supply and install three commercial 200 watt City standard Dome Style street light(s) a minimum of 200 feet apart, install one meter pedestal, coordinate with Public Works Inspector and Edison to energize all street lights, and coordinate with Public Works staff and Edison to retire (E) street light standard from (E) traffic signal at intersection.
  - (12) Preserve and/or reset survey monuments (if any), protect and relocate existing contractor stamps to parkway (if any), supply and install directional/regulatory traffic control signs per the CA MUTCD during construction.
  - (13) Provide adequate positive drainage from site.
  - (14) Any work in the public right-of-way requires a Public Works Permit.
- i. **Haul Routes Require Separate Permit.** Apply for a Public Works permit to establish the haul route(s) for all construction-related trucks with a gross vehicle weight rating of three tons or more entering or exiting the site. The Haul Routes shall be approved by the Transportation Engineer.
  - j. **Construction-Related Truck Trips.** Construction-related truck trips for trucks with a gross vehicle weight rating of three tons or more shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) in order to help reduce truck traffic on adjacent streets and roadways.
  - k. **Agreement to Construct and Install Improvements.** The Owner of APNs 059-160-017 and -023 shall submit an executed *Agreement to Construct and Install Improvements (not a subdivision)*, prepared by the Engineering Division. Prior to submitting the executed Agreement, the Owner shall submit an Engineer's Estimate, signed and stamped by a registered civil engineer. After approval of the estimate, and prior to issuance of any permits, the Owner shall submit securities for construction of improvements.
  - l. **Goleta Water District Abandonment.** Owner shall make arrangements with the Goleta Water District for permits and payment of any required deposits related to abandonment of District facilities serving the project site. Evidence of payment shall be provided to the City prior to issuance of any building permit. Timing of compliance with this condition may be extended subject to approval by the Public Works Department.
  - m. **Goleta Sanitary District Abandonment.** Owner shall make arrangements with the Goleta Sanitary District for permits and payment of any required deposits related to abandonment of District facilities serving the project site. Evidence of payment shall be provided to the City prior to issuance of any building permit. Timing of compliance with this condition may be extended subject to approval by the Public Works Department.

2. **Community Development Department.**

a. **Recordation of Agreements.**

- (1) Prior to issuance of any permit for APNs 059-160-017 or -023, the Owner of APNs 059-160-017 and -023 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
- (2) Within 180 days of annexation, or prior to issuance of any permit for development on APN 059-160-021, whichever is sooner, the Owner of APNs 059-160-021 shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in condition D "*Recorded Conditions Agreement*" to the Community Development Department prior to issuance of any building permits.

b. **Project Environmental Coordinator Required.** Submit to the Planning Division a contract with a qualified independent consultant to act as the Project Environmental Coordinator (PEC). Both the PEC and the contract are subject to approval by the City's Environmental Analyst. 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:

- (1) The frequency and/or schedule of the monitoring of the mitigation measures.
- (2) A method for monitoring the mitigation measures.
- (3) A list of reporting procedures, including the responsible party, and frequency.
- (4) A list of other monitors to be hired, if applicable, and their qualifications.
- (5) Submittal of biweekly reports during demolition, excavation, grading and footing installation and monthly reports on all other construction activity regarding MMRP and condition compliance by the PEC to the Community Development Department/Case Planner.
- (6) Submittal of a Final Mitigation Monitoring Report.
- (7) 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.

c. **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 draft copy of the notice to the Planning Division for review and approval.

- d. **Letter of Commitment for Neighborhood Notification Prior to Construction.** The Owner shall submit to the Planning Division a letter of commitment to provide the written notice specified in condition G.1 "Neighborhood Notification Prior to Construction" below. 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.
- e. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment to hold the Pre-Construction Conference identified in condition G.2 "Pre-Construction Conference" prior to disturbing any part of the project site for any reason.
- f. **Evidence of Off-Site Parking Agreement Recordation.** Evidence shall be provided to the Community Development Director that the Off-Site Parking Agreement required in Section C "Recorded Conditions Agreement" has been recorded.
- g. **APCD Permits.** APCD permits must be obtained for all equipment that requires an APCD permit. APCD Authority to Construct permits are required for diesel engines rated at 50 bhp and greater (e.g. firewater pumps and emergency generators) and boilers/large water heaters whose combined heat input rating exceeds 2.0 million BTUs per hour.
- h. **Small Boilers.** Small boilers and water heating units (rated between 75,000 and 2.0 million Btu/hr) must comply with the emission limits and certification requirements of APCD Rule 360. Combinations of units totaling 2.0 million Btu/hr or greater are required to obtain a District permit prior to installation. See APCD website for more information and a list of certified boilers (note: any units fired on fuel(s) other than natural gas must be certified by the SBCAPCD on a case-by-case basis, even if the unit is certified when fired on natural gas.
- i. **Asbestos & Lead-Containing Materials.** Pursuant to APCD Rule 1001, the applicant is required to complete and submit an Asbestos Demolition / Renovation Notification form for each regulated structure to be demolished or renovated. The completed notification shall be provided to the Santa Barbara County APCD with a minimum of 10 working days advance notice prior to disturbing asbestos in a renovation or starting work on a demolition. Any abatement or removal of asbestos and lead-containing materials must be performed in accordance with applicable federal, State, and local regulations. Disposal of material containing asbestos and/or lead shall be in sent to appropriate landfills that are certified to accept this material.
- j. **Hazardous Materials Business Plan.** A Hazardous Materials Business Plan shall be required if a business handles or stores any hazardous materials or hazardous waste at any one time during a calendar year in quantities equal to or greater than: 55 gallons, 500 pounds or 20 cubic feet of a compressed gas at



standard temperature and pressure. If the development includes facilities that handle chemicals, annual permits for the use and storage of hazardous wastes are required 30 days prior to operation.

k. **Energy Efficiency.** The project shall be designed to exceed Title 24 requirements.

l. **Geotechnical Studies.**

(1) All recommendations contained in the Geotechnical Engineering Report prepared by Fugro West, Inc. (April 2003) shall be implemented. These recommendations include, but are not limited to requirements for grading and site development, foundation design, slabs on grade, pavement sections, corrosion and surface drainage consideration.

(2) A Final Geotechnical Report shall be prepared and submitted to the City's Building Division as part of the City Building and Safety Division review and approval of the construction plans.

(3) Grading and foundation plans shall be reviewed by a Geotechnical Engineer and Engineering Geologist to ensure compliance with the recommendations in the Final Report. Compliance shall be demonstrated on plans submitted for grading and building permits and subject to City Building and Safety Division review and approval.

*(G-1)*

m. **Monitoring Wells.** Any monitoring well that is in conflict with a building or the detention basin shall be properly abandoned and replaced as required by the Santa Barbara County Fire Department Fire Prevention Division, prior to construction. A well abandonment workplan shall be submitted to the Fire Prevention Division, and must be approved prior to issuance of a building permit for construction. All site wells that are not to be abandoned shall be protected during construction activities. This may involve cutting the wells down and capping them during site grading activities and then extending them back up to an appropriate monitoring well cover at the completion of the paving or landscaping activities.

*(H-1)*

n. **Soils Management Plan.** A soils management plan shall be submitted to the County Fire Prevention Division for review and approval prior to issuance of a building permit. The soils management plan shall describe the procedures to properly handle and dispose of hydrocarbon impacted soils that may be encountered during site grading activities.

*(H-2)*

o. **Interceptor Trenches.** Prior to the start of construction, both interceptor trenches shall be properly abandoned.

*(H-3)*

p. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the appropriate design review board and as outlined in Section E "Design Review," and all elements/specifications shall be implemented on-site.

- q. **Mitigation Monitoring and Reporting Requirement.** Note on the plans that the Owner shall implement the Mitigation Monitoring and Reporting Program (MMRP) for the project's mitigation measures, as outlined in the Mitigated Negative Declaration for the project.
- r. **Conditions on Plans/Signatures.** The final 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 sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are 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, including demolition and grading.
  - 1. **Neighborhood Notification Prior to Construction.** At least twenty (20) days prior to commencement of construction, the contractor shall provide written notice to all property owners, businesses, and residents within 300 feet of the project area. The notice shall contain a description of the project, the construction schedule, including days and hours of construction, the name and phone number of the Project Environmental Coordinator (PEC) and Contractor(s), site rules and Conditions of Approval pertaining to construction activities, and any additional information that will assist Building Inspectors, Police Officers and the public in addressing problems that may arise during construction.  
 (N-1)
  - 2. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Community Development Department Building and Planning Divisions, the Property Owner, Architect, Arborist, Project Engineer, Project Environmental Coordinator, Mitigation Monitors, Contractor and each Subcontractor.

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) and Project Environmental Coordinator's (PEC) name, contractor(s) and PEC's telephone number(s), construction 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.
4. **Construction Hours.** Construction (including preparation for construction work) shall only be permitted Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m., excluding the following holidays:

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

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

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

(N-2)

5. **Construction Equipment Sound Control.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices. (N-3)
6. **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.
7. **Construction Parking.** During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Transportation Manager.
8. **Bird Nesting.** Removal of vegetation shall be avoided during the bird nesting season (February 15 to September 15) where feasible. If avoidance is not feasible, a qualified

biologist shall conduct a nesting bird survey no more than seven (7) days prior to removal of any trees or vegetation scheduled to occur from February 15 through September 15. If nesting is found, the trees/vegetation shall not be removed until after the young have fledged and the biologist should establish a protective buffer around the nest as needed.

**(BIO-1)**

9. **HMU Contact.** Stop work immediately and contact the County Fire Department, Hazardous Materials Unit (HMU) if visual contamination or chemical odors are detected while implementing the approved work at the site. Resumption of work requires approval of the HMU, 805-686-8170.
10. **Air Quality.** The following measures shall be shown on grading and building plans and shall be adhered to throughout grading, hauling, and construction activities:
  - a. During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used whenever possible. However, reclaimed water should not be used in or around crops for human consumption.
  - b. Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.
  - c. If importation, exportation and stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.
  - d. Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
  - e. After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
  - f. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading of the structure.
  - g. All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.
  - h. Fleet owners of mobile construction equipment are subject to the California Air Resource Board (CARB) Regulation for In-use Off-road Diesel Vehicles (Title 13 California Code of Regulations, Chapter 9, § 2449), the purpose of which is to

reduce diesel particulate matter (PM) and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles. For more information, please refer to the CARB website at [www.arb.ca.gov/msprog/ordiesel/ordiesel.htm](http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm).

- i. All commercial diesel vehicles are subject to Title 13, § 2485 of the California Code of Regulations, limiting engine idling time. Idling of heavy-duty diesel construction equipment and trucks during loading and unloading shall be limited to five minutes; electric auxiliary power units should be used whenever possible.
  - j. 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.
  - k. Diesel powered equipment should be replaced by electric equipment whenever feasible.
  - l. If feasible, diesel construction equipment shall be equipped with selective catalytic reduction systems, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California.
  - m. Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
  - n. All construction equipment shall be maintained in tune per the manufacturer's specifications.
  - o. The engine size of construction equipment shall be the minimum practical size.
  - p. 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. Construction worker trips should be minimized by requiring carpooling and by providing for lunch onsite.
  - q. If contaminated soils are found at the project site, the APCD must be contacted to determine if Authority to Construct and/or Permit to Operate permits will be required.
  - r. Petroleum storage tank degassing activities shall comply with APCD Rule 343, *Petroleum Storage Tank Degassing*.
  - s. At all times, idling of heavy-duty diesel trucks must be limited to a maximum of five minutes; auxiliary power units should be used whenever possible. State law requires that drivers of diesel-fueled commercial vehicles: shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location and shall not idle a diesel-fueled auxiliary power system (APS) for more than five minutes to power a heater, air conditioner, or any ancillary equipment of the vehicle.
  - t. Asphalt paving activities shall comply with APCD Rule 329, *Cutback and Emulsified Asphalt Paving Materials*.
11. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment

throughout grading and construction: Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

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

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

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

12. **Mitigation Monitoring Compliance Reports.** The PEC shall submit biweekly reports during demolition, excavation, grading and footing installation and monthly reports on all other construction activity regarding MMRP compliance to the Community Development Department Planning Division.
- 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 public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60.090. 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 on the public improvement plans, shall be completed.

3. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.
4. **Mitigation Monitoring Report.** Submit a final construction report for mitigation monitoring.

I. **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 / Staff Hearing Officer.
  - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
3. **California Department of Fish and Game Fees Required.** Pursuant to Section 21089(b) of the California Public Resources Code and Section 711.4 et. seq. of the California Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified Department of Fish and Game fees are paid and filed with the California Department of Fish and Game within five days of the project approval. The fees required are \$2,919.00 for projects with Environmental Impact Reports and \$2,101.50 for projects with Negative Declarations. Without the appropriate fee, the Notice of Determination cannot be filed and the project approval is not operative, vested, or final. The fee shall be delivered to the Planning Division immediately upon project approval by the City Council in the form of a check payable to the California Department of Fish and Game. Please note that a filing fee of \$50.00 is also required to be submitted with the Fish and game fee in the form of a separate check payable to the County of Santa Barbara.
4. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of the first City permit application.
5. **Site Maintenance.** The existing site shall be maintained and secured. Any landscaping shall be watered and maintained until construction begins.

6. **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.

#### **NOTICE OF DEVELOPMENT PLAN TIME LIMITS:**

The development plan approved, per Santa Barbara Municipal Code §28.87.350, shall expire four (4) years from the date of approval, subject to the timing commencement provisions in Santa Barbara Municipal Code §28.87.370.D, unless:

1. A building or grading permit for the work authorized by the development plan is issued prior to the expiration date of the approval.
2. The Community Development Director grants an extension of the development plan approval upon finding that the applicant has demonstrated due diligence in implementing and completing the proposed project. The Community Development Director may grant one (1) one-year extension of the development plan approval.

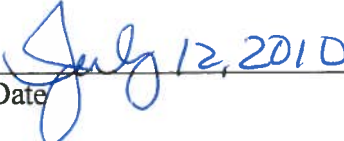


This motion was passed and adopted on the 21st day of June, 2012 by the Planning Commission of the City of Santa Barbara, by the following vote:

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

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.**

