

RESOLUTION NO. ____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA DENYING THE APPEAL AND UPHOLDING THE DECISION OF THE HISTORIC LANDMARKS COMMISSION TO APPROVE THE APPLICATION OF METROPOLITAN THEATRES CORPORATION FOR A PROJECT LOCATED AT 1330 CHAPALA STREET (MST2013-00169) AND KNOWN AS THE “ARLINGTON VILLAGE” PROJECT.

WHEREAS, on May 6, 2013, the applicant, Metropolitan Theatres Corporation, (hereinafter “MTC”) submitted an application to the city of Santa Barbara for City design approval of a mixed-use development at the corner of West Sola and Chapala Streets that consists of 33 residential apartments (totaling 28,302 square feet) and two commercial units (totaling 931 net square feet), and including a 534 square foot exercise room and a 13,400 square foot parking garage with 42 spaces, hereinafter referred to as the “Project.” The Project also includes a surface parking lot with 49 spaces for use by the patrons of the existing Arlington Theatre owned by MTC;

WHEREAS, the Historic Landmarks Commission reviewed the design of the Project on May 22, 2013, June 19, 2013, and August 14, 2013. The Project received its Project Design Approval from the Historic Landmarks Commission on August 14, 2013, and with the Commission having fully considered all of the appropriate criteria required by the Santa Barbara Municipal Code;

WHEREAS, on August 26, 2013, the Commission’s design approval was appealed to the City Council by Margaret Cafarelli, as an agent for Urban Developments, LLC, hereinafter referred to as the “appellant.” The appellant submitted a letter to the City stating the grounds for her appeal;

WHEREAS, on October 7, 2013, MTC submitted a revised site plan for the Project that included a new driveway access to Sola Street and an updated Traffic Management Plan to the City for consideration by the City Council and in apparent response to issues raised by the appellant in her appeal;

WHEREAS, on October 27, 2013, the City Council visited the Project site and met with representatives of MTC, the appellant, the Project Architects, City staff and members of the public, and it conducted an inquiry into the physical aspects of the appeal design issues; and

WHEREAS, on October 28, 2013, the City Council held a duly noticed public City Council hearing on the appeal. The appeal hearing included the following which were particular relevant and helpful to the Council in making its decision on this appeal:

1. A detailed written report and staff presentation, including a City staff report discussing the appeal issues, and a PowerPoint presentation on the appeal issues – both of which are incorporated into this resolution as though fully set forth herein.

2. A presentation by the appellant of her concerns;
3. A presentation by representatives of MTC, including a PowerPoint presentation prepared by the Project's architect. MTC also delivered to the City Council on October 28, 2013 a letter from Peikert + RRM Design Group which is part of the record in this case and was fully considered by the City Council in making its decision on this appeal.
4. Public comments from two members of the Historic Landmarks Commission explaining their views on the Project design and the appeal issues.

WHEREAS, after consideration of all of the evidence presented (both written and verbal), as well as the public testimony received, and after deliberation by the Council members, the City Council voted six to one to deny the appeal of the Project and to uphold the decision of the Historic Landmarks Commission approving the Project's design, with some additional City Council direction that the Historic Landmarks Commission work with MTC and its representatives on the following Project elements in connection with the issuance of the HLC's Final Design Approval for the Project:

1. The exit driveway at Sola Street, particularly the grade with regard to the feasibility of trucks and other large vehicles going in and out;
2. The location of the residential trash enclosure for the Project currently shown at a location off of the paseo adjacent to Sola Street;
3. The functionality of the paseo connection from Alma del Pueblo to Sola Street; and
4. possible ways of further ensuring that the commercial units are designed exclusively for long term commercial use.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA THAT THE COUNCIL FINDS AND DETERMINES AS FOLLOWS:

SECTION 1. Compliance with City Charter and Municipal Code; Consistency with Design Guidelines and Compatibility Analysis Criteria [SBMC Sections 22.22.130, 22.22.132, and 22.22.145 (B) (1).

A. General Consistency with Charter and Municipal Code. The City Council finds that the design of the Project, as approved by the HLC and as further conditioned by the Council in its decision on the appeal, appropriately complies with all requirements of the City Charter and Municipal Code, and is fully consistent with the City's El Pueblo Viejo design guidelines for this particular area of State and Chapala Streets and that this Council determination is based on the information, reports, and other documents provided to the City Council in connection with the appeal hearing all of which is incorporated herein by this reference as though fully set forth herein.

B. Failure of Appellant to Present Evidence to the Contrary. The appellant has not claimed, either before the Historic Landmarks Commission or before the City Council at the appeal hearing, that the Project is inconsistent with any requirement of the City Charter or applicable provisions of the Santa Barbara Municipal Code. In its presentation and its report to the Council at the appeal hearing, City staff analyzed the Project and expressed its opinion that the Project is consistent with the City Charter and Municipal Code. Because no facts contrary to this conclusion were presented to the City Council by the appellant, the Council determines that the Project is fully consistent with the requirements of the City Charter and the Municipal Code, in particular the requirements of SBMC Chapter 22.22.

C. Claim that the Project is Inconsistent with the Variable Density Ordinance. On appeal, the appellant claimed that the Project is incompatible with the “Goal” stated in the City’s Variable Density Ordinance which is stated as follows: “New development in or adjacent to existing residential neighborhoods must be compatible in terms of scale, size, and design with the prevailing character of the established neighborhood.” The appellant also asserted that the Project violated various policies of the El Pueblo Viejo Design Guidelines and the Urban Design Guidelines. For the most part, the appellant’s assertions on appeal were conclusionary and unsupported by actual evidence or by specific reference to any physical aspect of the Project which was actually inconsistent with the City Charter or Municipal Code.

However, in her presentation during the appeal hearing, the only design feature of the Project which the appellant claimed created an inconsistency was the functioning and adequacy of the Project’s private surface parking lot. Yet, the City Council finds that the Project is located in a neighborhood that has a number of surface parking lots, both public and private, including one that is directly across the street from the Project site. As a result, the Council finds that the inclusion of a surface parking lot is consistent with the prevailing character of the established neighborhood.

D. Appropriate Architectural Style and Design. The Council further finds that the design of the Project, as approved at the conclusion of the appeal hearing, is compatible with the desirable architectural qualities and characteristics which are distinctive of Santa Barbara, in particular the El Pueblo Viejo, and of the particular neighborhood surrounding the Project for the following reasons:

1. The appellant has not claimed, either before the Historic Landmarks Commission or before the City Council during the appeal hearing, that the actual design and architectural style of the Project would somehow be incompatible with the desirable architectural qualities and characteristics which are distinctive of El Pueblo Viejo District of Santa Barbara and this City neighborhood. The City staff presentation to Council demonstrated a detailed analysis of the Project regarding these issues and both the staff and the HLC has stated their opinion that the Project meets the City’s compatibility standards. This appeal presented no facts to the City Council which would support a contrary finding.
2. The Project is located on the same parcel as the historic Arlington Theatre. The proposed Project residential buildings would be 2 ½ to 3 stories and the maximum height would be approximately 33’ 2” from Sola Street and 40’ 2” from the interior paseo. A

central component of the Project is the inclusion of common open spaces, courtyards and public paseos. A “village green” and a courtyard would be provided on-grade between the Theatre and the proposed development. This area is intended to serve as a place where residential and commercial tenants can gather and enjoy the Santa Barbara climate. All of these features are similar to features of other downtown commercial buildings, and are thus, the Council finds, are compatible with the desirable architectural qualities and characteristics that are distinctive of Santa Barbara. In fact, the appellant never took issue with any of these Project features nor asserted that they were inconsistent with applicable design guidelines.

3. The Project’s architecture appropriately complements the architecture of the Arlington Theatre, as demonstrated by and concluded in the Historic Structures Report prepared by Post/Hazeltine, and dated April 25, 2013, that was reviewed and accepted by the Historic Landmarks Commission and made available to the City Council. In fact, the appellant made no claim to the contrary during the appeal hearing or in her appeal letter.

4. The appellant argued in her appeal that the proposed Project failed to meet various city policies regarding paseos and courtyards. But, again, these assertions were only made in a conclusionary fashion and the appellant provided no real specifics about why the Project’s paseos and courtyards were somehow inconsistent with the City’s applicable policies.

Consequently, the Council considered this argument, and finds that the facts do not support the appellant’s assertions. To the contrary, the Council finds that the Arlington Village Project has been designed to complement the existing walking paseo system within this City block because it includes a new paseo from the adjacent condominium/market Project to the courtyard between the proposed Project and the Arlington Theatre. It also includes improvements to the existing paseos that are adjacent to two sides of the Theatre, including new paving and lighting. These improvements are consistent with the City’s paseo system and satisfy the City’s design guidelines.

E. The Project is an Appropriate Size, Mass, and Scale. The Council also finds that the size, mass, bulk, height and scale of the Project is appropriate for its location and its neighborhood. Again, the appellant did not claim otherwise, either before the Historic Landmarks Commission or before the City Council at the appeal hearing. City staff analyzed the Project and has stated its opinion that the Project is appropriate as to its size, bulk, and scale within the context of its location and neighborhood. The Historic Landmarks Commission also reached this conclusion. No facts have been presented to the City Council that would support a contrary finding.

F. Project Sensitivity to Nearby Historic Resources. The City Council further finds that the design of the Project is appropriately sensitive to adjacent Federal, State and City Landmarks and other nearby designated historic resources, including structures of merit, sites and natural features. The appellant has not claimed, either before the Historic Landmarks Commission or before the City Council during the appeal hearing. No facts have been presented to the City Council that would support a contrary finding and the evidence contained with the staff report for the appeal hearing, the staff presentation at the appeal hearing, and the presentation and

documents provided by the representatives of MTC at the appeal, fully support a conclusion that the Project is appropriately sensitive to nearby Landmarks and other City historic resources, whether designated or potential. The Historic Structures Report prepared by Post/Hazeltine, and dated April 25, 2013, that was accepted by the Historic Landmarks Commission on May 22, 2013, also demonstrates that this criteria is satisfied.

G. Project Does Not Negatively Impact Public Scenic Vistas. The City Council finds that there are no “established scenic public vistas” of the ocean or mountains that may be affected by this Project. The appellant has not asserted otherwise.

H. Project Open Space and Landscaping Consistency. The City Council finds that the Project includes an appropriate amount of open space and landscaping, for the reasons stated earlier in these findings. The appellant has not asserted otherwise.

SECTION 2. Findings for Environmental Review of the Project Under the California Environmental Quality Act :

A. Appropriate Use of a Categorical Exemption. In accordance with CEQA Guidelines section 15183, those projects with net new development (nonresidential square footage or residential units) may qualify for an exemption from further environmental review if all of the following: 1. they are consistent with the General Plan development density evaluated in the 2011 General Plan Program Environmental Impact Report, and 2. any potentially significant Project-specific impacts are addressed through existing development standards. Section 15183 exemptions are determined by City staff environmental analyst based on a preliminary environmental review process. For a Section 15183 exemption, the City decision-maker is required to make the necessary CEQA finding and appropriately made the following findings.

1. That the Project qualifies for an exemption from further environmental review under CEQA Guidelines Section 15183, based on the City staff analysis and CEQA certificate of determination on file for this Project.
2. The Project activity is within the scope of the City’s 2011 General Plan and the Program EIR analysis for the General Plan. No further environmental document or analysis is required for this Project pursuant to the California Environmental Quality Act (Public Resources Code §21083.3 and Code of Regulations §15183). The City Council’s environmental findings adopted for the 2011 General Plan remain valid and applicable for this Project’s environmental determination.
3. No one, including the appellant, has ever claimed that the City’s environmental review of the Project did not qualify under the Categorical Exemption of CEQA Guideline Section 15183.

SECTION 3. Revised Conditions of Approval. The City Council hereby approves the attached Project Conditions of Approval dated October 29, 2013, as revised as part of the Council decision on the appeal, for this Project.



City of Santa Barbara California

HISTORIC LANDMARKS COMMISSION CONDITIONS OF APPROVAL

1330 CHAPALA STREET

AUGUST 14, 2013

[Includes changes to conditions of approval based on City Council action on October 29, 2013,
to deny the project appeal]

In consideration of the project approval granted by the Historic Landmarks Commission (HLC) and for the benefit of the owner(s) and occupant(s) of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession, and enjoyment of the Real Property:

- A. **Recorded Conditions Agreement.** The Owner 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 HLC on August 14, 2013 is limited to a new, three-story, 40'-2" tall mixed-use development on a 91,000 square foot parcel located at the southeast corner of W. Sola and Chapala Streets. The project includes 33 new residential apartments (totaling 28,302 square feet) and two new commercial units (totaling 931 net square feet). The new building will total 52,945 square feet, including a 534 square foot exercise room and a 13,400 square foot partially below-grade parking garage that contains 42 spaces. A surface lot will contain 49 spaces, for a total of 91 parking spaces on-site. Thirty-three covered spaces are allocated to the residential units, two covered spaces are allocated to the commercial units and 56 spaces (7 covered, 49 uncovered) are allocated to the Arlington Theatre. Also proposed is the removal of eight mature trees including four grevillea, two pittosporum, one ficus and one solanum, with 6 mature palm trees to be preserved and relocated on-site. Grading excavation will total 3,400 cubic yards. A detached trash enclosure for the Theatre is proposed to replace an existing trash enclosure and will be constructed near the northwest corner of the Arlington Theatre. The Arlington Theatre and Arlington Hotel Garden Arch are proposed to remain. Landscape and hardscape improvements are also proposed, as shown on the approved plans. Vehicular access to the site shall be provided from the existing driveway on Chapala Street and a new driveway on W. Sola Street, as shown on the site plan dated October 22, 2013.
 2. **Uninterrupted Water Flow.** The Owner shall allow for the continuation of any historic 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 HLC. Such plan shall not be modified unless prior written approval is obtained from the HLC. 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 HLC, the owner is responsible for its immediate replacement.
5. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.
6. **Truck Access and Management Plan.** The development shall comply with the Truck Access and Management Plan prepared by Associated Transportation Engineers and dated October 7, 2013 and the following conditions:
 - a. For any activity, all trucks and buses associated with Arlington Theatre events shall be scheduled to arrive and depart outside of peak traffic hours of 7 am through 9 am and 4 pm through 6 pm.
 - b. All trucks and buses associated with Arlington Theatre events shall leave the site for temporary storage upon completion of performance stage set up, and return after performances to reload equipment to trucks.
 - c. Vehicles shall be limited to one truck and one bus onsite at a time. Events that require multiple trucks or buses shall be staggered with the additional vehicles staged on W. Sola St.
 - d. Permits for a "No Parking" area to facilitate staging on Sola St. shall be obtained from the City Public Works Department no less than 72 hours in advance of the event day.
 - e. Five parking spaces within the Arlington parking lot shall be reserved and blocked to facilitate truck movements, parking and loading per Figure 2 of the Truck Access and Management Plan.

- f. Trucks and buses shall be removed from the Arlington site after completion of unloading.
 - g. The designated parking area for trucks and buses shall be coned off on the Arlington Site to facilitate loading and unloading per figure 3 of the Truck Access and Management Plan.
 - h. The Arlington Theatre operators shall employ traffic and parking personnel to supervise unloading and loading activities, enforce parking restrictions, manage truck and bus ingress and egress from the site, and monitor parking lot circulation.
 - i. An orientation meeting shall take place between the Theatre operators and traffic control personnel prior to the first event season after project occupation to review management plan components of the Truck Access and Management Plan.
 - j. A monitor shall be hired during the first event season after project completion to determine if the Truck Access and Management Plan is working as intended. The monitoring firm is to prepare a summary report documenting operations after each event. A final report is to be submitted to Public Works Transportation staff one year after the occupied project's first event, summarizing all season operations and providing any recommended operational adjustments.
 - k. Follow-up meetings between the Theatre operators and traffic monitor personnel shall be scheduled as necessary to review each monitoring report and recommend fine tune management components to City staff.
7. **Residential Permit Parking Program.** Residents shall not participate in the Residential Permit Parking Program.
 8. **Common Area Maintenance.** All common/shared areas shall be kept open, available and maintained in the manner in which it was designed and permitted.
 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 except as outlined in the Truck Access and Management Plan.
- B. **Final Design Review.** In addition to the items identified in the HLC motion granting Project Design Approval, the following items shall be satisfactorily addressed in the final design plans prior to Final Approval by the HLC.
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 24-inch box sized or 15 gallon size tree(s) of an appropriate species or like species, as determined by the

HLC, in order to maintain the site's visual appearance and reduce impacts resulting from the loss of trees.

2. **Tree Relocation.** The five existing Phoenix canariensis tree(s) and one Washingtonia robusta tree shall be relocated on the Real Property and shall be fenced and protected during construction.
3. **Grevillia Tree.** The 24" DBH grevillia tree (Tree #2 on the Tree Protection and Removal Plan dated July 24, 2013) that will be removed due to the driveway access to Sola Street shall be mitigated based on recommendations from the Historian of record and subject to concurrence by the Landscape Architect and HLC.
4. **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 Tree Protection & Removal Plan shall be preserved, protected, and maintained, in accordance with the Tree Protection Plan and/or 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 HLC.
 - c. **Tree Protection Plan.** The recommendations/conditions contained in the Tree Protection Plan prepared by Courtney Jane Miller, dated July 24, 2013, shall be implemented.
 - d. **Tree Replacement.** Any tree that is identified to remain in place or be relocated on-site that is subsequently damaged, lost or dies within two years of Occupancy of the project, shall be replaced at a three to one (3:1) ratio with replacement species and size to be approved by the HLC.
 - e. **During Construction.**
 - (1) All trees within 25 feet of proposed construction activity shall be fenced six feet outside the dripline for protection.
 - (2) No grading shall occur within six feet of the dripline(s) of the existing tree(s).
 - (3) 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.
 - (4) Any roots encountered shall be cleanly cut and sealed with a tree-seal compound.

- (5) Any root pruning and trimming shall be done under the direction of a qualified Arborist.
 - (6) No heavy equipment, storage of materials or parking shall take place within six feet of the dripline of any tree(s).
5. **Screened Backflow Device.** The backflow devices for fire sprinklers, solar panels and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building, as approved by the HLC.
6. **Location of Dry Utilities.** Dry utilities (e.g. above-ground cabinets) shall be placed on private property unless deemed infeasible for engineering reasons. If dry utilities must be placed in the public right-of-way, they shall be painted "Malaga Green," and if feasible, they shall be screened as approved by HLC.
7. **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) and green waste containers shall be provided on the Real Property and screened from view from surrounding properties and the street. Said enclosure shall be approved by MarBorg and the City of Santa Barbara Environmental Services Division.

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.
8. **Historic Resource Report.** Prior to final approval of the project by the HLC, the items identified in Section 10.1 of the Historic Structures Report prepared by Post/Hazeltine Associates and dated April 25, 2013, shall be addressed.
9. **Enhanced Pavement.** Identify all areas of enhanced or permeable pavement. Provide details on scoring patterns, colors, etc.
10. **Solar Energy Systems.** Identify and detail any proposed solar panels, systems or equipment for the project. Regardless of whether a solar energy system is currently proposed, all projects are recommended to show a "potential future solar energy system installation location" if feasible for the site. Plans are recommended to show at least 300 square feet of roof space with good sun exposure free of rooftop equipment for potential future solar energy system installation if feasible.
11. **Storm Water Management.** Details on project compliance with Tier 3 Storm Water Management requirements shall be included on the final plans reviewed by the HLC.
12. **Project Directory.** A project directory, including map and parking directional signs, 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 Sign Committee Approval.

13. **Truck Access and Management Plan.** The project plans shall include a copy of the Truck Access and Management Plan prepared by Associated Transportation Engineers and dated October 7, 2013, including any associated diagrams.
14. **City Council Direction.** Per City Council action to deny the appeal and uphold the HLC approval, Council directed that the HLC shall work with the Applicant on the following project elements:
 - a. The exit at Sola Street, particularly the grade with regard to vehicles going in and out;
 - b. The location of the residential trash enclosure;
 - c. The paseo connection from Alma del Pueblo to Sola Street; and
 - d. Ensuring that the commercial units are designed for commercial use.

C. **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. **Public Improvements.** Public improvements are required for this project and shall be submitted to the Public Works Department for review and approval. Plans shall be submitted separately from plans submitted for a Building Permit, and shall be prepared by a licensed civil engineer registered in the State of California. Any design changes to the project or improvements in the right-of-way as a result of Public Works review of the public improvements shall require review after final by the HLC.

As determined by the Public Works Department, the improvements may include, but are not limited to, new and/or remove and replace to City standards, the following: sidewalk, driveway aprons modified to meet Title 24 requirements with widths to be determined by the City Traffic Engineer, curb and gutter, access ramp(s), asphalt concrete or concrete pavement on aggregate base or crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limits of all trenching, connection to and/or relocation or extension of water and sewer mains and utilities, installation of new residential/commercial fire hydrant(s), public drainage improvements with

supporting drainage calculations and/or hydrology report for installation of drainage pipe or connection to existing City or County storm drain, supply and install City standard Dome Style (or other) street light(s), coordinate with Public Works staff and Edison to retire light standard from existing utility pole, preserve and/or reset survey monuments, protect and relocate existing contractor stamps to parkway, supply and install directional/regulatory traffic control signs per the CA MUTCD during construction, supply and install new street name sign(s), storm drain stenciling, improvement of the MTD bus stop consistent with current MTD bus stop standards and amenities provided by the neighborhood type stop described in the City Urban Design Guidelines (benches, trash receptacles, shelters with night lighting, decorative hardscape surface, and concrete pads to meet ADA requirements) on Sola Street, new street trees and tree grates, and provide adequate positive drainage from site.

Any work in the public right-of-way requires a Public Works Permit.

- b. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff prepares said agreement for the Owner's signature.
- c. **Drainage and Water Quality.** The project is required to comply with Tier 3 of the Storm Water Management Plan (treatment). The Owner shall submit drainage calculations and/or worksheets from the Storm Water BMP Guidance Manual for Post Construction Practices prepared by a registered civil engineer or licensed architect demonstrating that the new development will comply with the City's Storm Water Management Plan. Project plans for grading, drainage, storm water 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.

- d. **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 Manager.

The Public Works Department shall consider closing Sola Street from State Street to Chapala Street in order to facilitate construction at the site.

- e. **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.
- f. **Vehicle Access.** Vehicles exiting to Chapala Street shall be restricted to right turns only, and a NO LEFT TURN sign shall be posted and maintained on-site advising motorists of this restriction and shall be shown on the approved plans.
- g. **Stop Sign.** A "STOP" sign and painted stop bar with "Stop" legend shall be installed at the Chapala Street exit and shown on the approved plans.
- h. **Bicycle Parking.**
- (1) **Residential:** Provide 16 covered secure bicycle parking spaces on the first floor of the development for residents. For residential bicycle parking, it is preferred that at least a portion be provided in bicycle lockers, a bicycle room, or similar covered and lockable storage on the first floor of the residential development. Their size and location shall be approved by the Transportation Manager.
 - (2) **Commercial.** Provide one (1) bicycle parking space for every seven (7) vehicle parking spaces allocated to the commercial portion of the project. As currently designed, this would require seven (7) bicycle spaces. Their size and location shall be approved by the Transportation Manager.

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 A "Recorded Conditions Agreement" to the Community Development Department prior to issuance of any building permits.
- b. **Archaeological Monitoring Contract.** Submit a contract with an archaeologist from the most current City Qualified Archaeologists List for monitoring during all ground-disturbing activities associated with the

project, including, but not limited to, grading, excavation, trenching vegetation or paving removal and ground clearance in the areas identified in the Phase 1 Archaeological Resources Report prepared for this site by David Stone, dated May 2013. The contract shall be subject to the review and approval of the Environmental Analyst.

The archaeologist's monitoring contract shall include the provisions identified in condition C.2.c "Requirement for Archaeological Resources" below.

- c. **Requirement for Archaeological Resources.** The following information shall be printed on the grading plan:

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.

- d. **Prepare a Structural Crack Survey and Video Reconnaissance.** At least twenty (20) days prior to the issuance of a building permit, Owner shall notify owners and occupants of structures within 100 feet of the project site property lines of the opportunity to participate in a structural crack survey and video reconnaissance of their property. Prior to the issuance of a building permit, Owner shall prepare a structural crack survey and video reconnaissance of the property of those owners or

occupants who express a desire to participate in the survey. The purpose of the survey shall be to document the existing condition of neighboring structures within 100 feet of the project site property line and more than 50 years old. After construction, a follow-up structural crack survey and video reconnaissance of the property of those owners and occupants who elected to participate in the survey shall be prepared. Prior to issuance of a certificate of occupancy, Owner shall meet with the owners and occupants who elected to participate in the survey to determine whether any structural damage has occurred due to demolition, grading or construction at the project site.

- e. **Shoring Design.** Special design of the shoring is required to minimize the potential for deflection that may damage adjacent structures. A structural/civil engineer knowledgeable in this type of construction shall be retained to design the shoring and underpinning.
- f. **Solid Waste Management Plan.** The Applicant shall develop and implement a solid waste management plan that identifies feasible measures to address the operation of the Project, which may include, but is not limited to, the following:
 - (1) Provision of space and/or bins for storage of recyclable materials within the project site. This information shall be shown on the building plans and installed as a part of the proposed project's improvements.
 - (2) Development and implementation of a plan for collection of recyclable materials on a regular basis.
 - (3) Development of source reduction measures, indicating the method and amount of expected reduction.
 - (4) Implementation of a monitoring program (quarterly, bi-annually) to attain and maintain a 50-80% minimum participation in recycling efforts.
 - (5) Implementation of a composting landscape waste reduction program.
- g. **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.
- h. **Neighborhood Notification Prior to Construction.** At least twenty (20) days prior to commencement of construction, the contractor shall provide written notice to all property owners, businesses, and residents within 300 feet of the project area. The notice shall contain a description of the

project, the construction schedule, including days and hours of construction, the name and phone number of the Contractor(s), site rules and Conditions of Approval pertaining to construction activities, and any additional information that will assist Building Inspectors, Police Officers and the public in addressing problems that may arise during construction.

Submit a draft copy of the notice to the Planning Division for review and approval. 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.

- i. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the HLC and all elements/specifications shall be implemented on-site.
- j. **Acoustic Report.** An acoustic report compliant with 2007 CBC section 1207.11.2 shall provide specific construction requirements so "Interior noise levels attributable to exterior sources shall not exceed 45 dB in any habitable room."
- k. **Conditions on Plans/Signatures.** These conditions of approval shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the 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
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Contractor	Date	License No.
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Architect	Date	License No.
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Engineer	Date	License No.
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D. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.

- 1. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s)

name, contractor(s) telephone number(s), construction work hours, site rules, and construction-related conditions, 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; said sign shall not exceed 24 square feet.

2. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be carefully salvaged and delivered to the City Corporation Annex Yard on Yanonali Street.
3. **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. and Saturdays between the hours of 8:00 a.m. and 4:00 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.

4. **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.
5. **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.

6. **Vibration.** During demolition of the existing site improvements, care shall be taken to ensure that excessive vibrations of the ground closest to the Arlington Theatre do not occur. Any piece of pneumatic machinery used in the demolition process should be restricted to working at least 20 feet away from the Theatre.
7. **Nesting Birds.** Birds and their eggs nesting on or near the project site are protected under the Migratory Bird Treaty Act and pursuing, hunting, taking, capturing, killing, or attempt to do any of the above is a violation of federal and state regulations. No trimming or removing brush or trees shall occur if nesting birds are found in the vegetation. All care should be taken not to disturb the nest(s). Removal or trimming may only occur after the young have fledged from the nest(s).
8. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
9. **Street Sweeping.** The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.
10. **Construction Equipment Maintenance/Sound Control.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
11. **Construction Dust Control - Expedient Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used, as directed by the Building Inspector.
12. **Air Quality and Dust Control.** The following measures shall be shown on grading and building plans and shall be adhered to throughout grading, hauling, and construction activities:
 - a. During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used whenever possible. However, reclaimed water should not be used in or around crops for human consumption.
 - b. Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.
 - c. If importation, exportation and stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated

with soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.

- d. Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
 - e. After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
 - f. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading of the structure.
 - g. All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit.
 - h. Fleet owners of mobile construction equipment are subject to the California Air Resource Board (CARB) Regulation for In-use Off-road Diesel Vehicles (Title 13 California Code of Regulations, Chapter 9, § 2449), the purpose of which is to reduce diesel particulate matter (PM) and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles. For more information, please refer to the CARB website at www.arb.ca.gov/msprog/ordiesel/ordiesel.htm.
 - 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.
13. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.

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

1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction

subject to the review and approval of the Public Works Department per SBMC §22.60. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.

2. **Complete Public Improvements.** Public improvements, as shown in the public improvement plans or building plans, shall be completed.
 3. **Archaeological Monitoring Report.** A final report on the results of the archaeological monitoring shall be submitted to the Planning Division within 180 days of completion of the monitoring or prior to the issuance of the Certificate of Occupancy, whichever is earlier.
- F. **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.