

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA DENYING THE APPEAL OF MARK AND LAUREN CAREY AND UPHOLDING THE DECISION OF THE PLANNING COMMISSION GRANTING AN AMENDED CONDITIONAL USE PERMIT AND PARKING MODIFICATION FOR THE SANTA BARBARA MUSEUM OF NATURAL HISTORY (2559 PUESTA DEL SOL)

WHEREAS, in order to implement a proposed Master Plan, the Santa Barbara Museum of Natural History applied for an amended Conditional Use Permit, a parking modification, and an annexation of Museum Owned parcels located within the County of Santa Barbara into the City.

WHEREAS, as part of the amended Conditional Use Permit, the Museum proposed the following physical improvements on the Museum's property located at 2559 Puesta del Sol: improved pedestrian accessibility and Americans with Disabilities Act (ADA) improvements; renovations to the Marine/Paleontology/Geology Exhibit Hall and restrooms resulting in a net decrease of 194 square feet; replacement of the butterfly exhibit; rehabilitation of Gould Hall; conversion of the 475 square-foot MacVeagh Cottage from residential use to educational non-residential use; relocation of trash and recycling; new fencing; new soundwall/visual screen along the northeasterly portion of the parking lot; as-built improvements and enhancements to existing bioswale and outdoor activity areas; native habitat restoration; landscape improvements, including removal of approximately 2,800 square feet of existing asphalt; mechanical equipment upgrades; and interior repairs to existing buildings.

WHEREAS, the amended Conditional Use Permit results in a net increase in accessible Museum parking spaces (from 6 to 7), a net loss of Museum parking spaces overall (from 156 to 155), and an addition of four bicycle spaces (from 18 to 22).

WHEREAS, the following Assessor Parcel Numbers are subject to the terms of the amended Conditional Use Permit: APNs 023-272-003 and -004. Upon the completion of the proposed annexation, the following Assessor Parcel Numbers shall also be subject to the Conditional Use Permit: APNs 023-250-039; -056; -066; and -068 (hereinafter referred to as the Western Parcels). Existing development on the Western Parcels includes a single family residence. The project includes maintenance of the existing uses of the Western Parcels which consist of the use of the single family residence, passive recreation including public use of a trail network, and Museum educational activities. The project includes the improvements shown on the plans signed by the chairperson of the

Planning Commission on January 8, 2015 and on file at the City of Santa Barbara.

WHEREAS, on January 8, 2015, the Planning Commission conducted a duly noticed public hearing and approved the amended conditional use permit, the parking modification, and recommended that the City Council grant the proposed annexation.

WHEREAS, on January 20, 2015, Mark and Lauren Carey timely filed an appeal of the Planning Commission's approval. In their appeal letter, the Careys objected to the proposed installation of an exterior speaker system for Museum announcements and the proposed relocation of the trash bins to a location within the Museum parking lot. In addition, the Careys requested imposition of additional conditions of approval intended to reduce the impacts of the proposed construction and objected to the environmental determinations for the project.

WHEREAS, on March 23, 2015, the City Council conducted a duly noticed site visit during which members of the City Council inquired into and observed the physical aspects of the issues presented on appeal, including the site planning. Mark and Lauren Carey and Richard Solomon also attended the site visit.

WHEREAS, on March 24, 2015, the City Council conducted a duly noticed public hearing on the appeal. The City Council in the appeal hearing considered the entire record of proceedings, including without limitation the following evidence relied upon by the Council:

1. A detailed written report and staff presentation, including a City staff report discussing the appeal issues and a PowerPoint presentation.
2. The Planning Commission staff report and attachments thereto.
3. Presentations by appellant Lauren Carey and her neighbor Richard Solomon, detailing the grounds of the appeal, which are part of the record in this case and were fully considered by the City Council in making its decision on this appeal.
4. A detailed presentation by Suzanne Elledge, agent for the Santa Barbara Museum of Natural History, including a Power Point presentation; by Luke Swetland, CEO of the Santa Barbara Museum of Natural History; and by Mike Huff of Dudek & Associates on behalf of the Museum regarding the Museum's Fire Protection Plan.
5. Public comments of Planning Commissioner Michael Jordan regarding the appeal issues and the deliberations of the Planning Commission.
6. Public comment, both oral and written, from members of public.

All of the above evidence and the entire record of proceedings is incorporated by reference into this Resolution, which is based upon the entirety of the record of proceedings.

WHEREAS, after consideration of all of the evidence presented (both written and oral), as well as the public testimony received, and after deliberation by the Council members, the City Council voted 6-1 (Council member Murrillo dissenting) to direct the preparation of written findings which, consistent with the oral findings made by Council, would deny the appeal and grant the amended Conditional Use Permit and the parking modification.

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

SECTION 1. The foregoing recitals are true and correct and are incorporated into these findings.

SECTION 2. All written, graphic and oral materials and information submitted to the Planning Commission and the City Council by City staff, the public and the parties are hereby accepted as part of the record of proceedings.

SECTION 3. The Council has carefully reviewed the evidence it obtained during the site visit and public hearing as described above and from the record of proceedings, and based upon that evidence denies the appeal and upholds the decision of the Planning Commission approving the amended Conditional Use Permit and Parking Modification, making the findings and determinations set forth below:

A. Amended Conditional Use Permit.

1. The City Council finds that the uses proposed within the amended Conditional Use Permit are deemed essential and desirable to the public convenience and welfare and, with implementation of the adopted conditions of approval, are in harmony with the various elements or objectives of the Comprehensive General Plan. The City Council finds the Museum to be an important public institution of long-standing importance within the community and the neighborhood which contributes to the community's appreciation and understanding of the City's history and its natural environment. Substantial public testimony before the City Council establishes the important benefits that the Museum provides to the community as a whole. The Museum uses are in harmony with the various elements or objectives of the General Plan, as discussed in sections V and VII of the Planning Commission staff report dated December 23, 2014, incorporated by this reference.

2. The City Council finds that the Museum uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved. The Museum has operated in the same location in a similar manner for decades. The conditions included in the amended Conditional Use Permit are in many instances more restrictive regarding Museum operations than are existing conditions of approval. The implementation of the conditions of approval, particularly those relating to high attendance events/facility rentals and noise, insures that the uses proposed within the Museum Master Plan will not be materially detrimental to the public peace, health, safety, comfort and general welfare. Regarding the proposed exterior speaker system for public address announcements, the City Council has adopted a condition of approval that requires testing to verify that the system will not increase the ambient noise level by more than 2dBA at the property boundary before the system may be put into normal operation. The proposed location of the trash and recycling bins will be enclosed and will remain hundreds of feet from the residences of the appellants and of Mr. Solomon, which is an adequate setback for trash enclosures. The proposed bin enclosure is situated in the southwest corner of the parking lot, a location that facilitates pick up by collection trucks, improves safety by reducing the potential for pedestrian conflicts, and eliminates a 225-foot long back-up maneuver and associated beeping back up alarm, all of which the City Council determines to be a substantial benefit to the entire neighborhood. According to a noise study by DUDEK, dated July 2014, the relocation of the trash and recycling reduces Museum operational noise overall. The project plans and conditions of approval also reflect the Museum's commitment to construct a 120-foot long, 6-foot high sound wall, which will serve to further protect the appellants' residence from noise. Conditions of approval address construction implementation; these conditions include neighborhood notification prior to construction, contractor contact information, restricted construction hours, site rules to reduce noise, restricted areas for construction parking and materials and equipment staging, noise shields for certain stationary equipment and Museum contact information for noise complaints. Conditions of approval also incorporate Museum procedures to manage events, traffic and parking, and emergencies, including fire evacuation. Project components referenced in the Applicant's report dated December 1, 2014 will be gradually and individually implemented over the life of the Master Plan; construction will not be continuous over this time period. For all these reasons, the City Council determines that testimony regarding a potential material effect on neighborhood property values is speculative and based on inaccurate information; the City Council finds that the uses allowed under the amended Conditional Use Permit will not materially affect property values in the surrounding neighborhood.

3. The City Council finds that the total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided. 70% of the

project site consists of landscaping and open space area. The project proposes no new buildings and only minimal changes to the Museum site. Museum attendance utilizing these facilities will remain within previously achieved and permitted levels. As discussed above, adequate setbacks are provided for trash enclosures and other potential sources of noise. An enhanced landscape buffer and 120-foot long sound wall is proposed along the northern boundary of the parking lot adjacent to the appellants' property.

4. The City Council finds that the amended Conditional Use Permit proposes adequate access and off-street parking including parking for guests, provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time. The parking demand study for the project demonstrates that the Museum's parking lot provides an adequate number of spaces to accommodate, and historically has accommodated, normal Museum operations. Conditions of approval require that measures be taken by the Museum to provide additional parking capacity when the Museum anticipates that such additional parking capacity will be needed; these measures are described in the Museum's Procedures and Requirements for Traffic and Parking Management, and include but are not limited to the provision of off site parking capacity out of Mission Canyon. Parking demand for all Museum operations can be met without altering the character of area public streets.

5. The City Council finds that the appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area. The City Council finds the minor alterations proposed to the exterior of the Museum facility to be compatible with the character of the area, of which the Museum has been a part for nearly 100 years. The Historic Landmarks Commission unanimously found the proposed project improvements to be compatible with the existing buildings and area character.

6. There are no additional required findings for a Conditional Use Permit issued for a quasi-public use.

B. Parking Modification.

The City Council finds that the proposed modification will not be inconsistent with the purposes and intent of Title 28 of the Santa Barbara Municipal Code. Granting the modification will not cause an increase in the demand for parking or loading in the immediate area. The amended Condition Use Permit does not propose any increase in the maximum permitted attendance from what has historically occurred at the site. The applicant provided a Traffic, Circulation, and Parking Report prepared by Associated Transportation Engineers dated July 15, 2014 that projects a future peak parking demand of 137 spaces for regular use. The Museum has operated for many years providing a total of 156 spaces, and

has previously been granted parking modifications by the City. The proposed Master Plan reduces the number of parking spaces by one (1) space. Additional parking is needed during some high attendance events, so the conditions of approval require that the Museum provide enhanced parking capacity for such events, including but not limited to provision of offsite, out-of-canyon parking and shuttles. Based on the historical experience of the Museum operations within 156 parking spaces, the parking demand study anticipating a future parking demand of 137 for regular use, and the imposition of conditions of approval for additional parking for high attendance events, the City Council finds that the loss of one Museum parking space will not cause an increase in demand for parking space in the immediate area. A designated bus loading/unloading zone is required to be provided by the conditions of approval.

C. All summaries of information in the findings in this Resolution are based upon substantial evidence in the record. The absence of any particular fact from any summary contained in a finding does not indicate that a particular finding is not based upon that fact. All evidence in the record shall be considered when interpreting the findings.

D. California Environmental Quality Act Determinations. The State CEQA Guidelines identify the following applicable classes of projects that are exempt from CEQA review. The City Council finds the following classes of exemptions to apply to the following elements of the proposed project:

Museum Alterations, Western Residence, As-built Outdoor Activity Areas, Landscape Improvements, Asphalt Removal.

Section 15301 exempts the operation, maintenance, permitting, or minor alteration of existing structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The listed examples include: interior and exterior alterations involving such things as interior partitions, plumbing, and electrical and additions to existing structures of up to 2,500 square feet, and conversion of a single family residence to office use. This exemption applies to the alterations to the Museum campus buildings and structures; abatement of as-built violations for portions of the Western Residence; permitting of the as-built and proposed changes to the outdoor activity areas; and landscape improvements, including asphalt removal. The Museum renovations result in a net reduction of floor area and a net reduction in impermeable surface area.

Butterfly Exhibit Replacement.

Section 15302 exempts replacement and reconstruction of existing structures where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. This exemption applies to the replacement of the Butterfly

Exhibit because the Butterfly Exhibit Replacement structure will be sited in the same location as the existing structure and will have the same purpose and capacity as the existing structure.

Creekside Terrace, Trash Enclosure, Sound Wall, Fencing, Conversion of MacVeagh Cottage, Parking Lot Changes, Sidewalk, Accessibility Improvements.

Section 15303 exempts construction and location of new small structures and the conversion of existing small structures from one use to another. This exemption applies to the new creekside terrace; accessibility improvements; trash enclosure; sound wall; new fencing; conversion of MacVeagh Cottage from residential to non-residential use; changes to the parking lot; and right-of-way improvements, including the new sidewalk. The Museum renovations result in a net reduction of floor area and a net reduction in impermeable surface area. These changes to existing structures and small structures fall well within the scope of examples listed in the Guideline. They are accessory or appurtenant structures and far smaller and less impactful than the addition of 2500 square feet of office or a single family dwelling listed in Section 15303.

Conditional Use Permit Amendment and Parking Modification.

Section 15305 exempts minor alterations in land use limitation, which do not result in any changes to land use and density. The Museum has operated in the same location in a similar manner for decades. The conditions included in the amended Conditional Use Permit, particularly those relating to high attendance events/facility rentals and noise, insure that the uses proposed within the Museum Master Plan will maintain potential impacts to neighbors at existing levels or minimize potential impacts further. Regarding parking, based on the historical experience of the Museum operations within 156 parking spaces, the parking demand study anticipating a future parking demand of 137 for regular use, so loss of one space is a minor change in a land use limitation. This exemption therefore applies to the Conditional Use Permit Amendment and requested Parking Modification.

Habitat Restoration.

Section 15307 exempts City actions to assure maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Section 15333 exempts small habitat restoration projects that are less than five acres in size which are done to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife provided that there would be no significant adverse impact on endangered, rare or threatened species or their habitat, there are no hazardous materials at or around the project site that may be disturbed or removed, and the project will not result in impacts that are significant when viewed in connection with the effects of past projects, the effects of other current

projects, and the effects of probably future projects. Examples listed include the revegetation of disturbed areas with native plant species, stream bank revegetation, and projects to restore or enhance habitat that are carried out principally with hand labor and not mechanized equipment. The habitat restoration associated with this project will be on an area less than five acres in size. The biological report prepared by Mark De la Garza describes the area and type of activities to be conducted. Specifically, the activities will consist of maintenance, restoration, enhancement, and protection of the oak woodland and other impacted or degraded habitat around the Museum. These exemptions apply to the Western Parcels habitat restoration.

Annexation.

Section 15319(a) exempts annexations to a city of areas containing existing private structures developed to the density allowed by the current zoning of either the gaining or losing governmental agency, whichever is more restrictive, provided that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities. Section 15319(b) exempts annexations of individual small parcels of the minimum size to allow for facilities exempted by Section 15303 (New Construction or Conversion of Small Structures), including single-family residences, accessory structures, utilities, and street improvements. The properties proposed for annexation (the Museum parcels identified as APNs 023-250-039; -066; and -068, and the 609 Mission Canyon Road parcels identified as APNs 023-271-005 and -006, and a portion of the Mission Canyon Road right-of way) are located in an unincorporated inholding surrounded by the City of Santa Barbara. These parcels are all already surrounded by City services and utilities. The annexation of these parcels qualify for this exemption because (a) they are already developed to the density allowed by both the City and the County or (b) they are an individual small parcel of the minimum size allowed under the small structures exemption (Section 15303).

None of the exceptions to the CEQA categorical exemptions listed in Section 15300.2 apply to the proposed project for a number of reasons. The Museum has had an existing facility on the site for almost 100 years. The current permits, structures, and operations have been in place for decades. The Museum is not making any significant changes to the facilities. Operationally, the Museum proposes more restrictive and protective constraints which will serve to minimize potential impacts on neighbors. Since the Museum proposes to modify its existing permit such that any potential environmental impacts are either maintained at permitted levels or reduced, the Project cannot result in any new significant impact. The Project therefore will either maintain or reduce potential impacts to neighbors and will not have a significant impact due to the existence of any sensitive environment, scenic highway, historical resource, unusual circumstance, or any other issue. Therefore, none of the exceptions to the categorical exemptions apply.

RECOMMENDED REVISED CONDITIONS OF APPROVAL

2559 PUESTA DEL SOL
ANNEXATION, CONDITIONAL USE PERMIT AMENDMENT, PARKING MODIFICATION
MARCH 24, 2015

In consideration of the project approval granted by the City Council and for the benefit of the owner and occupants 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. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur:
1. Obtain all additional annexation approvals. Refer to Condition B “Approval Contingent upon Annexation.”
 2. Obtain all required design review approvals.
 3. Pay Land Development Team Recovery Fee (30% of all planning fees, as calculated by staff) at time of building permit application.
 4. Record any required documents
 - a. Recorded Conditions Agreement (Section C.1.).
 - b. Dedications prior to completion of public improvements (Item E.1.b.).
 - c. Water Rights Assignment (E.1.c.).
 - d. Agreement to Construct (if required).
 5. Permits.
 - a. Submit applications for, obtain Building Permits (BLD), and construct the soundwall/visual screen along the northeasterly portion of the parking lot and associated landscaping within one year of approval of the amended Conditional Use Permit.
 - b. Submit applications for and obtain Building Permits (BLD) to address the as-built garage conversion and any additions or modifications to the Western Residence that were completed without required permits.
 - c. Submit public improvement plans for all required public improvements, an engineer’s estimate of public improvements and application with fees for a Public Works Permit (PBW) and either complete said improvements or enter into an Agreement to Construct and post bonds for public improvements.
 - d. Submit applications for and obtain a Building Permits (BLD) for construction of the remainder of the approved development and complete said development.

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

- B. **Approval Contingent upon Annexation.** Approval of the project elements related to the Western Parcels is contingent upon approval of the General Plan Map and Zoning Map Amendments by the City Council and approval of the Annexation of the Western Parcels by the Local Agency Formation Commission and completion of that annexation.
- C. **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 additional development of the Real Property approved by the City Council on March 24, 2015, in addition to the existing development shown on the site plan submitted by the Applicant in Sheet A1.11, is limited to the following improvements: improved pedestrian accessibility and Americans with Disabilities Act (ADA) improvements; renovations to the Marine/Paleontology/Geology Exhibit Hall and restrooms resulting in a net decrease of 194 square feet; replacement of the butterfly exhibit; rehabilitation of Gould Hall; conversion of the 475 square-foot MacVeagh Cottage from residential use to educational non-residential use; relocation of trash and recycling; new fencing; new soundwall/visual screen along the northeasterly portion of the parking lot; as-built improvements and enhancements to existing outdoor activity areas; native habitat restoration; landscape improvements, including removal of approximately 2,800 square feet of existing asphalt; mechanical equipment upgrades; and interior repairs to existing buildings. The Master Plan results in a net increase in accessible Museum parking spaces (from 6 to 7), a net loss of Museum parking spaces overall (from 156 to 155), and an addition of four bicycle spaces (from 18 to 22). The following Assessor Parcel Numbers are subject to the terms of the Conditional Use Permit: APNs 023-272-003 and -004. Upon the completion of the proposed annexation, the following Assessor Parcel Numbers shall also be subject to the Conditional Use Permit: APNs 023-250-039; -056; -066; and -068 (hereinafter referred to as the Western Parcels). Existing development on the Western Parcels includes a single family residence. The project includes maintenance of the existing uses of the Western Parcels which consist of the use of the single family residence, passive recreation including public use of the trail network, and Museum educational activities. The project includes the improvements shown on the plans signed by the chairperson of the Planning Commission on said date and on file at the City of Santa Barbara.
 2. **Operational Conditions.** The following conditions apply to the overall operations of the Museum and the use of the site.
 - a. **Allowed Uses.** The following non-residential uses are allowed on the subject property:
 - (1) **General Museum & Educational Use.** Research; collections maintenance; adult classes; children's camps; docent trainings; attendance by visitors and museum members to exhibits; Board of Trustees, Committee and volunteer meetings; appointments with staff by vendors and members of the public; attendance by school groups, children's classes, children's camps, evening films and lectures; special planetarium shows and evening star parties, SBCC and UCSB classes; and visitation

by researchers and persons by appointment, including professional symposia or similar gatherings.

- (2) **Community Uses.** Meetings; town hall discussions; memorials; wedding ceremonies; weddings with receptions; fundraising events; and lectures or similar activities organized by community groups other than the Museum.
- (3) **High-Attendance Events.** Museum-sponsored gatherings often held on weekends, which are not part of regularly scheduled or routine operations. Currently these include the Wine Festival (June), The Museum League Art Walk (September), the Tribal and Folk Art Marketplace (December), and an additional event associated with a specific exhibition or program offering (e.g. the Tinkertoy Family Festival held in summer 2013).

b. **Annual Attendance and Maximum Capacity.**

- (1) The maximum annual attendance including general admissions, members, volunteers, education programs, research programs, outside group use, special events, and weddings and memorials shall be monitored by the Museum and shall not exceed 165,547 people.
- (2) The maximum number of people allowed on-site at any one time shall not exceed 1,400 and shall be monitored by the Museum staff at Museum entrance and exit.

c. **Special Event Limitations.**

- (1) High Attendance events shall not exceed a total of four (4) events, seven (7) days (not including two (2) days with invitation-only receptions associated with the High-Attendance Event), and 11,588 attendees per year.
- (2) The Museum shall continue to coordinate scheduling of high attendance events with the Santa Barbara Women's Club and the Santa Barbara Botanic Gardens to minimize traffic, parking, and fire evacuation issues.
- (3) If a High Attendance Event is anticipated to potentially exceed the on-site parking supply, the procedures for addressing parking and transportation during special events in the Museum's Traffic and Parking Procedures shall be implemented as appropriate.
- (4) Wedding receptions shall be scheduled for Saturdays only and shall not exceed 15 per calendar year.
- (5) Wedding reception attendance shall not exceed 175 guests per wedding.
- (6) Amplified music shall be limited to the Fleishman Auditorium for wedding receptions and shall commence no earlier than 4:30 p.m.
- (7) The only outdoor amplified sound permitted associated with events is amplification of voices of wedding ceremony participants so wedding guests can hear the ceremony.

- (8) An additional non-Museum staff security officer shall be present for the duration of all wedding receptions to help ensure that event guests comply with Museum policies and requirements.
- (9) Town hall discussions; memorials; wedding ceremonies; wedding receptions; fundraising events; and lectures or similar activities organized by community groups other than the Museum shall end no later than 9:30 p.m. and guests shall vacate the site by 10:00 p.m. Monthly astronomical unit star gazing and weekday college astronomy classes shall end no later than 10:30 p.m. and all participants shall vacate the site by 11:00 p.m. All other evening events shall end no later than 10:00 p.m. and all guests shall vacate the site by 10:30 p.m.
- (10) Outdoor post-event clean-up activities south of the creek are limited to the period between 8:30 a.m. and 7:00 p.m.; post-event clean-up activities outside Fleischmann Auditorium are limited to the period between 8:30 a.m. and 10:00 p.m.
- (11) Event guests shall not loiter in the parking lot or in front of the Museum.

d. **General Operations.**

- (1) Amplified music is prohibited outdoors.
- (2) All music must be stopped by 9:30 p.m. each day.
- (3) The use of the exterior speaker system for public address announcements is limited to the hours between 8:00 a.m. and 8:30 p.m. except for announcements necessary for public safety.
- (4) The exterior speaker system for public address announcements must be maintained such that noise from the exterior speaker system does not exceed ambient exterior noise levels by more than 2 dBA at any property boundary where the property adjacent to the Museum is developed with a residential use, except for emergency announcements. The Museum shall comply with any City Planning Division staff request to test the exterior speaker system to ensure compliance with this condition.
- (5) Public gatherings and picnicking are prohibited in the parking lot.
- (6) Regular Museum admission hours are between 10:00 a.m. and 5:00 p.m., seven days a week. Special activities and programs may occur outside these hours.
- (7) The parking lot shall be locked and access to the parking lot shall be limited after 11:00 p.m. and before 6:45 a.m., seven days a week.
- (8) The use of chainsaws, skip loaders and other noisy equipment is prohibited before 9:00 a.m., seven days a week.
- (9) The use of leaf blowers is prohibited before 9:00 a.m. and after 5:00 p.m. Monday through Saturday and any time on Sundays and national holidays.

- (10) There shall be no storage of any materials, trailers, landscape trimmings, construction debris, temporary structures, refuse bins, or vehicles, of any kind on the Las Encinas Road easement
- (11) No recreational vehicles, boats, or trailers shall be stored on the project site.
- (12) No animal carcass preparation or decomposition activities, or burial, shall be permitted on the project site.
- (13) The Museum shall implement the following:
 - a. *Procedures and Requirements for Emergency Response* as approved by the Museum President June 22, 2014 and on file at the City.
 - b. *Procedures and Requirements for Traffic and Parking Management* approved by the Museum President on November 25, 2014 and on file at the City.
 - c. *Procedures and Requirements for Events* approved by the Museum President on December 1, 2014 and on file at the City.

Any proposed changes to these documents shall be reviewed by City Staff for consideration of substantial conformance.

e. **Reporting.**

- (1) Submit to City staff an annual report of monthly attendance data of the three categories of use allowed and defined under this CUP:
 - a. General Museum and Educational Uses
 - b. Community Uses, including the number of weddings with receptions and the number of attendees at weddings with receptions.
 - c. High Attendance Events, identifying the number of these events, attendance at each, and statistics on use of off-site parking.
 - (2) Maintain and submit to City staff upon request all complaints submitted to the Museum and the Museum's responses to complaints.
3. **Public Access.** The Museum shall continue to provide free public access to the trail network on the western portion of the Museum property (, excluding the paths within the fenced fee area.. The free public access trail network is illustrated in the plans on file as required by Condition E.2.c.
 4. **Development Rights Restrictions.** Other than the improvements shown on the approved plans and improvements within the building envelope, the Owner shall not develop the portion of the Real Property labeled "Native Woodland Garden" on Sheet L0.1. Tree protection and replacement shall be consistent with the Watershed Environmental, Inc. report dated March 6, 2014. The Museum shall continue to be responsible for

maintenance of the restricted area, and compliance with orders of the Fire Department. Any brush clearance shall be performed without the use of earth moving equipment.

Other than elements of the subject project and proposals within the building envelope shown on Sheet L0.1, future development proposals within the restricted area shall be subject to following Mission Canyon Community Plan Development Standards as they existed at the time of the Planning Commission approval of the Conditional Use Permit, in addition to applicable City policies:

DevStd BIO-MC-3.3 Development shall be required to include the following Environmentally Sensitive Habitat (ESH) buffer areas:

- Creeks and streams, including steelhead critical habitat streams—50 feet as measured from the geologic top of creek bank.
- Central and Southern Coast Live Oak Riparian Forest and Woodland, Coast Live Oak/Olive Riparian Woodland, California Sycamore Riparian Forest, and Central Coast Arroyo Willow Riparian Forest—50 feet from edge of canopy.
- Coast Live Oak Woodland and Forest—25 feet from edge of canopy.
- Habitats containing Nuttall's scrub oak or other special status animal or plant species or rare natural communities—25 feet minimum, full extent to be determined on a case-by-case basis.
- Wetland Habitats—50 feet from edge of wetland habitat.
- Buffer areas from other types of ESH shall be determined on a case-by- case basis.

These buffers areas may be adjusted upward or downward on a case-by-case basis given site-specific conditions, such as slopes, biological resources, and erosion potential, as evaluated and determined by the City.

DevStd BIO-MC-3.4: Where development cannot be sited to avoid ESH, development in ESH and ESH buffer areas shall be designed and carried out in a manner that protects the sensitive habitat areas to the maximum extent feasible.

DevStd BIO-MC-8.2: The stream or creek buffer area shall be indicated on all site and grading plans. All ground disturbance and native vegetation removal shall be minimized in the buffer area to the maximum extent feasible.

5. **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.
6. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Historic Landmarks Commission (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.

7. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state and in accordance with the Storm Water BMP Guidance Manual and Operations and Maintenance Procedure Plan approved by the Creeks Division. 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.
8. **Pesticide or Fertilizer Usage.** The use of pesticides or fertilizer shall be prohibited within any area that drains directly into Mission Creek.
9. **Transportation Demand Management.** The following alternative transportation incentives shall be implemented reduce parking demand and traffic impacts.
 - a. **Bus Passes.** The Museum shall provide MTD bus passes free of charge to employees who request them for travel to and from work. Notice of the free passes shall be provided to existing employees and new employees when they are hired.
 - b. **Housing Priority.** The Museum shall provide rental preference of the onsite residential units in the following order: (1) Museum employees, (2) persons who currently live on the South Coast or households with a member employed on the South Coast; and (3) the general public.
 - c. **Guaranteed Ride Home.** In the event of an emergency or work requirement that interferes with the normal alternative transportation arrangements of any employee, the Museum shall guarantee a free ride home.
 - d. **Flexible Work Hours.** The Museum shall encourage staggered or flexible work hours that allow staff to arrive and depart at times which are outside the morning and afternoon peak traffic hours as established by the City of Santa Barbara (currently Monday through Friday 7-9 a.m. and 4-6 p.m.).
 - e. **Bicycle Parking.** A total of 22 bicycle parking spaces are to be provided on-site, including at least four covered bicycle parking spaces for employees only. Final rack locations and types of racks shall be approved by City Transportation staff and Historic Landmarks Commission.

D. **Design Review.** The project, including public improvements, is subject to the review and approval of the Historic Landmarks Commission (HLC). The HLC shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.

1. **Historic Structures Report.** All project features described in the Historic Structures and Sites Report(s) accepted by Historic Landmarks Commission shall be implemented to the satisfaction of the City Urban Historian.
2. **Tree Protection and Replacement.** Include a note on the plans that the tree protection and replacement project components included in the Watershed Environmental, Inc. report dated March 6, 2014, shall be implemented. All trees not indicated for removal on the approved landscape plan shall be preserved, protected, and maintained.
3. **Landscape Plan.** Identify on the Landscape Plan the portion of the Real Property outside of the Las Encinas Road easement designated as "Proposed Restoration/Enhancement Area" on the Exhibit labeled "Revised Figure 7 Woodland Habitat Restoration/Enhancement Area" in the Biological Assessment prepared by Watershed Environmental, Inc., dated July 10, 2014, so that those portions of the Real Property remain in their natural state.
4. **Public Improvements.** General Plan Implementation Actions HR6.1, HR6.2, and HR6.3 shall be considered in the review of proposed public improvements on Puesta del Sol.
5. **Exterior Lighting.** All new exterior lighting shall conform with Municipal Code Chapter 22.75 and shall be shielded and directed away from the tree canopy, the creek bed, creek banks, and undisturbed woodland habitat.
6. **Parking Lot Screening.** A soundwall/visual screen shall be provided to buffer the adjacent residences along Las Encinas Road at the location shown on Sheet L3.0.
7. **Bus Loading/Unloading.** The Museum shall designate a bus loading/unloading area near the Museum entrance.
8. **Screened Backflow Device.** All new backflow devices for fire sprinklers 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.
9. **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.

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

1. **Public Works Department.**

- a. **Approved Public Improvement Plans.** Public Improvement Plans as identified in condition E.1.d “Public Improvements” shall be submitted to the Public Works Department for review and approval. Upon acceptance of completed public improvement plans, a Building permit may be issued if the Owner has bonded for public improvements and executed the *Agreement to Construct and Install Improvements (Not a Subdivision)*.
- b. **Dedication.** Owner shall submit an application and fees to the City Public Works Department for the following dedications and shall complete dedication prior to acceptance of public improvements.
 - (1) Owner shall grant an easement for right of way purposes to the City of Santa Barbara northeast of the face of the existing historic wall on APN 023-271-004 at the intersection of Puesta Del Sol and Mission Canyon Road.
 - (2) Owner shall dedicate to the City of Santa Barbara a new onsite ten-foot-wide sewer easement centered over the actual sewer main with right of access and reservation to the owner to continue use of a butterfly exhibit at the existing location over the sewer main.
- c. **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.
- d. **Public Improvements.** The Owner shall submit C-1 public improvement or Public Works plans for construction of improvements along the property frontage on Puesta del Sol. Plans for public improvements shall be prepared by a licensed civil engineer registered in the State of California and shall be submitted prior to or concurrent with (but separately from) plans submitted for a Building Permit. As determined by the Public Works Department, the improvements shall include the following:
 - (1) Installation of frontage improvements along Puesta del Sol from the western extent of the sandstone wall on Puesta del Sol to the driveway entrance of the Carriage House. An in-lieu fee shall be provided to fund the remaining Puesta del Sol frontage improvements. The improvements shall include a minimum of six-foot wide pathway, and minimum of four-foot wide parkway.

- (2) Design of all frontage improvements shall be designed to protect existing trees located at the property frontage in the street as required by the Urban Forest Superintendent.
 - (3) The frontage improvements shall include the installation of one or two new City Standard Dome Style street lights. The locations shall be as approved and modified by the City Engineer. The lighting changes on Puesta Del Sol will be either to install one 20' Type B City Standard street light or two 14' Type A City Standard pedestrian lights. The existing SCE cobra-head shall be removed.
 - (4) The entire width of Puesta Del Sol along the Museum frontage shall be slurry sealed and striped.
 - e. **In-lieu Fee for Sidewalk.** The Owner shall pay \$7,000 of in-lieu fees for the future construction of the remaining pathway frontage improvements on the easterly end of Puesta del Sol.
 - f. **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.
 - g. **Agreement to Construct and Install Improvements.** Prior to building permit issuance, the Owner shall either complete public improvements or submit preliminary plans for the required public improvement with engineers estimate, securities for construction and execute an *Agreement to Construct*.
 - h. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way or easements shall be obtained by the Owner.
2. **Community Development Department.**
 - a. **Recordation of Agreements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in Condition C "Recorded Conditions Agreement" to the Community Development Department prior to issuance of any building permits.
 - b. **Unpermitted Work.** The Building Permit scope of work shall address the as-built garage conversion and any additions or modifications to the Western Residence that were completed without required permits.
 - c. **Trail Network.** Include a plan sheet illustrating the trail network on the western portion of the Museum property as shown within the Proposed Restoration/Enhancement Area on the exhibit labeled "Revised Figure 7 Woodland Habitat Restoration/Enhancement Area" in the Biological Assessment prepared by Watershed Environmental, Inc., dated July 10, 2014. The trail network shall be clearly labeled as public access as provided in Condition C.3.

- d. **Arborist's Monitoring.** Submit to the Planning Division an executed contract with a qualified arborist for monitoring of construction/demolition with ground disturbance in close proximity to existing trees. The contract shall include a schedule for the arborist's presence during grading and construction activities, and is subject to the review and approval of the Planning Division.
- e. **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.
- f. **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 F.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.
- g. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the appropriate design review board and as outlined in Section D "Design Review," and all elements/specifications shall be implemented on-site.
- h. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of each 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
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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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F. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.

1. **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.
2. **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. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
3. **Construction Hours.** Construction (including preparation for construction work) shall only be permitted Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. and Saturdays between the hours of 9:00 a.m. and 4:00 p.m. (Saturday construction is limited to non-noise-generating activities only, such as interior painting), 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. **Project Site Rules.** No radios, music playback equipment, musical instruments, recreational drugs, or alcohol shall be used by workers while on the project site.
5. **Early Arrivals.** If construction workers arrive at the project site before 8:00 a.m. Monday through Friday or before 9:00 a.m. Saturday, they shall remain in the area of actual construction, and away from any neighbors' property lines.
6. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. Materials storage and construction worker parking shall be prohibited on the northern section of the parking lot along and adjacent to the Las Encinas Road easement. The 'northern' section of the parking lot is defined to include all spaces north of the large landscaped island in the parking lot. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Public Works Director with a Public Works permit.
7. **Noise Control.** All construction equipment used on the site, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and site activity silencing devices. Sound control devices and techniques, such as noise shields and blankets, shall be employed as needed to reduce the level of noise of all project development activity to surrounding residents consistent with the requirements of SBMC Section 9.16.025.C.
8. **Portable and Stationary Equipment.** When portable or stationary equipment, such as, but not limited to generators, air compressors and wood sawing stations are required on the project site, the equipment shall be located as far from the project boundaries with residences (other than those owned by the Museum) as possible. If it is necessary to locate portable/stationary equipment within 200 feet of the project perimeter, methods to provide noise shielding for that equipment shall be implemented. This may include but is not limited to: providing a two or three sided enclosure which is lined with a sound absorbing material between the equipment and the property line, or locating the equipment so that noise shielding is provided by existing or new structures located on the project site consistent with the requirements of SBMC 9.16.025.C.
9. **Noise Complaints and Resolution.** Include on relevant signage a Museum-designated representative's telephone number to address noise complaints. The Museum will include construction related complaints and methods of resolution in its annual reporting to the City. In response to verified complaints the City may require the applicant to implement a noise monitoring program. The noise monitoring program shall be designed and conducted to ensure that appropriate noise reduction and control measures are identified and implemented so that construction related noise levels at the property lines of sensitive receptors (residents) adjacent to the project site are consistent with the requirements of SBMC Section 9.16.025.C.
10. **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. Tree removal/relocation/trimming activities shall not occur during nesting season (March 1 – July 1). If these activities must occur during this time, a qualified biologist shall conduct surveys to identify, no more than one week prior to the activity, active nests and nest

holes. The biologist shall map the location of all active and inactive nests and nest holes in trees. A 300-foot radius, no-disturbance buffer shall be established around trees containing active nests and this buffer shall be maintained until the biologist has verified that young fledglings have left the nest.

11. **Storm Water Pollution Prevention.** A Storm Water Pollution Prevention Plan with appropriate erosion/sediment control devices will be implemented between the construction area and Mission Creek. An erosion and sediment control plan that satisfies City of Santa Barbara requirements will be prepared and included in the construction drawings of each project component. Prior to the start of any demolition or construction activity within 100 feet of the topographic top of the creek bank, the perimeter of the work area shall be fenced and sediment and erosion control materials shall be installed to prevent demolition debris, soil, sediment, and other contaminants from falling or washing down into Mission Creek.
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. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City Master Environmental Assessment throughout grading and construction: Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

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

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

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

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

1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
2. **Complete Public Improvements.** For the phase of the project that includes public improvements, those improvements as shown in the public improvement plans or building plans, shall be completed.
3. **Noise Measurements.** For the phase of the project that includes the exterior speaker system, compliance with Condition C.2.d(4) shall be verified before the exterior speaker system is put into regular operation. Verification of compliance shall occur in the following manner:

- a. Upon installation of the exterior speaker system, and prior to initiation of their use for Museum purposes, the Museum shall schedule a test of the speakers. The Museum shall provide at least fourteen (14) days prior written notice of the date and time of the test to the owners and residents of any property adjacent to the Museum property that is developed with a residential use.
- b. If the test demonstrates that use of the exterior speaker system does not exceed the ambient noise level by more than 2dBA at any property boundary where the property adjacent to the Museum is developed with a residential use, the Museum shall submit a final report from a licensed acoustical engineer describing the design and operational parameters of the exterior speaker system and verifying that the sound produced by the exterior speaker system does not exceed ambient exterior noise levels by more than 2 dBA at any property boundary where the property adjacent to the Museum is developed with a residential use.

If the test demonstrates that use of the exterior speaker system exceeds the ambient noise level by more than 2dBA at any property boundary where the property adjacent to the Museum is developed with a residential use, the Museum shall not initiate the use of the exterior speaker system for announcements. Instead, the Museum's noise specialist shall recommend additional measures to limit the noise level associated with the use of the exterior speaker system subject to the review and approval of the Building and Safety Division. Such additional measures may include volume reduction, relocation, reorientation, or removal of speaker(s).

- c. Once the additional measures are approved by the Building and Safety Division, the Museum shall schedule another test of the speakers. The Museum shall provide at least fourteen (14) days prior written notice of the date and time of the

test to the owners and residents of any property adjacent to the Museum property that is developed with a residential use.

- d. If the additional test demonstrates that use of the exterior speaker system does not exceed the ambient noise level by more than 2dBA at any property boundary where the property adjacent to the Museum is developed with a residential use, the Museum shall submit a final report from a licensed acoustical engineer describing the design and operational parameters of the exterior speaker system and verifying that the sound produced by the exterior speaker system does not exceed ambient exterior noise levels by more than 2 dBA at any property boundary where the property adjacent to the Museum is developed with a residential use.

If the additional test demonstrates that the use of the exterior speaker system, including the implementation of the additional mitigation measures, continues to exceed the ambient noise level by more than 2dBA at any property boundary where the property adjacent to the Museum is developed with a residential use, the Museum shall limit the use of the exterior speaker system to public safety emergency announcements.

4. **Biological Monitoring.** For any phase of the project that includes planting of new native trees, submit a plan and contract with a qualified biologist acceptable to the City for the five-year monitoring period.

H. **General Conditions.**

1. **Prior Conditions.** These conditions shall supersede the conditions identified in Planning Commission Resolutions 33-1979, 10-1980, 002-89, 025-91, 054-92 and Substantial Conformance Determinations dated April 9, 2007, September 16, 2008, and November 12, 2009.
2. **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.
3. **Approval Limitations.**
 - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
 - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission.
 - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

4. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors (“City’s Agents”) from any third party legal challenge to the City Council’s denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively “Claims”). Applicant/Owner further agrees to indemnify and hold harmless the City and the City’s Agents from any award of attorney fees or court costs made in connection with any Claim.

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