

RECORDING REQUESTED BY )  
AND WHEN RECORDED MAIL TO: )  
 )  
City of Santa Barbara )  
City Clerk, City Hall )  
P.O. Box 1990 )  
Santa Barbara, CA 93102 )

SPACE ABOVE FOR RECORDER'S USE

ADDRESS: 3455 Marina Drive

NO FEE PER GOV. CODE 6103

A.P.N.: 047-022-004

DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS IMPOSED ON REAL PROPERTY

THIS DECLARATION of covenants, conditions and restrictions is made for the benefit of the City of Santa Barbara (hereinafter "City") and the owners and occupants of other parcels of Real Property in the immediate vicinity of the Real Property, by \_\_\_\_\_(hereinafter "Owner"), as of this \_\_\_\_\_ day of \_\_\_\_\_, 200

RECITALS

1. Whereas, Owner is the owner of certain Real Property described in Exhibit A, attached hereto, incorporated herein by this reference and herein referred to as the "Real Property."

2. Whereas, Owner sought a discretionary development approval for the Real Property from City's Planning Commission.

3. Whereas, an application of Mike Silva, owner of 3455 Marina Drive, APN 047-022-004, A-1/SD-3, Single Family Residence and Coastal Overlay zones, and General Plan Designation: Residential, 1 Unit per Acre (MST2007-00221) was filed with the City. The proposed project involves construction of a 5,390 square foot one-story single-family residence including a 574 square foot three-car attached garage. The project includes a swimming pool, patio, a 27 square foot half-bath structure, septic system, site walls, synthetic putting green, and landscaping. The lot has street frontage on Marina Drive to the north and Cliff Drive to the south. The vacant lot is reduced from 1.34 to 1.2 acres by a public right-of-way easement along Cliff Drive. The southern portion of the development is located within the Appealable Jurisdiction of the Coastal Zone. The discretionary application required for this project is a Coastal Development Permit to allow the proposed development in the appealable jurisdiction of the Coastal Zone (SBMC § 28.44.050).

4. Whereas, on May 8, 2008 the Planning Commission approved the project; on August 5, 2008 the City Council approved the project on appeal; and on October 17, 2008 the California Coastal Commission, on appeal, granted Owner an approval subject to certain conditions which were imposed for the benefit of the public. Some of those conditions were required to be set forth in a recorded document, which runs with the

Real Property and imposes those conditions on the Real Property.

### COVENANTS, CONDITIONS AND RESTRICTIONS

- I. In consideration of the issuance of said approval and the benefit conferred thereby on the Real Property, Owner hereby covenants and agrees with the City to impose the following terms, covenants, conditions, restrictions and limitations upon the possession, use and enjoyment of the Real Property:
- a. The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural water courses, conduits and any access road, as appropriate. 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.
  - b. No recreational vehicles, boats or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
  - c. The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan.
  - d. Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance and most currently adopted Energy Code. No floodlights shall be allowed. Exterior lighting shall be shielded and directed toward the ground.
  - e. The development of the Real Property approved by the Planning Commission on May 8, 2008, is limited to approximately 5,390 square feet of building and the improvements shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara. The project shall provide and maintain a view corridor at least 30 feet in width measured perpendicularly from the interior lot lines. The landscaping plan for the project shall afford and maintain a clear view of the ocean to pedestrians along Marina Drive in a manner acceptable to the Single Family Design Board by maintaining appropriate limits on the height of all approved landscaping. Structures, walls, and plants shall be installed and maintained consistent with the approved landscape plan within the view corridor. Trees are prohibited in the view corridor.
  - f. As a condition of approval of this project, Owner agrees to connect to the City sewer system when a sewer main is constructed in Cliff Drive at a point adjacent to Owner's Real Property, per Santa Barbara Municipal Code Chapter 14.44. Owner shall, at Owner's sole expense, connect to the City sewer system within one year of being advised in writing that the City sewer main is operable and available for such a connection. If connected to City sewer, a sewer discharge outlet shall be provided for drainage of the swimming pool. In the event Owner fails to comply with this condition of approval, City may enter the Real Property and make such a sewer connection with the cost of the connection becoming a lien on the real property to be paid in connection with property taxes and assessments imposed on Owner's Real Property.
  - g. In the event the pool is completely or partially drained, the owner shall truck out any water discharged from the swimming pool and properly dispose of the water to the sanitary sewer

system. No water from the pool shall be discharged into a City storm drain or to the private septic system on the real property, as identified in SBMC §16.15.

- h. The property owner waives the right to object to the formation of an assessment district for the maintenance of stormwater improvements and agrees to participate in the assessment district upon its formation.

II. Owner hereby declares that the Real Property is held and hereafter shall only be held, conveyed, hypothecated, encumbered, leased, rented, used, and occupied subject to the above referenced covenants, conditions, restrictions and limitations, all of which are declared and agreed to be in furtherance of Owner's interest. All of the above stated covenants, conditions, restrictions and limitations are intended to constitute both equitable servitudes and covenants running with the land.

III. Any purchaser of the Real Property, by the acceptance of a deed therefore, whether from Owner or from any subsequent owner of the Real Property, or by the signing of a contract or agreement to purchase the same, shall, by the acceptance of such deed or by the signing of such contract or agreement, be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein.

IV. This Declaration runs with the Real Property and shall be binding upon the successors and assigns of Owner and the heirs, personal representatives, grantees, lessees, sub lessees, contract purchasers, and assignees of Owner and any subsequent owner of the Real Property.

V. It is further agreed that these covenants, conditions, and restrictions may not be amended or canceled in whole or in part without the prior written recorded approval of the City of Santa Barbara.

IN WITNESS WHEREOF, Owner has executed this Declaration on the day and year first above written.

APPROVED AS TO CONTENT:  
Paul Casey  
Community Development Director

OWNER (See instructions below)

By \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

APPROVED AS TO CONTENT:  
Christine Andersen  
Public Works Director

\_\_\_\_\_  
Street Address or Post Office Box

By \_\_\_\_\_

\_\_\_\_\_  
City, State and Zip Code

APPROVED AS TO FORM:  
N. Scott Vincent  
Assistant City Attorney

( ) \_\_\_\_\_  
Telephone

By \_\_\_\_\_