City of Santa Barbara
California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 030-06
517 CHAPALA STREET
MODIFICATIONS, DEVELOPMENT PLAN, TENTATIVE SUBDIVISION MAP
JULY 13, 2006

APPLICATION OF PEIKERT GROUP ARCHITECTS FOR H & R INVESTMENTS, LP, PROPERTY OWNER, 517 CHAPALA STREET, APN 037-163-007 & -008, C-2, COMMERCIAL ZONE, GENERAL PLAN DESIGNATION: GENERAL COMMERCE (MST2005-00088)

The proposed project consists of a lot merger, the demolition of 1,300 square feet of commercial space and the construction of a three-story, mixed-use development with six residential condominium units totaling 9,999 square feet (net), two commercial condominium spaces totaling 2,872 square feet (net) and seventeen parking spaces. The project includes a request for one additional residential unit pursuant to State Density Bonus law. The proposed mix of units consists of one (1) three-bedroom market rate unit, four (4) two-bedroom market rate units and one (1) two-bedroom moderate income affordable unit.

The discretionary applications required for this project are:

1. A Modification to allow the required ten percent open space area to be provided on the second floor (SBMC§28.21.080.F);
2. A Modification of the lot area requirement to allow the one-bedroom market rate unit to have two bedrooms instead of one bedroom (SBMC§28.21.080.G);
3. A Modification of the lot area requirement to allow the third floor market rate unit to have three bedrooms instead of two bedrooms (SBMC§28.21.080.G);
4. Development Plan Approval for 1,572 square feet (net) of new nonresidential square footage (SBMC§28.87.300); and
5. A Tentative Subdivision Map to allow a one-lot subdivision to create six residential condominium units and two commercial condominium units (SBMC§27.07).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15332 (infill development project).

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

WHEREAS, 2 people appeared to speak in support of and in opposition to certain aspects of the application, and 2 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, July 13, 2006.

2. Site Plans

3. Correspondence received in support of and in opposition to certain aspects of the project:

   a. Caroline and Tony Vassallo, 514 Brinkerhoff Avenue.

   Correspondence received in opposition to the project:

   a. Karen McFadden, 505 and 509 Chapala Street.

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

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

The Planning Commission finds the following:

A. ***Modification of Open Space and Lot Area (SBMC§28.21.080)***

The modifications are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure an appropriate improvement on a lot and construct a housing development which is affordable to moderate-income households.

B. ***Development Plan Approval (SBMC§28.87.300)***

1. The proposed development complies with all provisions of the Zoning Ordinance, can be found consistent with the purpose and intent of the Ordinance and the proposed project is an appropriate use for the neighborhood; and

2. The proposed development is consistent with the principles of sound community planning. The proposed mixed-use project would allow for additional residential units and commercial spaces in the West Downtown area, and is consistent with the existing mix of uses in the surrounding neighborhood; and

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

4. The proposed development will not have a significant unmitigated adverse impact upon City and South Coast affordable housing stock since the proposal involves the addition of seven residential units in the City's housing stock including one unit affordable to moderate income households; and

5. The proposed development will not have a significant unmitigated adverse impact on the City's water resources because the City currently has a sufficient dependable water supply to serve this project; and

6. The proposed development will not have a significant unmitigated adverse impact on the City's traffic because the proposed use will meet its parking demand for the site and vehicle trips associated with the use will not significantly impact the City's street network.

C. ***Tentative Subdivision Map (SBMC §27.07.100)***

The Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara. The site is physically suitable for the proposed development, the project is consistent with the variable density provisions of the Municipal Code and the General Plan, and the proposed use is consistent with the Land Use Element and zoning designation for the site, and the vision for this neighborhood in the General Plan. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems or conflict with easements, acquired by the public at large, for access through or use of property within the proposed development.

D. ***New Condominium Development (SBMC §27.13.080)***

1. *The project complies with all provisions of the City's Condominium Ordinance.*

The project complies with the density requirements and each unit includes adequate covered parking with storage, laundry facilities, separate utility metering, adequate unit size and required private outdoor living space.

2. *The proposed development is consistent with the General Plan of the City of Santa Barbara.*

The project is consistent with policies of the City's General Plan including the Land Use Element, Housing Element, Conservation Element, Noise Element and Circulation Element. The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources. The project will provide infill residential and commercial development in the Downtown that is compatible with the surrounding neighborhood.

3. *The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources.*

The project is an infill mixed-use project proposed in an area where residential and commercial uses are permitted. The project is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts. Adequate park facilities exist nearby, and the project would not adversely impact other community resources, such as water, sewer, police, fire, and schools. The design has been reviewed by the City's design review board, which found the architecture and site design appropriate.

II. Said approval is subject to the following conditions:

In consideration of the project approval granted by the Planning Commission 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 Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property" which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Uninterrupted Water Flow.** 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.

2. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats or trailers shall be stored on the Real Property.

3. **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.

4. **Ownership Unit Affordability Restrictions.** The dwelling unit designated as Unit Five on the approved site plan shall be designated as a Moderate Income Affordable Unit and sold only to and occupied only by a household that qualifies as a Moderate Income Household as defined in the City's adopted Affordable Housing Policies and Procedures. The maximum sale price upon initial sale shall not exceed $215,200.

   The Affordable Unit shall be sold and occupied in conformance with the City's adopted Affordable Housing Policies and Procedures. The resale prices of the Affordable Unit shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure continued affordability for at least forty-five (45) years from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.

5. **Approved Development.** The development of the Real Property approved by the Planning Commission on July 13, 2006 is limited to the construction of a mixed-use development with six residential condominium units totaling 9,999 square feet (net), two commercial condominium spaces totaling 2,872 square feet (net), sixteen parking spaces, with an access from the alley to the main garage for residents, 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.

6. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:

   a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium parcels.

   b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.

   c. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.

   d. **Trash and Recycling.** Adequate space shall be provided and maintained for trash and recycling purposes.

   e. **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.

7. **Lighting.** 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.

8. **Street Tree Protection.** The street trees within the City's right-of-way shall be preserved and protected.

9. **Storm Water Pollution Control Systems Maintenance.** The Owner(s) shall maintain the drainage system, storm drain water interceptor and other storm water pollution control devices in accordance with the Operations and Maintenance Procedure Plan approved by the Building Official and/or the Public Works Director.

10. **Residential Permit Parking Program.** Residents shall not participate in the Residential Permit Parking Program.

B. **Design Review.** The following is subject to the review and approval of the Historic Landmarks Commission (HLC):

1. **Chapala Street Streetscape Design Guidelines.** The project shall comply with the Chapala Street Streetscape Design Guidelines.

2. **South Elevation.** Provide articulation of blank wall along rear building through use of windows, shutters, landscaping or other means deemed appropriate.

3. **Balconies.** The third story balconies shall be reduced to the minimum dimensions required by the Zoning Ordinance.

4. **Residential Garage Plate Height.** The residential garage plate height will be lowered to a floor-to-floor of approximately nine feet; subsequently, the building above it will be reduced accordingly.

5. **Garage Access.** Provide access from the residential garages to the elevator by reducing the two-car garage of Unit 2 to a one-car garage.

6. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.

C. **Public Works Submittal Prior to Final Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Final Map for the project:

1. **Final Map.** The Owner shall submit to the Public Works Department for approval, a Final Map prepared by a licensed land surveyor or registered Civil Engineer. The Final Map shall conform to the requirements of the City Survey Control Ordinance.

2. **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. Said agreement will be prepared by Engineering Division Staff for the Owner's signature.

3. **Required Private Covenants.** The Owner shall submit a copy of the recorded private covenants, reciprocal easement agreement, or similar private agreements required for the project.

4. **Street Improvement Plans.** The Owner shall submit building plans for construction of improvements along the subject property road frontage on Chapala Street. As determined by the Public Works Department, the improvements shall include new, and/or remove and replace to City standards: new sidewalk subject to the Chapala Street Streetscape Design Guidelines, driveway apron modified to meet Title 24 requirements, curbs, gutters, apply crack seal to the centerline of the street along entire subject property frontage, underground service utilities, connection to City water and sewer mains, private on-site drainage conveyance system including trench slot drain and public curb drain outlets, preserve and/or reset survey monuments, supply and install directional/regulatory traffic control signs, storm drain stenciling, on-site pollution prevention interceptor device, drought-tolerant parkway landscaping, street trees, and tree grates subject to Chapala Street Streetscape Design Guidelines, and provide adequate positive drainage from site. The building

plans shall be prepared by a registered civil engineer or licensed architect and reviewed by the City Engineer.

5. **Land Development Agreement.** The Owner shall submit an executed Agreement for Land Development Improvements, prepared by Engineering Division Staff, an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement.

6. **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 (easement).

7. **Voluntary Merger Required.** The Real Property known as APN 037-163-007 and APN 037-163-008 shall be merged into one lot as a part of the Final Map.

D. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.

1. **Recordation of Final Map/Merger and Agreements.** After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department.

2. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building permit.

3. **Storm Drain Operation and Maintenance Plan Required.** The Owner shall provide an Operations and Maintenance Procedure Plan (describing replacement schedules for pollution absorbing filters, etc.) for the operation and use of the storm drain system. The Plan shall be approved by the Creeks Division, Building and Safety Division, and the Public Works Department.

E. **Community Development Requirements Prior to Building or Public Works Permit Application/Issuance.** The following shall be finalized prior to, and/or submitted with, the application for any Building or Public Works permit:

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 450 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 the Building Inspectors, Police Officers and the public in addressing problems that may arise during construction. 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.

2. **Discussions regarding alley.** The applicant is encouraged to contact the owners of the properties north and south of the project and the adjacent property owners across the alley in the Brinkerhoff Landmark District to assemble a committee to discuss and purse improvements to the alley for the benefit of all.

3. **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 copy of the notice to the Planning Division.

4. **Archaeological Monitoring Contract.** Submit to the Planning Division 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 Stone Archaeological Consulting, dated April 2006. The contract shall be subject to the review and approval of the Planning Division.

   The archaeologist's monitoring contract shall include the following provisions: If cultural resources are encountered or suspected, work shall be halted or redirected by the archaeologist 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, preparation of further site studies and/or mitigation.

   If the discovery consists of possible human remains, the Owner shall contact the Santa Barbara County Coroner immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. The Owner shall retain 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, the Owner shall retain 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.

5. **Environmental Site Assessment Final Report Contract.** Submit to the Planning Division a copy of the contract with Groundwater Solutions Inc. or other appropriate consultant for fieldwork as recommended in the Phase I Environmental Site Assessment Report dated June 2005.

6. **Recorded Affordability Control Covenant.** Submit to the Planning Division a copy of an affordability control covenant that has been approved as to form and content by the City Attorney and Community Development Director, and recorded in the Office of the County Recorder, which includes the following:

   a. **Initial Sale Price Restrictions.** The dwelling unit designated as Unit Five on the approved site plan shall be designated as an Moderate Income Affordable Unit and sold only to and occupied only by a household who qualifies as a Moderate Income Household as defined in the City's adopted Affordable Housing Policies and Procedures. The maximum sale price upon initial sale shall not exceed $215,200.

   b. **Resale Restrictions.** The Affordable Unit shall be sold and occupied in conformance with the City's adopted Affordable Housing Policies and Procedures. The resale price of the Affordable Unit shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure continued affordability for at least forty-five (45) years from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.

7. **Final Planning Commission Resolution Submittal.** *[use as appropriate]* The final Planning Commission Resolution shall be submitted, indicating how each condition is met with drawing sheet and/or note references to verify condition compliance. If the condition relates to a document submittal, describe the status of the submittal (e.g., Final Map submitted to Public Works Department for review), and attach documents as appropriate.

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

1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Historic Landmarks Commission.

2. **Interior Noise Analysis Report.** To confirm that the proposed project complies with the City requirements regarding interior noise, an interior noise analysis report shall be submitted along with the building permit application.

3. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

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

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

4. **Trash Enclosure Provision.** A trash enclosure with adequate area 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.

5. **Commercial Dumpsters.** Commercial dumpsters shall be provided, including an equal area for recycling containers. Dumpsters shall not be placed within five feet (5') of combustible walls, openings or combustible roof eaves lines unless sprinkler coverage is provided.

6. **Water-Conserving Fixtures.** All plumbing fixtures shall be water-conserving devices in new construction, subject to the approval of the Water Resources Management Staff.

7. **Conditions on Plans/Signatures.** The final Planning Commission Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

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

G. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field for the duration of the project construction.

1. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of containers for collection of demolition/construction materials.

2. **Construction-Related Truck Trips.** Construction-related truck trips 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.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.

3. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Public Works Director.

4. **Haul Routes.** The haul route(s) for all construction-related trucks, three tons or more, entering or exiting the site, shall be approved by the Public Works Director.

5. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below:

New Year's Day ..... January 1st*
Martin Luther King's Birthday ..... 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 Chief of Building and Safety 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 night 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.

6. **Construction Parking/Storage.** Construction parking and storage shall be provided as follows:

   a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director.

   b. Storage or staging of construction materials and equipment within the public right-of-way is prohibited.

7. **Water Sprinkling During Grading.** During site grading and transportation of fill materials, regular water sprinkling shall occur using reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

   Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph.

8. **Covered Truck Loads.** Trucks transporting fill material to and from the site shall be covered from the point of origin.

9. **Expeditious 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.

10. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.

11. **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.

12. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.

13. **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, work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.

14. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.

15. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed in a timely manner may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.

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

1. **Repair Damaged Public Improvements.** Repair any damaged public improvements caused by construction for curbs, gutters, sidewalks, etc., subject to the review and approval of the Public Works Department. 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 improvement/building plans, including utility undergrounding and installation of street trees.

3. **Backflow Device.** Provide an approved backflow device placed on the property side of consumer's service pursuant to Santa Barbara Municipal Code Section 14.20.120.

4. **Ownership Affordability Provisions Approval.** For all dwelling units subject to affordability conditions obtain from the Community Development Director, or Director's designee in the City's Housing Programs Division, written approval of the following: (a) the Marketing Plan as required by the City's Affordable Housing Policies and Procedures; (b) the initial sales prices and terms of sale (including financing); (c) the eligibility of the initial residents; and (d) the recorded affordability control covenants signed by the initial purchasers which assure continued compliance with the affordability conditions.

5. **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.

6. **Environmental Site Assessment Confirmation Report.** A final report on the results of the fieldwork recommended in the Phase I Environmental Site Assessment report shall be submitted to the Planning Division within 180 days of completion of the fieldwork or prior to the issuance of the Certificate of Occupancy, whichever is earlier.

7. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.

I. **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 the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses and costs of that independent defense.

NOTICE OF DEVELOPMENT PLAN TIME LIMITS:

The development plan approved, per Santa Barbara Municipal Code §28.87.350, shall expire four (4) years from the date of approval unless:

1. A building or grading permit for the work authorized by the development plan is issued prior to the expiration date of the approval.
2. A time extension is granted by the Planning Commission for one (1) year prior to the expiration date of the approval, only if it is found that there is due diligence to implement and complete the proposed project. No more than one (1) time extension may be granted.

NOTICE OF TENTATIVE SUBDIVISION MAP TIME LIMITS:

The Planning Commission's action approving the Tentative Map shall expire two (2) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110 or the provisions of the California Subdivision Map Act.

This motion was passed and adopted on the 13th of July, 2006, by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 7 NOES: 0 ABSTAIN: 0 ABSENT: 0

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Planning Commission at its meeting of the above date.

_____ _____

Gabriela Feliciano, Commission Secretary Date

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