



# City of Santa Barbara Planning Division

## PLANNING COMMISSION MINUTES

June 16, 2005

### **CALL TO ORDER:**

Chair Jonathan Maguire called the meeting to order at 1:12 p.m.

### **ROLL CALL:**

#### **Present:**

Vice-Chair John Jostes

Commissioners, Charmaine Jacobs (arrived at 4:10 p.m.), Stella Larson, Bill Mahan, George C. Myers and Harwood A. White, Jr.

Chair Jonathan Maguire

#### **Absent:**

None.

### **STAFF PRESENT:**

Jan Hubbell, Senior Planner

Renee Brooke, Associate Planner

Roxanne Milazzo, Assistant Planner

Stacey Wilson, Assistant Transportation Planner

Allison De Busk, Associate Planner

N. Scott Vincent, Assistant City Attorney

Liz N. Ruiz, Planning Commission Secretary

## **II. PRELIMINARY MATTERS:**

A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

There were no none.

B. Announcements and appeals.

There were none.

C. Comments from members of the public pertaining to items not on this agenda.

No one wished to speak.

**III. CONTINUED ITEM FROM MAY 19, 2005:**

**ACTUAL TIME: 1:13 P.M.**

**APPLICATION OF BRENT DANIELS, L&P CONSULTANTS, AGENT FOR HERB BARTHELS (PROPERTY OWNER), 1837 ½ EL CAMINO DE LA LUZ, APN 045-100-065, E-3/SINGLE-FAMILY RESIDENTIAL AND SD-3/COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL, 5 UNITS PER ACRE (MST2002-00214) (CDP2002-00008)**

The purpose of this hearing is to receive public comments on the Draft Mitigated Negative Declaration prepared for this project. The proposal consists of the construction of a 1,499 square foot, 2-story single family residence with an attached 443 square foot garage, on a 23,885 square foot vacant bluff-top lot. Access to the site would be provided by private easements extending south from the end of the paved public road (El Camino de la Luz).

DRAFT ENVIRONMENTAL DOCUMENT: A Draft Mitigated Negative Declaration (Draft MND) that evaluates environmental effects of the project has been prepared and is available for review and comment. The analysis identifies potentially significant, but mitigable environmental effects in the following issue areas: aesthetics, biological resources, geophysical conditions, fire hazard, transportation/circulation, and water environment. Also evaluated in the document as less than significant impacts are air quality, cultural resources, noise, population and housing, public services, and recreation issues. Mitigation measures are identified to reduce potentially significant impacts to insignificant levels, and to minimize less than significant impacts.

DOCUMENT AVAILABILITY: The Draft MND is available for review at the Planning Division, 630 Garden Street between 8:30 a.m. to noon and 1:00 p.m. to 4:30 p.m., at the Public Library at 40 E. Anapamu Street during hours of operation, and on the City's website, at [www.SantaBarbaraCa.gov](http://www.SantaBarbaraCa.gov)

PUBLIC COMMENT PERIOD: The City of Santa Barbara encourages the public to provide written comment on this and other projects. The public review period of the Draft MND began on April 6, 2005 and was extended to May 13, 2005.

Ms. Brooke gave a brief overview of the project.

Brent Daniels, Applicant, addressed the Planning Commission.

The public hearing was opened at 1:16 p.m., and the following people spoke in opposition to the project:

Ray Franco, representing himself and the following neighbors: Joanna Morgan, Stan Krome, Bruce Peterson, Maggie Peterson, Peter Miler, Joann Adams, Marie Pruitt, Tom Sloan, Tenna Sloan, Jerry Lou Wright, Horace Wright, Dick Poedtker, and Lee Scharfeld, made the following comments:

1. Call for an Environmental Impact Report (EIR), stating there is substantial evidence to support EIR preparation.

2. Aesthetically, this should be treated like a ridgeline lot.
3. The project needs to maintain public access to the beach.
4. If a fire or other emergency occurs during construction, there will be a safety impact due to reduced access to other properties.
5. Disagree about the ability of cut and fill to be balanced on-site.
6. Stated that the parcel was never validated. He has a later map with no City stamp. The Conditional Certificate of Compliance requires that the property owner show they have adequate access in order to develop. There is only 7 ½ feet of access width. That is not adequate for construction vehicles or trash trucks. In 1964, the Planning Commission said they could not support a project on the site due to lack of sufficient access.

Jim Brooke expressed concern about bluff stability, stating that about five years ago, during a heavy rain, there was a spring in the berm that required conveyance of water to the beach. The slope is fragile, but the neighbors have been good about keeping water off the slope. He also expressed concern about the effect of the project on the view from La Mesa Park.

Susan Trescher, President, La Mesa Neighborhood Association, concurred with Mr. Franco's comments and further stated that the geologic studies are inadequate, that she disagrees with the bluff edge determination, that the project will result in a significant impact on aesthetics, all requiring the preparation of an EIR.

With no one else wishing to speak, the public hearing was closed at 1:35 p.m.

Commissioners' comments and questions:

1. The draft negative declaration seems to indicate that the lack of an access easement could be a significant impact. Asked if it is appropriate for this kind of a document, or a focused EIR, to settle the issue of that easement. Asked how do you reduce that impact to less than significant levels.
2. Asked if Planning Commission certifies this document, or ask for a focused EIR, then review the project itself and find that everything is resolved and the project is ready for approval, would there still be a condition to require adequate access to the site.
3. In regard to the aesthetic impacts, there is a required mitigation that the residence shall be redesigned to minimize intrusion into public views of the ocean as seen from La Mesa Park. Stated concern about knowing when the project is under that threshold and concluding that it results in a less than significant impact. Applying quantitative thresholds to a non-quantitative subject area such as aesthetics is difficult, but there are a number of residents and at least one neighborhood association raising the issue of impacts of this project on public views from La Mesa Park. Needs to know, in considerably more detail, what the specific mitigation measure is and how it would effectively reduce the impact from a level of potential significance to a level of less than significance. Leaning towards a focused EIR to further evaluate aesthetic impacts and provide alternatives to mitigate this impact. Would not be able to approve the Negative Declaration because there is not enough detail in this regard.

4. Feels this project goes a long way in mitigating the impact on the view by sinking into the hill and having the landscaping they plan around the property. Would like to see more definition from an EIR.
5. Asked the meaning of a statement at the end of Dr. Anikouchine's geological report where it says, "at a small scale, such as at the toe of the sea cliff stability or on a scale the size of the Camino de la Luz slide and at a different (longer) time scale the stability of the strata might be less, but it is beyond the capabilities of method of analysis to determine this."
6. Asked if there are other procedures available that would further analyze the stability of this site.
7. Asked if the work that Anikouchine has done has led him to the conclusion that this site is stable and buildable.
8. Feels it is very important to see alternative house designs. The design as presented is very good, but there may be other designs (i.e., the living room area and the bedroom above could be lowered, which is on the visible side of the house). Supports a focused EIR on aesthetics and architectural design. Finds the geologic analysis acceptable.
9. Asked if the applicant could alter the design in order to eliminate the significant aesthetic impact. Asked if this hearing could be continued and the applicant come back at another time with another design.
10. The current design doesn't meet the threshold of less than significant impact in the area of aesthetics. Asked the applicant to be creative and optimize their options.
11. Consider Conservation Element policies, as the building is located on a ridgeline as viewed from the park. The building should be stepped into the hillside and one-story (split-level design is acceptable). Suggested an EIR because it would analyze alternatives, including an environmentally superior alternative. Need defensible thresholds for the visual analysis.
12. Asked if the trail on the bluff face down to the beach was constructed before the Coastal Act, so potentially it is allowed to remain there. Asked if it is a public trail, is there a coastal access issue.
13. Asked Mr. Vincent if he is aware of other easements, and what kind of easements we are talking about here.

Dr. William Anikouchine, Geologist, stated there are standard methods for evaluating the stability of a slope. He said that he executed some, the results of which are provided at the end of his report, but he did not conduct on-site tests.

Ms. Hubbell stated that if an altered design is presented then we either need to re-circulate the negative declaration, or do a focused EIR to evaluate that.

Mr. Vincent stated that the adequacy of the site access involves a legal determination, and that would likely be the outcome of recommending a condition requiring the applicant to demonstrate compliance with the City Council approval of the lot split in the 1950's. This may actually require a Superior Court decision and a title action would ensue.

The Planning Commission has an ability to modify mitigation measures at this point and move forward with the mitigated negative declaration, but you have to make findings that the substituted mitigation is equivalent to one that you found inadequate. There is a procedure for the Planning

Commission to develop its' own mitigation, and since it should come out of the public hearing process, it is appropriate at this point.

Evaluating an aesthetic impact is extremely subjective and is ultimately the Planning Commission's decision. CEQA has thresholds of significance but this is really a judgment call. In a suburban context, the City has a design review board that can implement mitigation. An EIR does include other elements that are not required in a mitigated negative declaration, including an alternatives analysis.

Mr. Vincent is not aware of any information that indicates the path to the beach is a public easement. He has reviewed a number of title documents for properties in this area and has not seen any public easements. As far as he knows, there is no way for the public to get to this beach trail off of El Camino de la Luz without trespassing.

Commissioner Mahan proposed a straw vote:

To focus an EIR on aesthetics regarding the visibility of the house against the view of the ocean.

Those in favor: Commissioners Jostes, Larson, Maguire, Mahan and White

Those opposed: Commissioner Myers

Additional comments by the Planning Commission:

1. Stated that a one story house is another option that should be studied.
2. Stated the aesthetic issue is mitigated considerably by the landscaping that is going to be installed, and the dominance of the other houses on this street and the view that is also left down the canyon from the park. Would like to see the architecture restudied, but can support the aesthetics and the negative declaration mitigation.
3. Cannot consider a Statement of Overriding Considerations without doing an EIR. Suggest coming up with several architectural solutions in a schematic way using photographs.
4. Stated a request to see if there is an alternate design that would work.

Detlev Peikert, Architect, stated that they are willing to look at alternative designs. He is willing to show the Planning Commission the direction that it may go in with the understanding that they will come back with something more defined. He thinks it could be revised by pushing the second story back towards the garage, but that would affect neighbor's views down El Camino de la Luz.

Mr. Daniels showed the Planning Commission a slide that showed a cut section through the house, and went over elements of the house design that could be changed.

It was the consensus of the Planning Commission to use an EIR as a problem solving approach to determine the environmentally superior design, which would serves the Commission's needs, the needs of the applicant and, if should go to them, the City Council as well.

Mr. Franco briefly read from a 1947 subdivision deed, pertaining to a five-foot trail easement on the parcel for "use in common with others."

Mr. Vincent asked the Planning Commission if any other issues should be examined in the EIR.

The Planning Commission said that aesthetic impacts and the site access issue should be further evaluated in the EIR.

Commissioner White stated that they need more information from Staff to make a determination on "adequate access."

Ms. Hubbell stated the access issue is very difficult, and requires a legal determination. It cannot be resolved through the environmental process, or even through the Planning Commission to City Council.

Commissioner Jostes stated that it should be a single-issue EIR and take into consideration Conservation Element policies.

Chair Maguire stated that a number of the neighbors are concerned about the geophysical conditions. Therefore, when the project comes back for their consideration, he feels the applicant would be well served to try to address those concerns.

Addressed the Administrative Agenda at 2:15 p.m.

Recessed at 2:20 p.m., and reconvened at 2:48 p.m.

#### **IV. APPEAL ITEM:**

##### **ACTUAL TIME: 2:48 P.M.**

##### **APPEAL OF NEIGHBORS OF A MODIFICATION APPROVAL OF AN APPLICATION OF MARIO DE CUNHA, AGENT FOR JOHN LUCA, 220 E. JUNIPERO STREET, APN 025-132-003, E-1 ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL 3 UNITS PER ACRE (MST2004-00581)**

The proposed project involves a lot which is currently developed with a 1,382 square foot single-family residence and attached 393 square-foot 2-car garage. All existing structures will be demolished and replaced with a new 1,718 square foot two-story residence with an attached 439 square foot garage.

1. The discretionary application required for this project is a Modification to permit the new garage to be located within the required thirty-foot (30') front and ten-foot (10') interior yard setbacks. On March 23, 2005, a Public Hearing was held, required findings were made, and a Modification was approved. This is an appeal of that action.

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15305 (ENV05-00581).

Ms. Milazzo gave a brief overview of the project.

Lisa Knox Burns, appellant, addressed the Planning Commission and gave a presentation.

Tony Fisher, Attorney, representing the appellants, addressed the Planning Commission.

Mark Mannion, Attorney, representing the property owner, addressed the Planning Commission.

The public hearing was opened at 3:21 p.m., and the following people spoke in opposition of the project:

Margaret Marble  
David Conway  
Christopher Jacobs

With no one else wishing to speak the public hearing was closed at 3:27 p.m.

Commissioners' comments and questions:

1. Asked the Assistant City Attorney for clarification of the relationship of the rear lot to this project.
2. Feels that the size of this parcel is what is troubling the neighborhood. How do you make the findings for an appropriate development? Considering that the driveway would provide access to future development of the rear lot, both lots should be processed together.
3. Asked counsel if it then becomes an opportunity to consider the development on the two parcels as an appropriate development consideration.
4. Stated that the argument that an open garage would be harmful to the neighborhood is not a basis for a modification. The single curb cut makes sense from a circulation perspective. Feels this development as proposed is pushing the envelope on the size, bulk, and scale for the neighborhood.
5. Stated that this is a nonconforming lot of 6,000 square feet. The minimum lot size is 15,000 square feet, so it is a tough lot to develop compatible with the neighborhood. The side loaded garage requires a lot of paving. Prefers the front loaded garage and does not think he can support the modification into the front yard because he feels it is not necessary. Also, does not like the driveway along the side on a small lot. Is not seeing a design that fits this small lot that is compatible with the neighborhood. The applicant is saying he really does not need the Modification. Two stories are permitted, and this project needs to go back to ABR with a redesign minimizing the paved area on the site and maximizing the landscaping.
6. Stated this project would increase the floor area ratio to what appears to be the highest in the immediate vicinity, and is concerned with the appropriateness of this development given the

size of the property. Could support something that was closer to the rest of the block in terms of floor area ratio.

7. Asked how is it possible that the rear property will need a modification, and wouldn't it need a street frontage modification.
8. Asked how do you reconcile the support of the Stanley Drive modification, and not this project .
9. Asked why sidewalks are not being proposed in this project. Stated that a sidewalk on the street with a single curb cut would justify this modification.
10. Stated preference to see these two lots become one; however, they cannot require that, and thinks it makes sense to minimize the curb cuts. Sees that the encroachment is matching the rest of the street frontage. Feels it is an appropriate modification.
11. Stated he likes the design and feels the modification is warranted if landscaping is in front of the building and, by not having a garage facing the street, the curb is reduced. Is concerned about the back lot, density, and massing.
12. Can understand why staff supports this modification request; however, the issue everyone has spoken to is the second lot and how the total square footage of the two lots together is still less square footage than what current zoning would require. Need to make sure the ultimate plan is compatible, and does not feel this one is.
13. Stated this design should have a straight in garage driveway. Feels that if they cannot comment on the two sites together, the driveway should not be shown across a piece of property that should otherwise be landscaped. Suggested that this goes back to ABR with a design that does not need any modifications, has a straight in driveway, and maximum landscaping.
14. Commented that the ABR should encourage the applicant to erase the property line, move the design to the middle of the lot, which would be better located for the adjacent houses, and combine these two lots, which would almost conform to the zoning requirement. Then they would have a development that would be compatible with the neighborhood.
15. Stated that they can only consider the one lot before them; feels the driveway leads to nowhere.
16. Asked for direction from staff, in that they would like to see both parcels at the same time, and asked if there is any action they can take to encourage that to happen.

Mr. Vincent suggested that the Planning Commission take direction from the findings that are required for the modification. Those findings are that the modification is necessary for an appropriate development on this parcel. From that, look at the design of this parcel, the proposed development, and whether or not it is appropriate and consider the location of the driveway, how the location of the driveway drives the design of the residence, etc.

Ms. Hubbell added that, although the Commission does need to think about the driveway because it does go back to the rear parcel, the rear parcel's development is not before them.

Mr. Vincent clarified the question relating to the driveway that serves another parcel and creates the opportunity for the development of that parcel. The Commission should focus their attention on the design of this subject parcel. Is the driveway in an appropriate location? Is the development of the residence using this modification appropriately? He does not want to suggest that it puts the design

of the other development/parcel into this Commission's purview at this time. Today's action is an action on a modification and that modification is a very narrow issue; it is the encroachment of this garage into the front and interior yard setbacks.

Ms. Hubbell addressed Chair Maguire's questions, and Ms. Milazzo answered the difference between the Stanley Drive modification and this request.

Ms. Wilson addressed sidewalk and zone requirements.

Ms. Hubbell stated that the ABR is also looking at these projects and they are being reviewed concurrently. She said, even though the Commission is not seeing them together, the Planning Commission has to acknowledge the presence of that driveway, because that rear lot will be developed and the Commission must take it into consideration.

Ms. Hubbell suspects that the Planning Commission's action on the modification today will be appealed to City Council. It seems apparent from what they have heard at ABR regarding the development of the rear parcel that the ABR's decision will also be appealed to City Council. The applicant has pursued both of these projects at the same time so it is possible they will be heard by the City Council at the same time.

Mr. Mannion stated they are pleased that the projects have been processed together. The reason there is only one lot being reviewed today is because there it is the only one that requires a Modification. They are willing to agree that they will continue to process them concurrently.

Additional Planning Commissioner comments:

1. Stated that if he were the Modification Hearing Officer he might have made the same decision. If he were the neighbors he would probably be appealing it as they have done. If he were the applicant, he would probably be developing these two lots separately because that is the best approach in terms of economic return. As a Planning Commissioner, he thinks they have a responsibility to look at the land use and even though they are not looking at the second lot, they cannot ignore it. They cannot ignore the possibility that the owner, having possession of both of these lots, could join them together and do a proper development that would be much more compatible with the neighborhood.

**MOTION: Mahan/White**

**Assigned Resolution No. 044-05**

Deny the modification and uphold the appeal.

This motion carried by the following vote:

Ayes: 4 Noes: 2 (Maguire & Myers) Abstain: 0 Absent: 1 (Jacobs)

Chair Maguire announced the ten calendar day appeal period.

Chair Maguire recessed at 4:02 p.m., and reconvened at 4:10 p.m.

Commissioner Jacobs arrived at 4:10 p.m.

V. **NEW ITEM:**

**ACTUAL TIME: 4:11 P.M.**

**APPLICATION OF GIL GARCIA (ARCHITECT), AGENT FOR CASTILLO COTTAGES, LLC, 2113 & 2117 CASTILLO STREET, APNs 025-221-010 AND -011, R-3 LIMITED MULTIPLE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL – 12 UNITS PER ACRE (MST2004-00314)**

The subject proposal involves a voluntary lot merger of two parcels, demolition of the three existing units on the parcels, and construction of six one-bedroom condominium units. The new units would be contained within two buildings and there would be a total of nine garage parking stalls and two uncovered guest parking stalls. A common driveway, landscaping and drainage improvements are also proposed.

The discretionary applications required for this project are:

1. A lot area Modification for a newly created lot to provide less than the required 14,000 square feet of lot area in the R-3 Zone (SBMC, §28.21.080); and
2. A Tentative Subdivision Map for a one-lot subdivision to create six residential condominiums (SBMC Chapters 27.07 and 27.13).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Sections 15315, 15301 and 15303.

Ms. De Busk gave an overview of the project.

Gil Garcia, Architect, gave a brief presentation of the project.

The public hearing was opened at 4:17 p.m., and the following people spoke in favor of the project:

Daniel Linz  
Harlene Schwartz

With no one else wishing to speak the public hearing was closed at 4:21 p.m.

Commissioners' comments and questions:

1. Thanked applicant for working with the neighbors; thinks it is a good project, and the relationship to the adjacent buildings is handled very well. The density is appropriate for the neighborhood; the layout on the land and the drainage plan is well thought out. Also thanked applicant for retaining some of the design element ideas from the existing building

such as the garage door, and timber pattern, and adding one more bit of pleasant detail to this neighborhood as this neighborhood now is changing.

2. Asked staff about the lot area modification.
3. Stated ABR should look more closely at design specifications; the overall design of the property is well thought out and nice, but in just looking at some of the drawings is not sure if it really captures the craftsman look as much as it could. Also, supports breaking up of the hardscape being expanded.
4. Likes this project very much. Feels this is what is needed in the vicinity of Cottage Hospital. Asked applicant if he has been back to the ABR?
5. Agrees with colleagues; likes craftsman suggestion; the cantilevers appear to be providing a little claustrophobia in the courtyard, and asked that this comment go forward to have ABR at least look hard at that and work on it with the applicant.
6. Stated the only concern is the project's contribution to the traffic impact at Mission, 101, and Las Positas without some vehicle for contributing to either the project study report or the same types of conditions they put on Cottage. Understands this is exempt from environmental review and does not exceed the cumulative traffic impact threshold and does not want to do a negative declaration or an EIR on this. Project should move forward, but concerned about the increasing traffic problems that we're seeing pop up at a cumulative level in this section of our City.
7. Stated it is wonderful to have this within walking distance of Cottage, downtown, and all the medical offices. Not having to use your car is wonderful. Saw that they were going in the direction of those nice little carriage doors, as are existing in the batt and board building in the rear, which are pure charm. Stated the interior landscape needs relief and hopes for pockets for landscape wherever possible on the interior courtyard. Would like to see permeable paving wherever possible. Architect should pull back cantilevers from the side.
8. Stated a clearly differentiated pedestrian path between the sidewalk and the front doors of each unit should be provided.

Ms. Hubbell explained that this is a situation where there are two nonconforming lots, and the applicant has chosen to combine them. It brings the lot size closer to conformance, but because a new lot is being created by combining the two existing lots, it is necessary to approve the modification to keep the new lot legal. It is not a density modification in the standard sense. The individual units meet the density requirements.

Ms. DeBusk did state that the project does satisfy the minimum requirements for parking. They are providing more covered parking than would be required by code, and that is something the applicant has chosen to do. Alternatively, they could have provided some of those stalls as uncovered stalls; however, they do need to be allocated to a residential unit because that is the requirement with the condominiums.

Ms. Hubbell stated that, because of the project's small size and the fact that it is replacing some existing, it results in a minimal contribution to traffic anyway. The project certainly does not meet the criteria for a cumulative impact.

**MOTION: White/Jacobs**

**Assigned Resolution No. 045-05**

Make the findings outlined in the staff report and approve the tentative subdivision map and modification with Conditions of Approval amended to include an additional request to ABR to look at the cantilevers with the intent of reducing their impact; to look at the detailing; to affirm that it has some craftsman detailing in the project; study adding pockets of landscaping in the paved areas; adding differentiated pedestrian path paving from the street to the residential units, and to study maximizing the permeable paving.

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

Chair Maguire announced the ten calendar day appeal period.

**VI. ADMINISTRATIVE AGENDA (Addressed at 2:15 p.m.)**

A. Committee and Liaison Reports.

Commissioner Mahan reported on the Neighborhood Committee.  
Commissioner Larson reported on the Streetlight Committee.

B. Review of the decisions of the Modification Hearing Officer in accordance with SBMC §28.92.026.

None.

Ms. Hubbell went over the tentative agenda with the Planning Commission.

**VII. ADJOURNMENT**

The meeting adjourned at 4:41 p.m.

Submitted by,

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Deana Rae McMillion, Admin/Clerical Supervisor for Liz N. Ruiz, Planning Commission Secretary