



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: April 9, 2009
AGENDA DATE: April 16, 2009
PROJECT ADDRESS: 124 Los Aguajes Avenue (MST2004-00725)
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
 Danny Kato, Senior Planner *DK*
 Suzanne Johnston, Assistant Planner *SJ*

I. PROJECT DESCRIPTION

The Planning Commission will review two project alternatives. Project alternative 1 consists of the demolition of an existing 884 square foot, single-family residence and 440 square foot detached garage, and the construction of three new residential condominium units in the Appealable Jurisdiction of the Coastal Zone. The proposed structure would be three stories with a maximum building height of 30' 2" consisting of 4,049 square feet of residential floor area above 1,172 square feet of garage floor area on a 6,000 square foot lot located adjacent to Mission Creek. The project includes two two-car garages and a one-car garage on the first floor, and a two-bedroom unit and two one-bedroom units. The proposed project proposes 25 cubic yards of cut and 135 cubic yards of fill outside the main building footprint. Grading under the main building footprint would involve 110 cubic yards of cut. The project also includes landscaping changes, bioswales and retention basin adjacent to the proposed residences. Project alternative 2 is a slightly larger three-story, three-unit project that has a portion of the second and third stories projecting into the Mission Creek Development Limitation area. Alternative 2 was previously reviewed by the Planning Commission on November 2, 2006.

II. REQUIRED APPLICATIONS

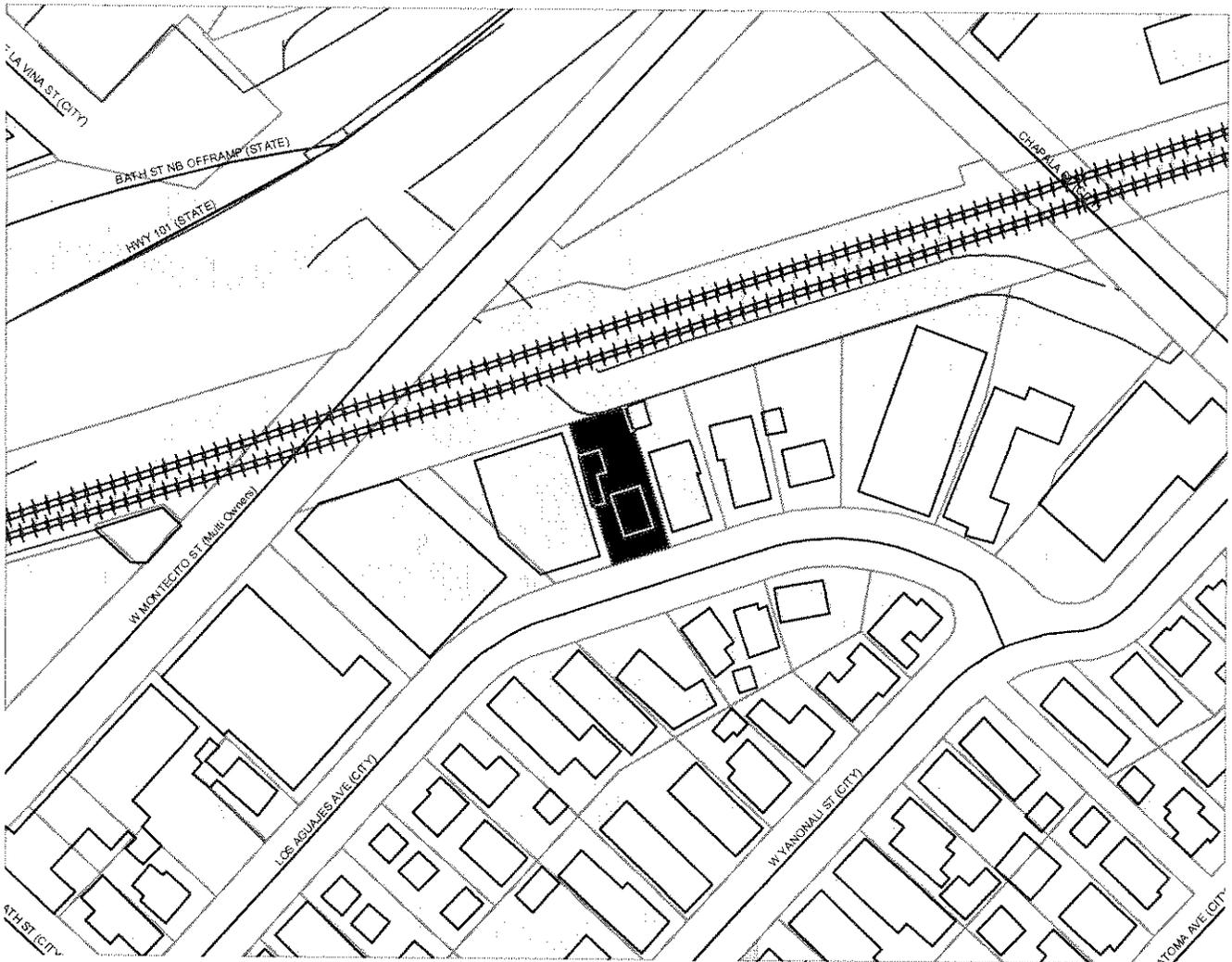
The discretionary applications required for this project are:

1. A Modification to allow the building to encroach into the front setback (SBMC §28.21.060 and §28.92.110.A.2);
2. A Modification to allow the building to encroach into the interior setback to the east (SBMC §28.21.060 and §28.92.110.A.2);
3. A Modification to allow the building to encroach into the other interior setback to the west. (SBMC §28.21.060 and §28.92.110.A.2);
4. A Coastal Development Permit (CDP2005-00021) to develop a three unit residential condominium project located in the Appealable Jurisdiction of the Coastal Zone. (SBMC §28.44.060)

5. A Tentative Subdivision Map for a one-lot subdivision to create three (3) residential condominium units (SBMC 27.07 and 27.13).

III. RECOMMENDATION

Alternative 1 conforms to the applicable the policies of the General Plan or Local Coastal Plan. Therefore, Staff recommends that the Planning Commission approve the Alternative 1, making the findings outlined in Section VIII of this report.



APPLICATION DEEMED COMPLETE:
DATE ACTION REQUIRED:

October 21, 2008
April 19, 2009

IV. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

| | |
|---|---------------------------------------|
| Applicant/ Property Owner: Mark Edwards | |
| Parcel Number: 041-343-010 | Lot Area: 6,000 square feet (sq. ft.) |
| General Plan: Hotel and Residential | Zoning: R-4/ SD-3 |
| Existing Use: Single-Family Residential | Topography: ~4% slope |
| Adjacent Land Uses: North – Mission Creek and Union Pacific Railroad East – Multiple-Family Residential South – Multiple- and Single-Family Residential West - Commercial | |

B. PROJECT STATISTICS

| Alternative #1 | Existing | Proposed Unit 1 | Proposed Unit 2 | Proposed Unit 3 |
|---------------------------|----------|-----------------|-----------------|-----------------|
| Living Area (net sq. ft.) | 887 | 1,543 | 1,432 | 1,092 |
| Bedrooms | 2 | 2 | 1 | 1 |
| Garage (net sq. ft.) | 400 | 464 | 412 | 321 |

| Alternative #2 | Existing | Proposed Unit 1 | Proposed Unit 2 | Proposed Unit 3 |
|---------------------------|----------|-----------------|-----------------|-----------------|
| Living Area (net sq. ft.) | 887 | 1,543 | 1,295 | 1,086 |
| Bedrooms | 2 | 2 | 1 | 1 |
| Garage (net sq. ft.) | 400 | 464 | 412 | 321 |

V. ZONING ORDINANCE CONSISTENCY

| Standard | Requirement/ Allowance | Existing | Proposed |
|---|--|-------------------------|--|
| Setbacks -Front | 15' for 3 story building* | 20' | 10' to floor area 8' entry element |
| -Interior | 10' for 3 story buildings | 2'- garage, 6'- house | 6' to floor area 4' to architectural projections. |
| -Rear | 6' – 1 st floor 10' – 2 nd , 3 rd floors | 35'- garage, 64'- house | 25' - all floors |
| *If the 3 rd story net floor area is less than 50% of the net first floor area, the 1 and 2 story portions of the building may have a 10' setback as long as the third story observes a 20 foot setback. | | | |

| | | | |
|---|---|-------------------|---|
| Mission Creek Development Limitation Area | 25' from top of either bank | > 25' | 25' on 1st floor |
| Building Height | 45' | Single-story | 30'2" |
| Parking | 3 covered, 2 uncovered | 1 covered | 5 covered |
| Lot Area Required for Each Unit (Variable Density) | 1-Bdrm = 1,840 sq. ft. 2-Bdrm = 2,320 sq. ft. | 2,320 sq. ft. | (1) 2,320 sq. ft. (2) 1,840 sq. ft. Total Rqd.: 6,000 sq. ft. |
| 15% Open Space | 900 sq. ft. | >900 sq. ft. | 1100.5 sq ft |
| <i>Not Required</i> Private Outdoor Living Space | Unit 1 – 84 sq. ft. (2 nd floor) Units 2&3 – 72 sq. ft. (2 nd floor) | Not Required | Unit 1 – 119 sq. ft. Unit 2 – 126 sq. ft. Unit 3 – 65 sq. ft. |
| Lot Coverage | | | 1,562 sq. ft. |
| -Building | N/A | 1,320 sq. ft. 22% | 26% |
| -Paving/Driveway | N/A | 1,384 sq. ft. 22% | 2,065 sq. ft. 34% |
| -Landscaping | N/A | 3,356 sq. ft. 56% | 2,373 sq. ft. 40% |

Except for the requested modifications to the front and interior setbacks, the proposed alternative 1 project complies with the requirements of the R-4, Hotel-Motel Multiple Residence Zone. The requested modifications are discussed in Section VI. The applicant has reduced the overall height of the building by one and a half feet.

Except for the requested modifications to the front yard setback and the interior setbacks, the proposed alternative 2 project complies with the requirements of the R-4, Hotel-Motel Multiple Residence Zone. Additionally, under SBMC §28.87.250, Development along Creeks, the Building Official allowed the second and third stories of the proposed development to encroach into the Mission Creek setback, as discussed in more detail below. The requested modifications are discussed in Section VI.

VI. ISSUES

A. DESIGN REVIEW

The Historic Landmarks Commission (HLC) reviewed and accepted a Historic Structures Report for Alternative 2 on April 13, 2005. This report is discussed in further detail in the Environmental Review section of the staff report.

Alternative 2 was the first project submitted to the City. Staff expressed concerns regarding neighborhood compatibility to the ABR. The ABR reviewed Alternative 2 on three separate occasions (see minutes attached an exhibit to the initial study). The minutes reflect that the

ABR initially had concerns about the mass, bulk, and scale, especially at the third floor, and how it would be viewed from the train station. At the first conceptual review, the ABR also felt that the architecture was too modern for the neighborhood. However, at the most recent conceptual review on February 27, 2006, the ABR stated that the majority of the board was comfortable with the contemporary style of the project and also found the size, bulk, and scale to be acceptable, stating it could be found compatible with the "industrial nature" of the neighborhood. The ABR also wanted to see the third floor facing Los Aguajes Avenue to be further reduced with an increased setback from the street. One board member was not in support of the project and felt the size, bulk, and scale, and contemporary style of the project were not consistent with the neighborhood.

The ABR supported the front yard modifications for the first and second floors as these are aligned with the front yard setbacks of the adjacent buildings. The board wanted to see more pedestrian friendly paving to the entries of the units, to make the entries more obvious. The board felt the landscaping was appropriate and that the stone base on the ground floor adds to the quality of materials of the building. With regard to the interior setback modifications, both the ABR and staff were assuming that setbacks were 6' for the first and second floors and 10' for the third floor at the time of review. Based on these assumed setbacks, the ABR was mixed with regard to their support and felt that small encroachments of the building could be supported (e.g., columns that extend to the ground but do not add floor area). It was later determined by staff that, due to the amount of floor area proposed on the third floor, the interior yard setbacks are actually 10' for the entire building. The ABR has not reviewed the project after this was determined.

The Planning Commission held a concept review hearing on Alternative 2 on November 2, 2006, wherein Staff expressed its concerns regarding neighborhood compatibility. The Planning Commissioners' consensus was that the Alternative 2 could be found compatible with the adjacent buildings on the north side of Los Aguajes Avenue. Alternative 2 has not changed from the November 2, 2006 Planning Commission review. The second and third floor has not been reduced further since the last ABR concept review, and a design change has not been proposed with regard to adding more pedestrian friendly paving to the unit entries.

Alternative 1 was submitted as a response to the Planning Commission direction at the November 2, 2006 hearing. The applicant relocated the second and third floors out of the 25' Mission Creek development limitation area and softened the architecture on the front elevation. Staff strongly suggested that the applicant return to ABR for further review and updated comments but the applicant has chosen to go forward to Planning Commission without ABR comments based on the direction in the November 2, 2006 Planning Commission hearing minutes (attached see an exhibit to the initial study).

B. DEVELOPMENT ALONG MISSION CREEK

Section 28.87.250 of the Zoning Ordinance, *Development Along Creeks*, was established for the purpose of controlling development adjacent to Mission Creek. The land area subject to limitation is defined as all land within the banks and located within 25' of the top of bank of Mission Creek. Any development proposed within such an area and subject to a building

permit, must be reviewed and approved by the Chief Building Official or the Planning Commission on appeal prior to the issuance of a building permit.

The intent of the development limitation is to prevent undue damage or destruction of developments by flood waters; prevent development of one parcel from causing undue detrimental impact on adjacent or downstream properties in the event of flood waters; and to protect the public health, safety and welfare. The Chief Building Official has reviewed Alternative 2, and approved the limited development within the 25 foot area for the purposes of SBMC §28.87.250 because the conceptual project meets the general legislative intent of the ordinance, which is related to protecting structures from flooding. Staff does not support Alternative 2 because the structure has not been relocated outside of the development limitation area.

On November 2, 2006 the Commission reviewed the alternative 2 proposal for development which included two support beams on the ground floor, which would be located approximately 12' from the creek top of bank. The floor area on the first floor is set back 25' from the top of bank, with the second story and third story deck located approximately 12' from the determined top of bank. Second story roof eaves are closest to the creek, at 10' away. The Planning Commission gave direction to the applicant to relocate the second and third floor to be located outside of the 25' development limitation area, and with that change, the Commission generally supported the proposed encroachments into the front setback.

Since the last review by the Planning Commission, on November 2, 2006, the applicant has submitted Alternative 1 which pulled the second and third floors twenty-five feet away from Mission Creek's top of bank; reduced the building height, and softened the front elevation. Alternative 1 was not forwarded to the Chief Building Official because development was not proposed to be located within the development limitation area. Staff supports Alternative 1 because it is consistent with city policies for development along creeks and with the General Plan policies within the Conservation and Open Space Element.

C. MODIFICATIONS

Interior Setback Modifications. In the R-4 Zone, the interior setback for three-story buildings is ten feet (10'). However, if a building is designed so that the total floor area of the third story is one half or less of the total floor area of the first floor, then the setback is 10' for the third story only and 6' for the first and second floors. The floor area proposed for the third floor of both alternatives is greater than half the floor area proposed for the first floor of the project; therefore, a setback of 10' is required for the entire building from both interior property lines. Both projects have been designed so that the interior floor area is setback 6' for the first and second floors and 10' for the third floor. Features on the first and second floors, which include shelf windows supported by columns that extend to the ground and second floor deck areas, are as close as 4' to the interior property lines. On the third floor, deck areas are proposed as close as 8' to the interior property line.

Although the third story is not less than half of the floor area of the first floor, it is reduced in comparison to the mass of the second floor. Staff also recognizes the site constraints of the property, with regard to its location adjacent to Mission Creek. For these reasons, staff could

support such interior setback modifications if the deck areas on the second floor were reduced to no closer than 6' to the interior property line and the deck areas for the third floor no closer than 10' from the interior property line for the purpose of reducing privacy impacts on adjacent neighbors. Staff could support such modifications only in Alternative 1, where the second and third stories are set back 25' from the creek top of bank, as this setback from the creek is recognized as a constraint on the property and justification for allowing minor interior yard encroachments.

Front Setback Modification. The front setback for three-story structures in the R-4 Zone is 15', unless the total floor area of the third story is one half or less of the total floor area of the first floor, then the setback is 10' for the first and second floors, and the setback for the third floor is 20'. Interior floor space is set back 10' on the first and second floors with a small architectural feature on the ground floor as close as 8 feet to the front lot line. The habitable space on the third floor is setback 15'; however, the useable deck area encroaches up to 10' from the front property line. The applicant has reduced the third story element based on feedback from the ABR; however, the ABR has directed that the third story be setback even further as seen from Los Aguajes Avenue. The first and second stories are consistent with buildings on the adjacent properties. Staff could support the front yard modification as proposed in Alternative 1, where the entire building is located 25' from the creek top of bank. This modification request could be supported due to the increased setback that would occur at the rear of the property to provide relief from the creek area, and due to the consistency with existing setbacks of buildings on adjacent properties.

The pattern of existing development shows a mixture of building types with setbacks of 0 – 15' from the front property line along the 100-200 blocks of Los Aguajes Avenue. Research revealed that most existing encroachments are due to existing legal non-conforming situations that may have been created by changes in zoning rules.

D. NEW CONDOMINIUM DEVELOPMENT

Section 27.13.060 discusses the required physical standards for new residential condominium developments such standards include parking, private storage space, separate utility metering, either private or common laundry facilities for all units, waiver of the right to protest a public improvement district, density requirements, minimum unit size and minimum outdoor living space requirements, and that a determination regarding the storage of recreational vehicles be made by the advisory agency at the time of approval. Both alternatives provide the required number of off-street parking spaces, separate laundry facilities, and separate utility metering for all units. The private storage space requirement is allowed to be waived if an enclosed garage is provided for that unit. Each of the proposed units is proposed to have its own garage space. The residential development would be subject to the density requirements of the R-3/R-4 Multiple Family Residential Zones, which allow 12 dwelling units to the acre. However, the General Plan Land Use and Housing Elements recognize that, in zones where variable density standards apply, development may exceed the limit of 12 units per acre without causing an inappropriate increase in the intensity of activities. Both proposed projects would result in a density of approximately 22 units per acre, which, based on the above discussion, would be consistent with the Land Use and Housing Elements of the General Plan.

E. COMPLIANCE WITH THE LOCAL COASTAL PLAN

The project site lies within the Coastal Zone. Development in the Coastal Zone must be consistent with the Local Coastal Plan (LCP) and the Coastal Act. The proposed project site is located in Component 3 of the LCP, also known as the West Beach neighborhood. Because the project site is located within 100' of Mission Creek, the site falls within the Appealable Jurisdiction of the Coastal Zone per SBMC §28.44.040.C.2 and Coastal Act §30603(2). This neighborhood includes hotels and motels, a mix of single- and multiple-family residences, and other commercial uses such as offices and restaurants. The project site is located in a land use area designated as Hotel and Residential, which allows for development of visitor-serving facilities and for residential use at a density of twelve units per acre. Coastal Act policy concerns within the West Beach neighborhood include: hazards from flooding of Mission Creek and potential soil liquefaction during earthquakes; protection of existing recreational facilities; provision of visitor serving uses, primarily hotel/motel related; protection of the unique West Beach residential neighborhood; problems of circulation and parking related to the waterfront area in general and, specifically, possible City College expansion.

The Chief Building Official has determined that the neither alternative would result in hazards from the flooding of Mission Creek. No public recreational facilities or visitor serving uses would be affected by the project. The Architectural Board of Review and the Planning Commission have stated that the architectural style could be found to be compatible with the West Beach neighborhood, citing that the buildings on the north side of Los Agujes have a variety of architectural styles, and directed the applicant to reduce the mass, bulk and scale.

LCP Housing Policy 5.3 states that new development in and/or adjacent to existing residential neighborhoods must be compatible in terms of scale, size, and design with the prevailing character of the established neighborhood. Further, Policy 5.4 states that the part of the coastal zone bounded by the half blocks between Castillo and Bath Streets and Mason and Cabrillo Streets, Chapala, and the half block north of Los Agujes Avenue, is recognized as a unique residential neighborhood, and shall be treated in a manner that strives to maintain this unique character. The LCP recognizes the predominant style in Component 3 as "Spanish flavor architecture typical of Santa Barbara". The existing residence is one-story and is described in a Historic Structures Report as predominantly Spanish Colonial Revival, with Craftsman style windows and distinct Mission Revival elements. The neighborhood is described as a mix of mostly small single-family Spanish Colonial Revival style homes, stucco residential apartment buildings, and three commercial buildings. Existing residential structures on Los Agujes Avenue are all one and two stories, whereas the proposed structure is three stories. The Planning Commission directed the applicant to reduce the mass, bulk and scale of the development and stated that the architectural style could be found to be compatible with the adjacent buildings on the north side of Los Agujes Avenue. The applicant has reduced the building height of project alternative 1 by approximately one and half feet. The Planning Commission must make the findings that the structure is compatible with the surrounding neighborhood in mass, bulk, and scale and architectural style to approve the project.

F. COMPLIANCE WITH THE GENERAL PLAN

Before a condominium project and a tentative subdivision map can be approved, both must be found consistent with the City's General Plan. The project site is located in the West Beach Neighborhood and has a General Plan designation of Hotel and Residential and is zoned C-2, Commercial. The West Beach Neighborhood is an area delineated in the City's General Plan by Cabrillo Boulevard and Shoreline Drive on the southeast, Santa Barbara City College on the western property line; Montecito Street, Castillo Street, and Highway 101 on the northwest; and Yanonali and Chapala Streets and Kimberly Avenue on the north east. This neighborhood is developed as a residential neighborhood in the eastern and northern sections with a mixture of single-family, duplexes, and higher-density multiple units interspersed through the neighborhood. On the west, as it merges into downtown, mixed residential and commercial uses appear.

Sometimes known as the Ambassador area, the West Beach neighborhood is characterized by a combination of Spanish-style motels along the ocean frontage, which merge into an attractive residential area of single- and multiple-family dwellings behind Cabrillo Boulevard. Although the residential population of West Beach increased in recent years as a result of new apartment construction, it is anticipated that substantial portions of existing residential areas will be converted into motel uses. Therefore, it will be likely that West Beach will experience a net loss in residential population. The General Plan reflects this trend by expanding the area designated for mixed hotel and residential development as far toward the ocean as Mason Street.

Approximately half the land area of the West Beach neighborhood is given over to City College, including a recent acquisition of a large undeveloped parcel between Oceano Avenue and Loma Alta Drive adjoining the existing campus at the west. In addition, the area contains Pershing Park, which is shared with City College for athletic facilities. West Beach also contains Ambassador Park, located within the motel strip on Cabrillo Boulevard, Plaza del Mar, and the Moreton Bay Fig Tree. The proposed three-unit condominium project is compatible with the predominantly residential/motel character of the West Beach neighborhood.

The neighborhood shopping facility located on Montecito Street serves the ocean-front residential and motel areas in the vicinity.

Conservation and Open Space Elements: The Conservation Element recognizes the creekside environment of Mission Creek as a contribution to meeting the spatial needs of the community by offering visual relief from the built environment. Further, it recognizes that, in the past, the absence of creek management, including some creekside construction activities, has severely detracted from the creek's visual value and indirectly contributes to degradation of the coastal environment as well. Additionally, the Open Space Element recognizes that creek corridors are important open spaces and that redevelopment should respect these open space areas. Planning Staff does support Alternative 2 due to the proposed placement of the second and third stories of the structure and ground floor support for the upper stories within 25' of the Mission Creek top of bank, and finds the project to be inconsistent with these General Plan policies within the Conservation and Open Space Elements. However, staff does find that Alternative 1 is

consistent with the General Plan policies within the Conservation and Open Space Elements which proposes to place all new construction 25' away from the top of Mission Creek.

Noise Element:

A review of the City's Noise Contour Map indicates that the project is located in an area in which the noise level exceeds 65 dBA L_{dn} (average A-weighted sound level over a 24-hour day). The noise level mapped for the site ranges from 65 to over 70 dBA. The General Plan Noise Element Land Use Compatibility Guidelines identify up to 60 dBA L_{dn} as the maximum compatible exterior noise level for residential uses and 45 dBA L_{dn} for interior noise levels.

The City's normal practice is to find compatibility with the Noise Element where the required outdoor living spaces are exposed to less than or equal to the 60 dBA noise level, and the interior areas are less than or equal to 45 dBA. For both Alternatives 1 and 2, the noise report identifies design measure that will ensure that the interior noise level is less than or equal to 45 dBA.

For both alternatives, the applicant is satisfying the open space requirements of the zoning code by providing common outdoor living space, wherein 15% of the lot (including setbacks) is open space. The common outdoor living space is provided between the building and Mission Creek (the backyard).

According to the noise report, the common outdoor living space area would have an ambient noise level of 72 dBA L_{dn}, which cannot be reduced to 60 dBA. Normally, this would result in a finding of incompatibility with the Noise Element. However, the applicant is providing a private outdoor living space for each unit, and these decks have been designed to have noise levels that do not exceed 60 dBA per the noise study. Staff believes that these decks are the areas more likely to be used by the condominium owners as recreational space than the 15% open space, which overlaps with the Mission Creek setback.

The intent of the noise limits and policies in the Noise Element is largely to provide indoor residential areas with less than 45 dBA L_{dn} and ensure there are some recreational outdoor areas provided that do not exceed 60 dBA L_{dn}. With the design changes to address the sound mitigation on the proposed decks and indoor areas, staff believes that the project is consistent with the intent of the Noise Element policies. However, the Planning Commission must agree in order to make the General Plan Consistency findings.

Housing Element:

Santa Barbara has very little vacant or available land for new residential development. Therefore, City housing policies support build out of infill housing units in the City's urban areas. The City's Housing Element encourages construction of a wide range of housing types to meet the needs of various household types. The project would be consistent with the Housing Element as it will contribute four additional residential units to the City's existing housing stock.

Neighborhood Compatibility

In accordance with Housing Element Policy 3.3, which requires new development to be compatible with the prevailing character of the neighborhood, the proposed building would be compatible in scale, size and design with the surrounding neighborhood. The surrounding neighborhood is comprised of a mix of commercial and multi-family residential development, with a wide range of heights. Along the north side of Los Aguajes, the uses are a mixture of commercial and multi-family residential apartment complexes. The building height of the proposed three-story structure is consistent with adjacent commercial and apartment buildings on the northerly side of Los Aguajes Avenue. The building has comparable front yard setbacks to many of the structures that front Los Aguajes. Both the Architectural Board of Review and the Planning Commission have stated that the architectural style could be found to be compatible with the West Beach neighborhood, citing that the buildings on the north side of Los Aguajes have a variety of architectural styles, and directed the applicant to reduce the mass, bulk and scale.

Urban Design Guidelines

One of the goals of the Urban Design Guidelines is compatibility of new development with the character of the City, the surrounding neighborhood, and adjacent properties. The ABR considers the Urban Design Guidelines in reviewing development proposals. As discussed above, the ABR is supportive of the site plan, and the size, bulk and scale of the project.

VII. ENVIRONMENTAL REVIEW

An Initial Study was prepared for the proposed project because the California Environmental Quality Act (CEQA) requires that an environmental assessment be provided for a project that is proposing impacts on a structure which is listed as a potential historic resource. The environmental analysis determined that the proposed project could potentially have significant adverse impacts related to cultural resources and noise; however, mitigation measures described in the Initial Study and agreed to by the applicant would reduce potential impacts to less than significant levels. In addition, recommended mitigation measures were identified to further reduce less than significant impacts associated with cultural resources and noise impacts.

A Draft Mitigated Negative Declaration was prepared for the proposed project, and a public review period was held from February 4, 2009 to March 3, 2009. Two comment letters were received during the comment period. On February 19, 2009, the Planning Commission conducted a public hearing to accept testimony regarding the Draft Mitigated Negative Declaration, and provided its comments. The comment letters and the responses to the comments received regarding the Draft Mitigated Negative Declaration are attached to the Initial Study. The main issue areas discussed in the comments and response to comments are as follows:

1. Modification requests in relationship to the existing pattern of development in the neighborhood, as well as, site constraints.
2. Visual Aesthetics

3. Cultural Resources mitigations related to potential future historic districts.
4. Noise issues related to the train traffic.

Archaeological Resources: Based on a review of the City's Archaeology Resources Map, the project site is located within several cultural resource sensitivity zones (Prehistoric Watercourse, Hispanic-American Transition Period 1850-1870, American Period 1870-1900 and Early 20th Century 1900-1920). A Phase I Archaeology Report was prepared and accepted by the Historic Landmarks Commission. The report concluded that no prehistoric cultural resources were found to exist within the subject parcel. However, a recorded archaeological site is situated adjacent to the subject property, portions of an historical structure once existing within the property and remains could exist below the ground surface, and historical artifacts have been recovered along the borders of Mission Creek. Therefore, the report recommends that a qualified archaeologist and Native American representative monitor the removal of the structural footings following the demolition of the existing structures. Once the structures have been removed, an Extended Phase I test program would be required to determine if buried prehistoric and/ or historic cultural resources exist on-site. The project would be conditioned according to these recommendations.

Biological Resources: Due to the proximity of the project site to Mission Creek, a Biological Resources Study was required to be submitted by the applicant. The November 2005 report, prepared by Lawrence E. Hunt, is attached as an exhibit to the initial study. The report finds that the bed and banks of Mission Creek bordering the project site, and for hundreds of feet upstream and downstream of the subject property, do not meet riparian corridor criteria due to this portion being re-aligned, channelized, and lined with concrete and stone. The report concludes that there is no biological basis for designating a 25-foot wide area between the existing channel wall and the building footprint as a "riparian zone" because the subject property lacks two elements critical to a functioning riparian corridor: a) habitat connections between the creek and upland, and; b) habitat continuity.

Although the report concludes that the project poses no significant impacts to biological resources, it recognizes opportunities to improve habitat conditions for wildlife through landscape planting that restores foraging, roosting, and nesting. These recommendations have been incorporated into the project's landscape plan. The report also recognizes that design features, including a bioswale/ retention basin and retention reservoir, could possibly decrease existing levels of polluted runoff entering the creek. These features have also been incorporated into the project design, which would reduce the amount of storm water runoff that currently drains from the site.

City Creeks Staff have reviewed the proposed project and preliminary landscape plan and are not supportive of any proposed structure encroachments located within 25' of the creek because they feel this area should be improved habitat for wildlife with no building obstructions. Creeks Staff is also not supportive of the proposed king palms to be located within 25 feet from the creek, nor supportive of any lavender trumpet vine and potato vine being part of the landscape plan, as they are considered invasive species. If approved, staff would recommend conditioning the project to remove the invasive species from the landscape plan.

Historic Resources: A Historic Structures Report was provided for Alternative 2 in order to evaluate the significance of the existing single-family residence, including its relationship and contribution to the surrounding West Beach neighborhood, and to determine the potential impact of the proposed project on the property. The neighborhood is located about two blocks outside of the El Pueblo Viejo Landmark District, and is described as predominantly 1925 to 1930s Spanish Colonial Revival style single family homes, 1950s commercial and institutional buildings, and apartment buildings built in the 1960s and early 1970s. The existing predominantly Spanish Colonial Revival single-story residence was built in 1925 and is part of the original Ambassador Tract, established in 1924. The existing apartment buildings and commercial buildings on Los Aguajes Avenue were built after the early 1950s on empty lots, which the report indicates, "represented a marked departure from the architectural cohesion of the initial Tract development".

The Historic Structures Report concluded that the existing residence is eligible to be a designated Structure of Merit. It was determined that the demolition of the existing house would constitute a significant impact on a historic resource. However, the report concludes that given the limited historical information provided by the existing residence, mitigation measures could be implemented to allow demolition and reduce the impact to less than significant. Ten required mitigation measures are listed in the report, attached as an exhibit to the initial study, most of which include detailed documentation of the existing structure. Mitigation measure #10 states that, if house is fully demolished, the architecture of the new construction should be compatible and harmonious with the buildings of the West Beach neighborhood in both massing and architectural style. The report also included advisory, although not required, recommendations to further reduce impacts; that the building not be demolished and that it be preserved and new units added behind it. Indicating that the preservation of the house is desirable, the report also stated that for each advisory option, the architecture of the new construction should be compatible with the existing house and the predominant Spanish Colonial Revival style buildings of the West Beach neighborhood.

The Historic Structures Report was accepted by the HLC; however, the design of the project is subject to the purview of the ABR. Although, initially concerned with the massing and architectural style of the structure, the majority of the ABR later determined that the project could be found compatible with the surrounding neighborhood.

The City adopted a Demolition Review ordinance in 2004, which specifies a process for reviewing demolition of buildings that may qualify as either Structures of Merit or Landmarks. As part of that process, when the HLC accepts historic structures reports for projects being processed, in accordance with the City's Master Environmental Assessment (MEA), the HLC is supposed to state its intent to initiate the process for Structure of Merit or Landmark designation at the time the Historic Structures Report for the project is accepted. The HLC reviewed and accepted the report for Alternative 2, which concluded that demolition of the existing structure would result in a less than significant impact if certain measures were either incorporated into the project description or added as mitigation measures, in April 2005. The HLC did not initiate Structure of Merit designation, which leads to the conclusion that the structure is not sufficiently historic to warrant designation and, therefore, its demolition would

not result in a significant impact. The applicant incorporated nine of the 10 measures recommended by the Report into the project description and worked with the ABR to determine that the proposed project is "compatible and harmonious with the buildings of the West Beach neighborhood in both massing and architectural style."

Noise Sources: A review of the City's Noise Contour Map indicates that the project is located in an area in which the noise level exceeds 65 dBA L_{dn} (average A-weighted sound level over a 24-hour day). The noise level mapped for the site ranges from 65 to over 70 dBA. The environmental threshold for residential noise impacts are: 75 dBA for exterior noise levels, and 45 dBA for interior noise levels. A noise report prepared for the site indicated that all outdoor living areas would have levels of approximately 72 dBA L_{dn} if no mitigation was implemented. This ambient level is below 75 dBA L_{dn}, the noise level that the Noise Element indicates is clearly unacceptable and would make the outdoor environment intolerable for normal residential use. According to the noise report, the proposed residential units would achieve a maximum interior noise level of 45 dBA L_{dn} or less with special design measures used to insulate the buildings and by keeping windows closed. With the implementation of the design measures, Alternatives 1 and 2 would have less than significant noise impacts.

The Final Mitigated Negative Declaration has identified significant but mitigable impacts and no unavoidable impacts related to the proposed project. Pursuant to CEQA, prior to approving the project, the Planning Commission must adopt the Mitigated Negative Declaration. For each mitigation measure adopted as part of a Mitigated Negative Declaration, the decision makers are required to make the mitigation measures into conditions of project approval, and adopt a program for monitoring and reporting on the mitigation measures to ensure their compliance during project implementation (PRC Sec.21081.6). The mitigation measures described in the proposed Final Mitigated Negative Declaration have been incorporated into the recommended conditions of approval for this project. In addition, a mitigation monitoring and reporting program (MMRP) is included as an exhibit to the Initial Study.

VIII. FINDINGS

The Planning Commission finds the following:

A. FINAL MITIGATED NEGATIVE DECLARATION ADOPTION

1. The Planning Commission has considered the proposed Final Mitigated Negative Declaration, dated April 9, 2009 for the 124 Los Aguajes Avenue Project (MST2004-00725), and comments received during the public review process.
2. The Final Mitigated Negative Declaration has been prepared in compliance with California Environmental Quality Act requirements, and constitutes adequate environmental analysis of the project.
3. In the Planning Commission's independent judgment and analysis based on the whole record (including the initial study and comments received), there is no substantial evidence that the Project will have a significant effect on the

environment. The Final Mitigated Negative Declaration, dated April 9, 2009, is hereby adopted.

4. Mitigation measures identified in the Mitigated Negative Declaration that would avoid or reduce all potentially significant impacts to less than significant levels have been included in the project or made a condition of approval. Additional mitigation measures minimize adverse but less than significant environmental effects have also been included as conditions of approval.
5. A Mitigation Monitoring and Reporting Program prepared in compliance with the requirements of Public Resources Code § 21081.6, is included in the Final Mitigated Negative Declaration for the Project and is hereby adopted.
6. The location and custodian of documents or other material which constitute the record of proceedings upon which this decision is based is the City of Santa Barbara Community Development Department, 630 Garden Street, Santa Barbara, CA 93101.
7. The California Department of Fish and Game (DFG) is a Trustee Agency with oversight over fish and wildlife resources of the State. The DFG collects a fee from project proponents of all projects potentially affecting fish and wildlife, to defray the cost of managing and protecting resources. The project is subject to the DFG fee, and a condition of approval has been included which requires the applicant to pay the fee within five days of project approval.

B. SETBACK MODIFICATIONS

The interior and front setback modifications are consistent with the purpose and intent of the Zoning Ordinance, and are necessary to secure an appropriate improvement on a lot, because the lot is small and constrained by Mission Creek to the rear, and the front setback is consistent with the adjacent structures.

C. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.060)

The project is consistent with the policies of the California Coastal Act, all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code, in that the land use is a replacement of an existing residential use in a residential neighborhood, the project is visually compatible with the character of the surrounding areas, the project is compatible with, and preserves the unique character of the West Beach neighborhood, and it would not have any effect on public access or public recreation. The project is consistent with Coastal Act Policy 30251, which requires new development to be visually compatible with the character of surrounding areas, as described in Section VI of the Staff Report.

D. THE TENTATIVE MAP (SBMC §27.07.100)

With the approval of the front and interior setback modifications, the Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the

City of Santa Barbara, in that all General Plan policies and zoning requirements are met, as described in Section V of the Staff Report. The site is physically suitable for the proposed development because it is compatible with the neighborhood, and is located a sufficient distance from Mission Creek, the project is consistent with the variable density provisions of the Municipal Code and the General Plan as described in Section V of the Staff Report and the proposed use is consistent with the vision for this neighborhood of the General Plan because it is a residential project in a predominantly residential neighborhood, as described in Section VI.F. of the Staff Report. The design of the project will not cause substantial environmental damage because it compatible with the surrounding residential neighborhood, and is located a sufficient distance from Mission Creek, and associated improvements will not cause serious public health problems because the building has been designed to meet interior and exterior maximum noise levels, as described throughout the Staff Report.

E. THE NEW CONDOMINIUM DEVELOPMENT (SBMC §27.13.080)

1. The project complies with all provisions of the City's Condominium Ordinance, as described in section VI of the Staff Report.
2. The proposed development is consistent with the General Plan of the City of Santa Barbara, as it is meets the land use, density, noise and other policies, as described in Section VII of the Staff Report.
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, in that the project is an infill residential project proposed in an area where residential development is a permitted use. 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, and the project is compatible with the aesthetics of the neighborhood.

Exhibits:

- A. Conditions of Approval
- B. Final Mitigated Negative Declaration (available upon request or on the City's website at www.SantaBarbaraCa.gov/eir)
- C. November 2, 2006 Planning Commission Staff Report without attachments
- D. February 19, 2009 Planning Commission Minutes
- E. Los Aguajes Avenue Setback Chart

PLANNING COMMISSION CONDITIONS OF APPROVAL

124 LOS AGUAJES AVENUE
MODIFICATION AND TENTATIVE SUBDIVISION MAP
APRIL 16, 2009

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. **Design Review.** The project is subject to the review and approval of the (Architectural Board of Review (ABR). ABR shall not grant preliminary approval of the project until the following Planning Commission land use conditions have been satisfied.
 1. **Appropriate Plants within Development Limitation Area.** Special attention shall be paid to the appropriateness of the existing and proposed plant material within the riparian setback. All existing non-native or invasive plants shall be removed and replaced with appropriate plant material within the 25 foot development limitation area.

- B. **Recorded Conditions 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. **Approved Development.** The development of the Real Property approved by the Planning Commission on _____ is limited to 3 residential condominiums and the improvements shown on the Tentative Subdivision Map signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
 2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
 3. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
 4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.
 5. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) in a functioning state (and in accordance with the Operations and Maintenance

Procedure Plan prepared in accordance with the Storm Water Management Plan BMP Guidance Manual). 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 applicant shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit and Coastal Development Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.

6. **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 units.
 - 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.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the landscaping or be hauled off site by the landscaping maintenance company. If no green waste containers are provided for common interest developments, include an item in the CC&Rs stating that the green waste will be hauled off site.
 - 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. **Pesticide or Fertilizer Usage Near Creeks.** The use of pesticides or fertilizer shall be prohibited within the Mission Creek setback area, which drains directly into Mission Creek.
 8. **Residential Permit Parking Program.** Residents shall not participate in the Residential Permit Parking Program.
- C. **Public Works Submittal Prior to Final/Parcel 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/Parcel Map and prior to the issuance of any permits for the project:
- Parcel Map.** The Owner shall submit to the Public Works Department for approval, a Parcel Map prepared by a licensed land surveyor or registered Civil Engineer. The Parcel Map shall conform to the requirements of the City Survey Control Ordinance.
 - Dedication(s).** Easements as shown on the approved Tentative Subdivision Map (described as follows), subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:
 - a. A 4-foot wide easement for public utility purposes for as shown on the approved Tentative Subdivision Map.
 - 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 in an "Agreement Assigning Water Extraction Rights." Engineering Division Staff will prepare said agreement for the Owner's signature.
 - 3. **Required Private Covenants.** The Owner shall submit a copy of the draft private covenants, reciprocal easement agreement, or similar private agreements required for the project.
 - 4. **Drainage Calculations.** The Owner shall submit drainage calculations prepared by a registered civil engineer or licensed architect demonstrating that the new development will not increase runoff amounts above existing conditions for a 25-year storm event. Any increase in runoff shall be retained on-site.
 - 5. **Drainage and Water Quality.** Project drainage shall be designed, installed, and maintained such that stormwater runoff from the first inch of rain from any storm event shall be retained and treated onsite in accordance with the City's NPDES Storm Water Management Program. Runoff should be directed into a passive water treatment method such as a bioswale, landscape feature (planter beds and/or lawns), infiltration trench, etc. Project plans for grading, drainage, stormwater treatment methods, and project development, shall be subject to review and approval by City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants, or groundwater pollutants would result

from the project. The Owner shall maintain the drainage system and storm water pollution control methods in a functioning state.

6. **Los Aguajes Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Los Aguajes Avenue. As determined by the Public Works Department, the improvements shall include the following: driveway apron modified to meet Title 24 requirements, approximately 15 l.f. curb and gutter, asphalt concrete, crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limit of all trenching, underground service utilities, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations and/or hydrology report for installation of curb drain outlets, preserve and/or reset survey monuments and contractor stamps, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.
 7. **Removal or Relocation of Public Facilities.** Removal or relocation of any public utilities or structures must be performed by the Owner or by the person or persons having ownership or control thereof.
 8. **Maintenance Agreement Required.** The Owner shall submit an Executed Agreement for Maintenance of the proposed (private road) (driveway), subject to the review and approval of the Public Works Director and City Attorney.
 9. **Inclusionary Housing Fee.** Evidence shall be submitted that the Owner has paid the required inclusionary housing fee to the Community Development Department.
- 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 Parcel Map 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.
- E. **Community Development Requirements with the Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit:
1. **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.
 2. **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 I Archaeological Resources Report prepared for this site by Compass Rose Archaeological, Inc., dated December 2004. 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.

3. **Tenant Displacement Assistance Ordinance Compliance.** Submit evidence of compliance with the Tenant Displacement Assistance Ordinance (SBMC Chapter 28.89).
4. **Inclusionary Housing Fee.** Evidence shall be submitted that the Owner has paid the required inclusionary housing fee to the Community Development Department.

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 Architectural Board of Review, outlined in Section A above.
2. **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.

3. **Driveway Improvements.** The proposed driveway shall be constructed to the standards provided in the Subdivision Design and Improvement Standards and as approved by the Public Works Director.
4. **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 by the Owner and/or Contractor for the duration of the project construction.

1. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be salvaged and sent to the City Corporation Annex Yard.
2. **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: (look at longer or shorter hours and Saturday construction, depending on project location)

| | |
|-------------------------------|-----------------------------------|
| 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.

3. **Construction Parking/Storage/Staging.** 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. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.
 - b. Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project.
 - c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.
- 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 (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. 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 service undergrounding and installation of street trees.
 3. **Archaeological Monitoring Report.** A final report on the results of the archaeological monitoring shall be submitted to the Planning Division within 180 days of completion of the monitoring or prior to the issuance of the Certificate of Occupancy.
 4. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section D have been recorded.
- 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 COASTAL DEVELOPMENT PERMIT TIME LIMITS:

Pursuant to Section 28.44.230 of the Santa Barbara Municipal Code, work on the approved development shall commence within two years of the final action on the application, unless a different time is specified in the Coastal Development Permit. Up to three (3) one-year extensions may be granted by the Community Development Director in accordance with the procedures specified in Subsection 28.44.230.B of the Santa Barbara Municipal Code.

FINAL MITIGATED
NEGATIVE DECLARATION

(available upon request or on the City's website at
www.SantaBarbaraCa.gov/eir)



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: October 26, 2006
AGENDA DATE: November 2, 2006
PROJECT ADDRESS: 124 Los Aguajes Avenue (MST2004-00725)

TO: Planning Commission
FROM: Planning Division, (805) 564-5470
Jan Hubbell, AICP, Senior Planner
Chelsey Swanson, Assistant Planner

I. PROJECT DESCRIPTION

The project consists of the demolition of an existing single-family residence and detached garage and the construction of three new condominium units in the Appealable Jurisdiction of the Coastal Zone. The proposed structure would be three stories with two two-car garages and a one-car garage on the first floor, and a 1,543 square foot two-bedroom unit, a 1,295 square foot one-bedroom unit, and 1,086 square foot one-bedroom unit on the second and third floors.

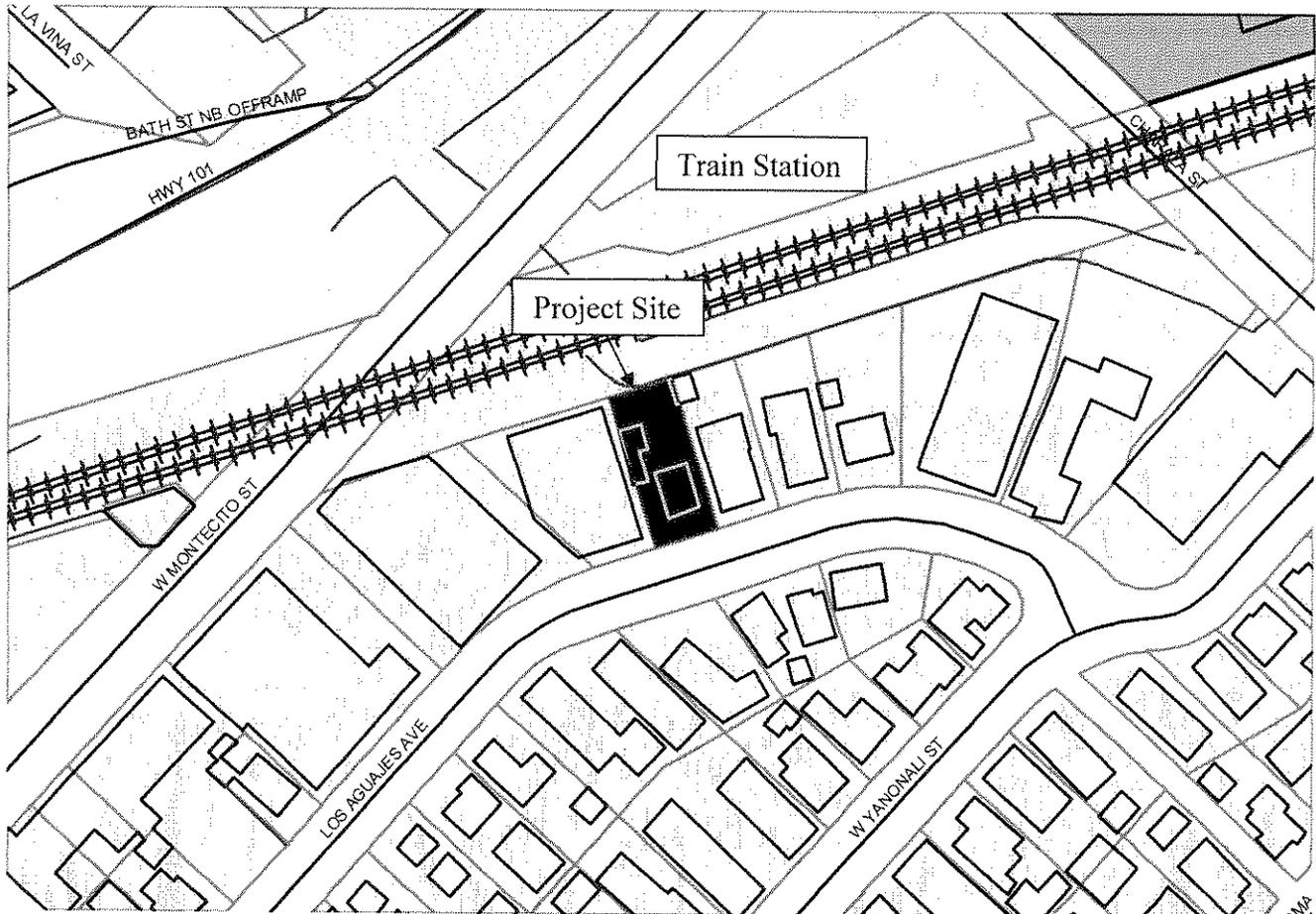
II. REQUIRED APPLICATIONS

The discretionary applications required for this project are:

1. A Modification to allow the building to encroach into the front yard setback (SBMC §28.21.060 and §28.92.110.2);
2. A Modification to allow the building to encroach into the interior yard setback (SBMC §28.21.060 and §28.92.110.2);
3. A Modification to allow the building to encroach into the other interior yard setback (SBMC §28.21.060 and §28.92.110.2);
4. A Coastal Development Permit (CDP2005-00021) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.45.009); and
5. A Tentative Subdivision Map for a one-lot subdivision to create three (3) residential condominium units (SBMC 27.07 and 27.13).

III. RECOMMENDATION

The proposed project does not conform to the applicable the policies of the General Plan or Local Coastal Plan. Therefore, Staff recommends that the Planning Commission deny the project making the findings outlined in Section VIII of this report.



Vicinity Map – 124 Los Aguajes Avenue

APPLICATION DEEMED COMPLETE:
DATE ACTION REQUIRED:

October 6, 2006
December 25, 2006

IV. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

| | | | |
|--|-------------|------------------------------------|--|
| Applicant/ Property Owner: Mark Edwards | | | |
| Parcel Number: 041-343-010 | Lot Area: | 6,000 square feet (sq. ft.) | |
| General Plan: Hotel and Residential | Zoning: | R-4/ SD-3 | |
| Existing Use: Single-Family Residential | Topography: | ~4% slope | |
| Adjacent Land Uses: | | | |
| North – Mission Creek and Union Pacific Railroad | | East – Multiple-Family Residential | |
| South – Multiple- and Single-Family Residential | | West - Commercial | |

B. PROJECT STATISTICS

| | Existing | Proposed Unit 1 | Proposed Unit 2 | Proposed Unit 3 |
|---------------------------|----------|-----------------|-----------------|-----------------|
| Living Area (net sq. ft.) | 887 | 1,543 | 1,295 | 1,086 |
| Bedrooms | 2 | 2 | 1 | 1 |
| Garage (net sq. ft.) | 400 | 464 | 412 | 321 |

V. ZONING ORDINANCE CONSISTENCY

| Standard | Requirement/ Allowance | Existing | Proposed |
|--|---|---|---|
| Setbacks | | | |
| -Front | 15' | 20' | 8' to 17' |
| -Interior | 10' | 2'- garage, 6'- house | 4' to 6' |
| -Rear | 6' – 1 st floor 10' – 2 nd , 3 rd floors | 35'- garage, 64'- house | 25' – 1 st floor 12' - 2 nd , 3 rd floors |
| Building Height | 45' | Single-story | 31.5' |
| Parking | 3 covered, 2 uncovered | 1 covered | 5 covered |
| Lot Area Required for Each Unit (Variable Density) | 1-Bdrm = 1,840 sq. ft. 2-Bdrm = 2,320 sq. ft. | 2,320 sq. ft. | (1) 2,320 sq. ft. (2) 1,840 sq. ft. Total Rqd.: 6,000 sq. ft. |
| 10% Open Space | 600 sq. ft. | >600 sq. ft. | 617 sq. ft. |
| Private Outdoor Living Space | Unit 1 – 84 sq. ft. (2 nd floor) Units 2&3 – 72 sq. ft. (2 nd floor) | Exceeds requirement for ground floor unit | Unit 1 – 136 sq. ft. Unit 2 – 72 sq. ft. Unit 3 – 73 sq. ft. |
| Lot Coverage | | | |
| -Building | N/A | 1,320 sq. ft. 22% | 1,632 sq. ft. 27% |
| -Paving/Driveway | N/A | 1,384 sq. ft. 22% | 2,033 sq. ft. 34% |
| -Landscaping | N/A | 3,356 sq. ft. 56% | 2,335 sq. ft. 39% |

Except for the requested modifications to the front yard setback and the interior yard setbacks, the proposed project complies with the requirements of the R-4, Hotel-Motel Multiple Residence Zone. Additionally, under SBMC §28.87.250, Development along Creeks, the Building Official allowed the second and third stories of the proposed development to encroach into the Mission Creek setback, as discussed in more detail below. The requested modifications are discussed in Section VI.

VI. ISSUES

A. DESIGN REVIEW

The Historic Landmarks Commission (HLC) reviewed and accepted a Historic Structures Report for this project on April 13, 2005. This report is discussed in further detail in the Environmental Review section of the staff report.

This project was also reviewed by the ABR on three separate occasions (see Exhibit C). The minutes reflect that the ABR initially had concerns about the mass, bulk, and scale, especially at the third floor and how it would be viewed from the train station. At the first conceptual review, the ABR also felt that the architecture was too modern for the neighborhood. However, at the most recent conceptual review on February 27, 2006, the ABR stated that the majority of the board was comfortable with the contemporary style of the project and also found the size, bulk, and scale to be acceptable, stating it could be found compatible with the "industrial nature" of the neighborhood. The ABR also wanted to see the third floor facing Los Aguajes Avenue to be further reduced with an increased setback from the street. One board member was not in support of the project and felt the size, bulk, and scale, and contemporary style of the project were not consistent with the neighborhood.

The ABR supported the front yard modifications for the first and second floors as these are aligned with the front yard setbacks of the adjacent buildings. The board wanted to see more pedestrian friendly paving to the entries of the units, to make the entries more obvious. The board felt the landscaping was appropriate and that the stone base on the ground floor adds to the quality of materials of the building. With regard to the interior yard setback modifications, both the ABR and staff were assuming that setbacks were 6' for the first and second floors and 10' for the third floor at the time of review. Based on these assumed setbacks, the ABR was mixed with regard to their support and felt that small encroachments of the building could be supported (e.g., columns that extend to the ground but do not add floor area). It was later determined by staff that, due to the amount of floor area proposed on the third floor, the interior yard setbacks are actually 10' for the entire building. The ABR did not review the project another time after this was determined.

The third floor has not been reduced further since the last ABR concept review, and a design change has not been proposed with regard to adding more pedestrian friendly paving to the unit entries.

B. SETBACK MODIFICATIONS

Interior Setback Modifications. In the R-4 Zone, the interior yard setback for three-story buildings is ten feet (10'). However, if a building is designed so that the total floor area of the third story is one half or less of the total floor area of the first floor, then the setback is 10' for the third story only and 6' for the first and second floors. The floor area proposed for the third floor of the project is greater than half the floor area proposed for the first floor of the project; therefore, a setback of 10' is required for the entire building from both interior property lines. The project has been designed so that the interior floor area is setback 6' for the first and second floors and 10' for the third floor. Features on the first and second floors, which include shelf windows supported by columns that extend to the ground and second floor deck areas, are as close as 4' to the interior property lines. On the third floor, deck areas are proposed as close as 8' to the interior property line.

Although the third story is not less than half of the floor area of the first floor, it is reduced in comparison to the mass of the second floor. Staff also recognizes the site constraints of the property, with regard to its location adjacent to Mission Creek. For these reasons, staff could support such interior yard modifications if the deck areas on the second floor were reduced to no closer than 6' to the interior property line and the deck areas for the third floor no closer than 10' from the interior property line for the purpose of reducing privacy impacts on adjacent neighbors. Staff could support such modifications only if the second and third stories are set back 25' from the creek top of bank, as this setback from the creek is recognized as a constraint on the property and justification for allowing minor interior yard encroachments.

Front Yard Modification. The front yard setback for three-story structures in the R-4 Zone is 15', unless the total floor area of the third story is one half or less of the total floor area of the first floor, then the setback is 10' for the first and second floors, and the setback for the third floor is based on an equation which generally results in greater than a 15' setback. Interior floor space is setback 10' on the first and second floors with a small architectural feature on the ground floor as close as 8 feet to the front lot line. The habitable space on the third floor is setback 17'; however, the useable deck area encroaches up to 10' from the front property line. The applicant has reduced the third story element based on feedback from the ABR; however, the ABR has directed that the third story be setback even further as seen from Los Agujes Avenue. The first and second stories are consistent with buildings on the adjacent properties. Staff could support the front yard modification as currently proposed if the entire building were setback 25' from the creek top of bank. This modification request could be supported due to the increased setback that would occur at the rear of the property to provide relief from the creek area, and due to the consistency with existing setbacks of buildings on adjacent properties.

C. DEVELOPMENT ALONG MISSION CREEK

Section 28.87.250 of the Zoning Ordinance, *Development Along Creeks*, was established for the purpose of controlling development adjacent to Mission Creek. The land area subject to limitation is defined as all land within the banks and located within 25' of the top of bank of

Mission Creek. Any development proposed within such an area and subject to a building permit, must be reviewed and approved by the Chief Building Official or the Planning Commission on appeal prior to the issuance of a building permit. The proposed development includes two support beams on the ground floor, which would be located approximately 12' from the creek top of bank. The floor area on the first floor is setback 25' from the top of bank, with the second story and third story deck located approximately 12' from the determined top of bank. Second story roof eaves are closest to the creek, at 10' away. The Chief Building Official has reviewed the proposed project and approved the limited development within the 25 foot area for the purposes of SBMC §28.87.250 because the conceptual project meets the general legislative intent of the ordinance, which is related to protecting structures from flooding.

D. COMPLIANCE WITH THE GENERAL PLAN

Before a condominium project and a tentative subdivision map can be approved, both must be found consistent with the City's General Plan.

Conservation and Open Space Elements: The Conservation Element recognizes the creekside environment of Mission Creek as a contribution to meeting the spatial needs of the community by offering visual relief from the built environment. Further, it recognizes that, in the past, the absence of creek management, including some creekside construction activities, has severely detracted from the creek's visual value and indirectly contributes to degradation of the coastal environment as well. Additionally, the Open Space Element recognizes that creek corridors are important open spaces and that redevelopment should respect these open space areas. Planning Staff cannot support the proposed placement of the second and third stories of the structure and ground floor support for the upper stories within 25' of the Mission Creek top of bank and finds the project to be inconsistent with these General Plan policies within the Conservation and Open Space Elements.

Noise Element: The City's Noise Element indicates that exterior noise levels up to 60 dBA L_{dn} (average A-weighted sound level over a 24-hour day) are considered "normally acceptable" within residential land uses. These Land Use Compatibility Guidelines identify outdoor noise levels greater than 60 to 75 dBA L_{dn} as "normally unacceptable" for residential land uses. Maximum interior noise levels of 45 dBA L_{dn} are also recommended. The City's interpretation of these guidelines is that all outdoor living spaces required by the Zoning Ordinance, must be designed to meet 60 dBA L_{dn} or less and that any additional outdoor living spaces not required by the Ordinance should be assessed on a case by case basis, but should not exceed 75 dBA L_{dn} . The primary noise sources at the project site are traffic on Highway 101 and noise generated by passenger and freight trains which travel through and also stop at the Union Pacific Railroad Station located on the opposite side of Mission Creek. A noise study was provided for this project, which recommended that required outdoor living spaces be designed to mitigate levels of 72 dBA L_{dn} , and interior levels be designed to mitigate conservative levels of 75 dBA L_{dn} . Mitigation has been incorporated for each unit's designated outdoor living areas (second and third story decks), which include a 6' high barrier, and retractable window systems, to reduce noise levels to less than 60 dBA L_{dn} . Unit 2 would also include two large outdoor decks located on the third story that are not designated as required outdoor living

space. One of the decks is at the rear of the structure and the other is at the front facing Los Aguajes Avenue. Staff has strong concerns that the rear deck, which faces the train station, may not be compatible with the City's Noise Element, as it would be exposed to levels of up to 72 dBA L_{dn} , the upper range of the "normally unacceptable" category. According to the noise study provided, the front deck would also be exposed to 72 dBA L_{dn} ; however, staff understands that mitigation could be more easily incorporated to reduce noise levels at this deck, given that most of the deck area would already be shielded from the train station by the building. Given the rear deck's location adjacent to the common living area for the unit, Staff believes it would be likely to be the most heavily used deck for Unit 2, thus exposing users to unacceptable levels of noise. Staff would like the Planning Commission's input on noise levels in these extra, yet very usable, outdoor living areas with regard to making the findings for consistency with the City's Noise Element.

E. COMPLIANCE WITH THE LOCAL COASTAL PLAN

The project site lies within the Coastal Zone. Development in the Coastal Zone must be consistent with the Local Coastal Plan (LCP) and the Coastal Act. The proposed project site is located in Component 3 of the LCP, also known as the West Beach neighborhood. Because the project site is located within 100' of Mission Creek, the site falls within the Appealable Jurisdiction of the Coastal Zone per SBMC §28.45.009 and Coastal Act §30603(2). This neighborhood includes hotels and motels, a mix of single- and multiple-family residences, and other commercial uses such as offices and restaurants. The project is located in a land use area designated as Hotel and Residential, which allows for development of visitor-serving facilities and for residential use at a density of twelve units per acre. Coastal Act policy concerns within the West Beach neighborhood include: hazards from flooding of Mission Creek and potential soil liquefaction during earthquakes; protection of existing recreational facilities; provision of visitor serving uses, primarily hotel/motel related; protection of the unique West Beach residential neighborhood; problems of circulation and parking related to the waterfront area in general and, specifically, possible City College expansion.

The Chief Building Official has determined that the proposed project would not result in hazards from flooding of Mission Creek. No public recreational facilities or visitor serving uses would be affected by the project. However, Staff does not find the project to be found compatible with the prevailing character of the West Beach residential neighborhood.

LCP Housing Policy 5.3 states that new development in and/or adjacent to existing residential neighborhoods must be compatible in terms of scale, size, and design with the prevailing character of the established neighborhood. Further, Policy 5.4 states that the part of the coastal zone bounded by the half blocks between Castillo and Bath Streets and Mason and Cabrillo Streets, Chapala, and the half block north of Los Aguajes Avenue, is recognized as a unique residential neighborhood, and shall be treated in a manner that strives to maintain this unique character. The LCP recognizes the predominant style in Component 3 as "Spanish flavor architecture typical of Santa Barbara". The existing residence is one-story and is described in a Historic Structures Report as predominantly Spanish Colonial Revival, with Craftsman style windows and distinct Mission Revival elements. The neighborhood is described as a mix of mostly small single-family Spanish Colonial Revival style homes, stucco residential apartment

buildings, and three commercial buildings. Existing residential structures on Los Aguajes Avenue are all one and two stories, whereas the proposed structure is three stories. Staff believes that the proposed project's size, bulk, and scale and modern architectural style are not compatible with the prevailing character of the neighborhood and that the structure would set a negative precedent for allowing non-compatible residential development in this unique and historically valuable setting.

VII. ENVIRONMENTAL REVIEW

Archaeological Resources: Based on a review of the City's Archaeology Resources Map, the project site is located within several cultural resource sensitivity zones (Prehistoric Watercourse, Hispanic-American Transition Period 1850-1870, American Period 1870-1900 and Early 20th Century 1900-1920). A Phase I Archaeology Report was prepared and accepted by the Historic Landmarks Commission. The report concluded that no prehistoric cultural resources were found to exist within the subject parcel. However, a recorded archaeological site is situated adjacent to the subject property, portions of an historical structure once existing within the property and remains could exist below the ground surface, and historical artifacts have been recovered along the borders of Mission Creek. Therefore, the report recommends that a qualified archaeologist and Native American representative monitor the removal of the structural footings following the demolition of the existing structures. Once the structures have been removed, an Extended Phase I test program would be required to determine if buried prehistoric and/ or historic cultural resources exist on-site. The project would be conditioned according to these recommendations.

Biological Resources: Due to the proximity of the project site to Mission Creek, a Biological Resources Study was required to be submitted by the applicant. The November 2005 report, prepared by Lawrence E. Hunt, is attached as Exhibit D. The report finds that the bed and banks of Mission Creek bordering the project site, and for hundreds of feet upstream and downstream of the subject property, do not meet riparian corridor criteria due to this portion being re-aligned, channelized, and lined with concrete and stone. The report concludes that there is no biological basis for designating a 25-foot wide area between the existing channel wall and the building footprint as a "riparian zone" because the subject property lacks two elements critical to a functioning riparian corridor: a) habitat connections between the creek and upland, and; b) habitat continuity.

Although the report concludes that the project poses no significant impacts to biological resources, it recognizes opportunities to improve habitat conditions for wildlife through landscape planting that restores foraging, roosting, and nesting. These recommendations have been incorporated into the project's landscape plan. The report also recognizes that design features, including a bioswale/ retention basin and retention reservoir, could possibly decrease existing levels of polluted runoff entering the creek. These features have also been incorporated into the project design, which would reduce the amount of storm water runoff that currently drains from the site.

City Creeks Staff have reviewed the proposed project and preliminary landscape plan and are not supportive of any proposed structure encroachments located within 25' of the creek because

they feel this area should be improved habitat for wildlife with no building obstructions. Creeks Staff is also not supportive of the proposed king palms to be located within 25 feet from the creek, nor supportive of the lavender trumpet vine and potato vine being part of the landscape plan, as they are considered invasive species. If approved, staff would recommend conditioning the project to remove these species from the landscape plan and to also include a native riparian tree at the rear of the property in-place of the king palms.

Historic Resources: A Historic Structures Report was provided for this project in order to evaluate the significance of the existing single-family residence, including its relationship and contribution to the surrounding West Beach neighborhood, and to determine the potential impact of the proposed project on the property. The neighborhood is located about two blocks outside of the El Pueblo Viejo Landmark District and is described as predominantly 1925 to 1930s Spanish Colonial Revival style single family homes, 1950s commercial and institutional buildings, and apartment buildings built in the 1960s and early 1970s. The existing predominantly Spanish Colonial Revival single-story residence was built in 1925 and is part of the original Ambassador Tract, established in 1924. The existing apartment buildings and commercial buildings on Los Agujes Avenue were built after the early 1950s on empty lots, which the report indicates, "represented a marked departure from the architectural cohesion of the initial Tract development".

The Historic Structures Report concluded that the existing residence is eligible to be a designated Structure of Merit. It was determined that the demolition of the existing house would constitute a significant impact on a historic resource; therefore, mitigation measures are required to reduce the impact to less than significance. Ten required mitigation measures are listed in the report, attached as Exhibit E, most of which include detailed documentation of the existing structure. Mitigation measure #10 states that, if house is fully demolished, the architecture of the new construction should be compatible and harmonious with the buildings of the West Beach neighborhood in both massing and architectural style. The report also included advisory, although not required, recommendations to further reduce impacts; that the building not be demolished and that it be preserved and new units added behind it. Indicating that the preservation of the house is desirable, the report also stated that, whichever advisory option is chosen, the architecture of the new construction should be compatible with the existing house and the predominant Spanish Colonial Revival style buildings of the West Beach neighborhood.

The Historic Structures Report was accepted by the HLC; however, the design of the project is subject to the purview of the ABR. Although, initially concerned with the massing and architectural style of the structure, the majority of the ABR later determined that the project could be found compatible with the surrounding neighborhood and consequently in compliance with the required mitigation in the Historic Structures Report. As previously discussed, staff has policy concerns with regard to the compatibility of the project's massing and modern style of architecture with the West Beach neighborhood.

The City adopted a Demolition Review ordinance in 2004, which specifies a process for reviewing demolition of buildings that may qualify as either Structures of Merit or Landmarks. As part of that process, when the HLC accepts historic structures reports for projects being

processed in accordance with the City's Master Environmental Assessment (MEA), the HLC is supposed to state its intent to initiate the process for Structure of Merit or Landmark designation at the time the Historic Structures Report for the project is accepted. The HLC reviewed and accepted the report for this project in April 2005, which concluded that demolition of the existing structure would result in a less than significant impact if certain measures were either incorporated into the project description or added as mitigation measures. The HLC did not initiate Structure of Merit designation, which leads to the conclusion that the structure is not sufficiently historic to warrant designation and, therefore, its demolition would not result in a significant impact. The applicant incorporated nine of the 10 measures recommended by the Report into the project description and worked with the ABR to determine if the proposed project is "compatible and harmonious with the buildings of the West Beach neighborhood in both massing and architectural style." The ABR agreed with the applicant that the project's modern design meets the criterion outlined by the Historic Structures Report. For a variety of policy reasons, outlined above, staff disagrees with the ABR's determination; however, staff believes that demolition of the existing building would not result in a significant environmental impact.

Noise Sources: A review of the City's Noise Contour Map indicates that the project is located in an area in which the noise level exceeds 65 dBA L_{dn} (average A-weighted sound level over a 24-hour day). The noise level mapped for the site ranges from 65 to over 70 dBA. The General Plan Noise Element Land Use Compatibility Guidelines identify up to 60 dBA L_{dn} as the maximum compatible exterior noise level for residential uses and 45 dBA L_{dn} for interior noise levels. The report included mitigation for the required outdoor living areas so that noise levels would be reduced to less than 60 dBA L_{dn} . The report also includes mitigation in order to ensure interior noise levels would not exceed 45 dBA L_{dn} . The report indicates that all outdoor living areas would have levels of approximately 72 dBA L_{dn} if no mitigation was implemented, which would include a large second story deck attached to Unit 2. The deck is located at the rear of the structure and would have higher noise levels than the required outdoor living spaces; however, for CEQA purposes, outdoor areas with noise levels lower than 75 dBA L_{dn} will not be considered a significant noise impact.

Conclusion: The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303, New Construction of Small Structures.

VIII. FINDINGS

The Planning Commission finds the following:

A. YARD MODIFICATIONS

The Planning Commission cannot make the findings that the interior and front yard modifications are necessary to secure an appropriate improvement on a lot, prevent unreasonable hardship, promote uniformity of improvement, or to construct an affordable housing development.

B. THE TENTATIVE MAP (SBMC §27.07.100)

The Tentative Subdivision Map must be found consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara. The project is consistent with the Zoning Ordinance, with the exception of the modification requests; however, the Planning Commission does not find the project to be consistent with the policies expressed in the General Plan, including the Conservation Element, Open Space Element, and Noise Element.

C. THE NEW CONDOMINIUM DEVELOPMENT (SBMC §27.13.080)

1. There is compliance with all provisions of the City's Condominium Ordinance.
The project complies with the physical standards for condominiums related to parking, private storage space, utility metering, laundry facilities, density, and outdoor living space requirements.
2. The proposed development is not consistent with the General Plan of the City of Santa Barbara.
The project is not consistent with policies of the City's General Plan including the Open Space Element, Conservation Element, and Noise Element.
3. The proposed development is not consistent with the principles of sound community planning and will have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources.
The project is an infill residential project proposed in an area where residential development is a permitted use. 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. However, the Planning Commission finds that the project is not compatible with the aesthetics of the neighborhood.

D. COASTAL DEVELOPMENT PERMIT (SBMC §28.45.009)

1. The project is not consistent with the policies of the California Coastal Act.
The project is not consistent with Coastal Act Policy 30251, which requires new development to be visually compatible with the character of surrounding areas.
2. The project is not consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code.
The project is not found to be consistent with the Housing Policies of the Local Coastal Plan, with regard to neighborhood compatibility and preserving the unique character of the West Beach neighborhood.

3. The project is consistent with the Chapter 3 (commencing with Section 30200) Policies of the Coastal Act regarding public access and public recreation.
The project would not have any effect on public access or public recreation.

Exhibits:

- A. Site Plan
- B. Applicant's letter, dated October 6, 2006
- C. ABR Minutes
- D. Biological Resources Report
- E. Historic Structures Report (without figures, pages 3-7 and 19-26 are omitted)
- F. Acoustical Analysis

II. ENVIRONMENTAL HEARINGS:

ACTUAL TIME: 1:03 P.M.

APPLICATION OF PETER EHLEN, EAST BEACH VENTURES, ARCHITECT FOR MARK EDWARDS, 124 LOS AGUAJES, 033-041-007, MULTI-FAMILY RESIDENTIAL/COASTAL OVERLAY (R-4/SD-3) ZONES, GENERAL PLAN DESIGNATION: HOTEL AND RESIDENTIAL (MST2004-00725)

The project consists of the demolition of an existing 884 square foot, single-family residence and 440 square foot detached garage, and the construction of three new residential condominium units in the Appealable Jurisdiction of the Coastal Zone. The proposed structure would be three stories with a maximum building height of 30' 2", consisting of 4,049 square feet of residential floor area above 1,172 square feet of garage floor area. The project includes two two-car garages and a one-car garage on the first floor, and a 1,525 square foot two-bedroom unit (Unit 1), a 1,432 square foot one-bedroom unit (Unit 2), and a 1,092 square foot one-bedroom unit (Unit 3) on the second and third floors. The proposed project proposes 25 cubic yards of cut and 135 cubic yards of fill outside the main building footprint. Grading under the main building footprint would involve 110 cubic yards of cut. A Coast Live Oak, measuring 2 inches in diameter at breast height (dbh), is proposed to be removed. The project also includes decks for each unit on the second and third stories and bioswales and a retention basin adjacent to the proposed residences. A 25-foot native riparian landscape area, with the exception of three king palm trees and trumpet vine, is proposed between Mission Creek and any proposed structures.

The proposed development would require the following discretionary applications:

1. A Coastal Development Permit (CDP2005-00021) to develop a three unit residential condominium project located in the Appealable Jurisdiction of the Coastal Zone. (SBMC §28.44.060)
2. A Modification to allow a three-story building to encroach into the front setback (SBMC §28.21.060 and §28.92.110.A.2);
3. A Modification to allow a three-story building to encroach into the interior setback to the east (SBMC §28.21.060 and §28.92.110.A.2);
4. A Modification to allow a three-story building to encroach into the other interior setback to the west. (SBMC §28.21.060 and §28.92.110.A.2);
5. A Tentative Subdivision Map for a one-lot subdivision to create three (3) residential condominium units (SBMC 27.07 and 27.13)

Case Planner: Suzanne Johnston, Assistant Planner
Email: sjohnston@santabarbaraca.gov

Suzanne Johnston, Assistant Planner, gave the Staff presentation joined by Melissa Hetrick, Project Planner.

Mark Edwards, Applicant, gave the applicant presentation joined by Bill Johnson, Technical Support; and Peter Ehlen, Project Architect. Mr. Edward's presentation included clarification of the project description.

Chair Larson opened the public hearing at 1:28 P.M. and, with no one wishing to speak, closed the hearing. Chair Larson also acknowledged a public comment letter of opposition received from Paula Westbury, Santa Barbara. Ms. Johnston added the prior letters has also been received from The Pearl Chase Society; Kellam de Forest; and Robert Maxim with concerns regarding neighborhood compatibility and demolition of the historic structure.

Staff answered the Planning Commission's questions about the Mission Creek Flood Control Project having no activity implications for the subject property; the property is adjacent to the boundaries of the proposed historic West Beach Neighborhood District for which the designation process is currently on hold; the rear setback requirement versus the development limitation within 25 feet from the top of Mission Creek's bank; city policies regarding non-native vegetation versus the city's native landscaping policy adjacent to creeks as a recommendation; reviewed CEQA requirements for historic structure of merit and archival mitigation; clarified the discrepancies between city ordinance, policy and CEQA thresholds for exterior noise thresholds; and reviewed the 15' front setback requirement due to the third floor square footage exceeding 50% of the first floors net floor area.

Commissioner Jostes requested Staff provide a review of all City noise thresholds to be given at a future lunch meeting.

Mr. Ehlen responded to the Commission's question regarding consideration given to recycling the existing home.

The Commissioners made the following comments:

1. Commissioner Jostes acknowledged the applicant's thorough response to the Mitigated Negative Declaration (MND).
2. Concern was expressed that there is a potential inconsistency with the Noise Element policies by placing outdoor living space in areas in excess of 65 dBA.
3. Within either the MND, or in the Staff Report, the physical site constraints relative to the property size should be discussed in order to make the findings for the modifications. Under land use compatibility discussion, would like to see documentation, such as a table, that shows all similar encroachments in the neighborhood with further clarification whether the structure(s) is (are) non-conforming or a modification was granted for comparative basis.
4. From visiting the project site, a Commissioner did not see that the subject property could be a part of the historic neighborhood. However, through the General Plan update (PlanSB), the neighborhood has a potential to become a historic district in preserving its 1-2 story appearance. The archival preservation should further provide information on how this site related to the potential historic neighborhood.

5. Would like clarification as to why the cultural resource mitigation did not include a requirement to incorporate architectural elements of the demolished building into the proposed structure.
6. Since this site is not a suburban creek area, does not see need to constrain the landscape architect to adhere to native landscaping.

Staff concluded by stating that the comment period began on February 2, 2009 and ends on March 3, 2009. Comments could be sent in writing to the City of Santa Barbara, Planning Division, Attention: Susan Johnston, Assistant Planner, P.O. Box 1990, Santa Barbara, CA 93102-1990 or emailed to SJohnston@SantaBarbaraCA.gov.

III. ADMINISTRATIVE AGENDA

ACTUAL TIME: 1:54 P.M.

A. Committee and Liaison Reports.

None were given.

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

None were requested.

Commissioner Larson reported on the Staff Hearing Officer's meeting held on February 11, 2009 and three project's modifications that were approved.

C. Action on the review and consideration of the Draft Minutes of January 8, 2009, continued from the meeting of February 12, 2009.

MOTION: White/Bartlett

Approve the minutes of January 8, 2009 as amended.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: As noted. Absent: 0

Commissioner Jostes abstained from Item IV.B of the Minutes of January 8, 2009.

Action on the review and consideration of the Draft Minutes of January 22, 2009.

MOTION: White/Lodge

Approve the minutes of January 22, 2009.

This motion carried by the following vote:

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

**Los Aguajes Avenue
Pattern of Development**

| Address | # of Stories | Height | Use | Distance from Property Line | | | Modification Approved | Non-Conforming Setbacks ? |
|-------------------------------|--------------------|---------------|----------------------------------|-----------------------------|------------------|-------------------|---|-------------------------------------|
| | | | | Front | Interior | Rear | | |
| 104 Los Aguajes Avenue | 2 | 21' | 14-Unit Apartment Building | 10' | 7' | | | No |
| 108 Los Aguajes Avenue | 2 | 24' 4" | Apartment Building | 6' | 5' | | | Yes |
| 112-114 Los Aguajes Avenue | 1 | 15' 6" | Residential - SFR | 5' | 5' | 79' rear | | Yes |
| 118-122 Los Aguajes Avenue | 2 | 19' 6" | Apartment Complex | 12' | 10' | 0' | | Yes |
| 124 Los Aguajes Avenue | 3 | 30' 2" | Multi-family condominiums | 8' | 4' | 25' or 12' | | No |
| 130 Los Aguajes Avenue | 1 | 17' 6" | Commercial | 10' | 5' | | | Yes |
| 201 W Montecito Street | 2 | ? | Commercial | 0 | 0 | | | Yes |
| 205 W Montecito Street | 2 | 33' | Commercial | 11' & 10' | 0 | N/A | | Yes |
| 224 Los Aguajes Avenue | 1 story | | Residential - SFR | 20' | 1' garage 4' SFR | 0' | 12/26/1990 rear yard | Yes Mod for Uniform Improvement |
| 221 W Montecito Street | 1 | | Commercial | 0' parking lot | 0' | 0' | | Yes Parking LOT CUP 226 Los Aguajes |
| 230 Los Aguajes Avenue | 1 | 13' 6" | Residential - Duplex | 15' | 0' | 0' | | Yes |
| 226 Bath Street | 1 | | Duplex | 10' | 1' | 4' | | Yes |
| 111 Los Aguajes Avenue | 2 | 22' 6" | Residential - SFR | 10' | 5' | | | Yes |
| 119 Los Aguajes Avenue | 2 | 23' 6" | Duplex and SFR | 10' | 5' | | | Yes |
| 129 Los Aguajes Avenue | 1 | 11' | Commercial - Lion Building | 21' | 5' | 10' | | Yes and Use |
| 205 Los Aguajes Avenue | 2 | 21' 6" | Apartment Complex - 11 unit | 10' | 5' | 10' | | Yes and use |
| 209 - 211 Los Aguajes Avenue | | | Residential - Duplex | 15' | 5' | | | Yes |
| 213 - 215 Los Aguajes Avenue | 2 | 22' 6" | Residential - 2 SFR | 10' | 5' | | | Yes |
| 217 - 223 Los Aguajes Avenue | 1 | | Residential - 2 SFR | 15' | 5' | 4' | | Yes |
| 225 Los Aguajes Avenue | 1 story & 2 @ rear | | multi-family residential | 10 | 5' | | | Yes |
| 231 Los Aguajes Avenue | 2 | 22' 4" | Duplex and SFR | 10' | 4.5' | | 2/11/2004 Garage Expansion to meet code | Yes Mod for Uniform Improvement |
| 210 Bath Street | 2 | | Duplex | 27' & 10' | 6' | 6' | N/A | N/A |

