

DRAFT

City of Santa Barbara Planning Division

PLANNING COMMISSION MINUTES

March 26, 2009

CALL TO ORDER:

Chair Thompson called the meeting to order at 1:03 P.M.

I. PLANNING COMMISSION PRESENT:

Vice-Chair Addison S. Thompson

Commissioners Charmaine Jacobs, John Jostes, Sheila Lodge, and Harwood A. White, Jr.

Absent:

Commissioners Stella Larson, and Bruce Bartlett

STAFF PRESENT:

Paul Casey, Community Development Director

Bettie Weiss, City Planner

N. Scott Vincent, Assistant City Attorney

Sue Gray, Housing Programs Supervisor

Kelly Brodison, Assistant Planner

Julie Rodriguez, Planning Commission Secretary

II. PRELIMINARY MATTERS:

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

None.

B. Announcements and appeals.

Ms. Weiss made the following announcements:

1. The Staff Hearing Officer's interpretation of the ordinance was questioned on the decision of 2105 Anacapa Street.

2. Four Staff Hearing Officer decisions have been appealed for:

a. 2140 Mission Ridge Road

b. 1415 Mission Ridge Road

c. 618 San Pascual Street

d. 436 Corona del Mar Drive

Staff will apprise the Commission of appeal hearing dates.

3. Reported that with a 4-3 vote, City Council declined to move forward with a charter amendment regarding building heights. The 'Save Our Pueblo Viejo' initiative will be on the November ballot.

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

Chair Thompson opened the public hearing at 1:07 P.M. and the following people spoke:

1. Bob Hansen commented on the State's 'Housing First' model and made recommendations for providing housing for the homeless.
2. James Kahan, Friends of Outer State Street, commented on Staff Hearing Officer appeals that were filed with the Planning Commission. Gave an update on the status of the 3408-3412 State Street appeal before the Court of Appeals.

With no one wishing to speak, the hearing was closed at 1:10 P.M.

III. NEW ITEM:

ACTUAL TIME: 1:10 P.M.

APPLICATION OF MIKE FOLEY, EXECUTIVE DIRECTOR OF CASA ESPERANZA, 816 CACIQUE STREET AND 110 SOUTH QUARANTINA STREET, APNS 017-240-021, 017-113-035 & 071-113-034, M-1, LIGHT MANUFACTURING, C-2, GENERAL COMMERCE AND S-D-3, COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: INDUSTRIAL (MST99-00432).

The proposed project involves amendments to the Conditions of Approval per Planning Commission Resolution No. 051-04. The proposed amendment involves an increase in the capacity of the Year-Round Shelter by 40 beds for a 90 day period from April 1, 2009 through June 30, 2009 (140 beds total).

Amendments to the following discretionary applications are required for this project:

Amendment to Conditional Use Permit conditions that allow a quasi-public use (§28.94.030.W).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301(e).

Case Planner: Kelly Brodison, Assistant Planner
Email: KBrodison@SantaBarbaraCA.gov

Kelly Brodison, Assistant Planner, gave the Staff presentation along with Sue Gray, Community Development Programs Supervisor.

Staff answered the Planning Commission's questions about the duration of the Conditional Use Permit (CUP) as being in response to immediate conditions and intent to proceed with a standard amendment request at a future date; clarified the original year-round bed limit approval of 100 beds versus what is now requested as 140 beds; explained that the application was only for a one-time, one-year 2009 expansion request as well as a permanent request from the Police Department that the shelter-bed limitations be exceeded by 10% upon a written determination by the Chief of Police (or his designee), in order to provide adequate and safe shelter to homeless individuals within the City due to weather related conditions or concerns related to public safety; affirmed the limited allowance for off-street parking and RV regulation of on-street parking; and confirmed that the infill categorical exemption was granted by the Planning Commission in a prior determination.

Sue Gray, Community Development Housing Programs Supervisor, responded to the Planning Commission's questions about the possible closure of the Salvation Army's adult rehabilitation center in Carpentaria by stating that the closure status was unknown at this time.

Mike Foley, Casa Esperanza Executive Director, gave the applicant presentation.

Mr. Foley answered the Planning Commission's questions about the year-round meal program that feeds approximately 200 people, some of whom are not residents at Casa Esperanza and are home-less; clarification of current residents and approximately 36-40 residents awaiting transitional housing; confirmed the media-reported status of the Salvation Army rehabilitation center building as targeted for sale; and gave clarification of the 48-hour Police Chief finding that can provide flexibility to respond to critical weather and public safety needs. He also explained the year-round criteria for the Council on Alcoholism's 12-bed detoxification program and how detoxification clients are separated from other clients; confirmed that the Fielding Institute study will be scheduled soon; and explained the criteria after April 1st for assisting year-round shelter clients.

Chair Thompson opened the public hearing at 2:00 P.M.

The following people spoke in support of the permit:

1. Maureen Earls, Clergy Laity United for Economic Justice (CLUE)
2. Laurie Gaddis, Casa Esperanza resident
3. Nancy McCradie, submitted petition with 114 signatures
4. Barbara B. Allen, Casa Esperanza Board President
5. Annmarie Cameron, Mental Health Association
6. Cath Webb
7. Alicia Cabrera
8. Nadine McFarland

9. Nancy Alexander
10. Ron Fox, Casa Esperanza Board Member
11. Oscar Silguero

The following people spoke in opposition to the permit or with concerns:

1. Chris Kamen
2. Mark A. Romasanta, Harbor View Inn
3. Barbara Fitzgerald
4. David Burkholder, The Neighborhood Bar and Grill
5. Allen C. Ramirez
6. Bonnie Donovan
7. Bonnie Donovan read comments on behalf of John Dixon
8. Bonnie Donovan read comments on behalf of Mary Ellen Tiffany
9. Peter Neuhaus

With no one else wishing to speak, the public hearing was closed at 2:39 P.M.

Chair Thompson called for a recess at 2:39 P.M. and reconvened the meeting at 2:59 P.M.

Scott Vincent, Assistant City Attorney provided clarification of the Condition of Approval that is applicable to the Santa Barbara Police Department's recommendation stating that the Police Chief could make a referral but that the applicant was not bound to accept the referral. The intent of the proposal is to offer flexibility for the Police Department and the applicant to work together to assist individuals in a crisis situation. Recommended that Commission consider how the added flexibility would affect the neighborhood and change Casa Esperanza's operations.

Staff explained that with the closure of the Santa Barbara Armory, Casa Esperanza is now the emergency winter shelter and location of the Community Kitchen; described other like facilities within the Santa Barbara area, but stated that there are no other overnight facilities outside Santa Barbara on the South Coast.

The Commissioners made the following comments:

1. Commissioner Lodge wanted to understand if the issue becomes better or worse for the neighborhood during the period that the shelter reduces their winter bed-count; could not see how keeping Casa Esperanza open longer and adding 40 beds would impact the neighborhood. Supports the permit request and would like to see what else can be done by the police department to aid neighborhood concerns. Suggested that Calle Puerto Vallarta be added to the list restricting pan handling.
2. Commissioner White found it almost impossible to make the findings for the permit, citing sections that were found to be challenging. Acknowledges the impact of the homeless population on neighboring businesses and the conundrum of balancing property rights with public assistance. Reluctantly supports the permit, but would

- prefer 30-day permit periods. Advocates regional assistance and a fair-share approach.
3. Although acknowledging all the work of Casa Esperanza, Commissioner Jostes could not make the findings for amending the CUP and could not support the permit. Needs to see the success of the 12 point program before making any changes. Concurred with Commissioner White on the need for a regional fair-share practice by other agencies.
 4. Commissioner Jacobs agreed with Commissioners White and Jostes and cannot make the findings for the CUP. Would like to see some kind of master plan or study that looks at land uses on the site, including how the Community Kitchen works and how it impacts the neighborhood. Suggested studying food distribution at other venues, not just Cacique Street.
 5. The Commission acknowledged the work Mr. Foley has done, but it is independent of the CUP which relates to land use and how it affects people.
 6. Commissioner Thompson supported the CUP request. Acknowledged the neighborhood angst and stated that this is not a long term intensification of use, just an extension of existing use for a limited time. If granted, would like to see the extension time used to come up with an analysis and long term solution beyond the requested 3 month extension.
 7. Commissioner Lodge added that the residents will be people that are already in Casa Esperanza programs. The increase in people coming to Casa Esperanza is due to the meal program. Suggested looking at spreading the meal sharing program to other locations of the city.

Barbara Fitzgerald, a neighbor, responded to the Commission by stating that the problems remain the same when Casa Esperanza's bed count is reduced, mostly due to those that use the meal program.

Ms. Gray stated that the Council Subcommittee's enforcement, intervention, and prevention strategies that address homelessness in the Milpas area, including pan handling. Spoke about the frequent offender and area enforcement programs that prosecute offenses as misdemeanors instead of infractions.

Staff and the Commission reviewed the action being asked of the Commission. Commissioner White stated that this CUP is an emergency request, but does not see keeping this CUP extension beyond 30 days without a 30-day review. Commissioner Jostes would like to see the permit conditions restructured to have land use compatibility. Commissioner Jacobs would like to see specific general plan language for land use compatibility.

Mr. Vincent explained the condition that empowers the Chief of Police to exceed the bed count for a limited period of time. He added that the Police Department's proposal is in response to changes in the homeless community that prompt a dire need for flexibility to improve public safety.

In the context of a 30 day review, Commissioner White would like to see the steps taken to start a meal program elsewhere, and improved police enforcement on Cabrillo Boulevard. Although, Chair Thompson pointed out that Cabrillo Boulevard is not in the scope of Casa Esperanza. Ms. Weiss suggested that while Staff could not expand or amend conditions regarding law enforcement issues, Staff could return in 45 days and provide a status on the Community Kitchen program, property maintenance, neighborhood outreach, and neighborhood watch and patrol.

Mr. Foley will provide whatever reporting is desired by the Commission and stated that he is currently working on an initiated study with the Fielding Institute that compares police contact with Casa Esperanza residents who are in the evening sleeping program versus the people who use the day center program. She stated that many of the concerns voiced today come from the West Beach area; Casa Esperanza has been working actively with the immediate neighbors. He is committed to providing an update on the progress of the study within 45 days that includes the completion date of the study.

MOTION: White/Lodge

Assigned Resolution No. 008-09

Approved the changes to the Conditional Use Permit, making the findings as outlined in the Staff Report, subject to the Conditions of Approval in Exhibit A of the Staff Report with the a report back to the Commission in 45 days that includes: 1) Progress report on exploration with other agencies in the community for additional food service to alternative locations (revision of Condition A.5.a); 2). Provide an update on the Fielding Institute study that provides comparison of day and evening residents, along with a study completion date; and 3) Include report on coordination with Milpas Action Task Force in conditions A.9-12.

This motion carried by the following vote:

Ayes: 3 Noes: 2 (Jacobs, Jostes) Abstain: 0 Absent: 2 (Bartlett, Larson)

Commissioner Jacobs could not support the motion but would like to see representatives from the Milpas Action Task Force and the Police Department in the future.

IV. ADMINISTRATIVE AGENDA

ACTUAL TIME: 4:15 P.M.

A. Committee and Liaison Reports.

1. Commissioner Thompson attended the Airport Noise Committee and reported on the downward trend in airport noise.
2. Commissioner White attended the Harbor Commission meeting and reported on the waterfront budget fees that will be raised, reduction in capital programs, and other measures that will be to balance the budget.

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

Commissioner White reported on the Staff Hearing Officer meeting held on March 25, 2009 and stated that the 2105 Anacapa Street decision may be appealed to the Planning Commission.

VII. ADJOURNMENT

Chair Thompson adjourned the meeting at 4:19 P.M.

Submitted by,

Julie Rodriguez, Planning Commission Secretary

DRAFT





City of Santa Barbara California

DRAFT

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 008-09

816 CACIQUE & 110 S. QUARANTINA STREETS

AMENDMENTS TO CONDITIONS OF APPROVAL FOR PRIOR RESOLUTION 051-04

MARCH 26, 2009

APPLICATION OF MIKE FOLEY, EXECUTIVE DIRECTOR OF CASA ESPERANZA, 816 CACIQUE STREET AND 110 SOUTH QUARANTINA STREET, APNS 017-240-021, 017-113-035 & 071-113-034, M-1, LIGHT MANUFACTURING, C-2, GENERAL COMMERCE AND S-D-3, COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: INDUSTRIAL(MST99-00432).

The proposed project involves amendments to the Conditions of Approval per Planning Commission Resolution No. 051-04. The proposed amendment involves an increase in the capacity of the Year-Round Shelter by 40 beds for a 90 day period from April 1, 2009 through June 30, 2009 (140 beds total).

Amendments to the following discretionary applications are required for this project:

Amendment to Conditional Use Permit conditions that allow a quasi-public use (§28.94.030.W).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301(e).

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

WHEREAS, 11 people appeared to speak in favor of the application, and 9 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, March 19, 2009
2. Site Plans
3. Correspondence received in support of the permit:
 - a. Bonnie Raisin, via email
 - b. Glen Mower, via email
 - c. Randy Sunday, Sarah House, via email
 - d. Maureen Earls, CLUE, via email
 - e. Nancy Rowan, CLUE, via email
 - f. Sara Miller McCune, via email
 - g. Sharon Brownnett, via email

- h. Cath Webb, via email
 - i. Roger E. Heroux, via email
 - j. Ellen M. Goodstein, Esq., via email
 - k. Roslyn Scheuerman, via email
 - l. Alex Lambrous, Esq., via email
 - m. Robert Pearson, Housing Authority of Santa Barbara, via email
 - n. Petra Lowen, via email
 - o. Bette Farrell, via email
 - p. Kathleen Baushke, Transition House, via email
 - q. Bernadette Murphy, submitted at hearing
 - r. Neighborhood petition submitted at hearing with 114 signatures
4. Correspondence received in opposition to the permit or with concerns:
- a. Peter Neuhaus, via email
 - b. Mike, via email
 - c. Melinda Werner, via email
 - d. John Dixon, Tri-County Produce, via email
 - e. Chris Kamen, via email
 - f. Holly Walters, via email
 - g. Jim Neuman, via email
 - h. Mark Romasanta, Harbor View Inn, via email
 - i. Sylvie Loebach Monsivais, Harbor View Inn, via email
 - j. David Burkholder, Neighborhood Corner Bar & Grill, via email
 - k. Harry Kazali, Days Inn, via email
 - l. Paula Westbury, Santa Barbara, CA
 - m. Paul Bullock, The Eagle Inn, Santa Barbara, CA
 - n. Rolland and Barbara Fitzgerald, Santa Barbara, CA
 - o. Mary Ellen Tiffany, submitted at hearing

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

- I. Approved the subject application making the following findings and determinations:
 - A. The use is deemed essential and desirable to the public convenience and welfare and is in harmony with the various elements and objectives of the Comprehensive General Plan. The Day Center and Shelter will expand its important services to Santa Barbara's homeless population in a permanent location. The temporary expansion of 40 beds to the Year-Round Shelter is in response to the worsening economic crisis, and keeping the vulnerable homeless population off the streets is essential and desirable to the public welfare, as it will reduce the suffering of this homeless population. Further, the expansion of the existing use would be in harmony with the General Plan Land Use Designations of Industrial and Commercial.
 - B. The uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood because the project will provide a place where the homeless can sleep without loitering in the neighborhood. Casa Esperanza staff and volunteers will continue to work with the homeless and neighboring businesses, through the Milpas Action Task Force, the Step Up clean up crew and the Streets Outreach program, to reduce neighborhood impacts caused by the homeless populations.
 - C. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development and use. Significant detrimental impacts on surrounding properties are avoided because the project meets the requirements of the M-1 and C-2 zones, and the area where facility users gather is set back and screened from the surrounding properties.
 - D. Adequate access and off-street parking is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area. Most of the facility users will not drive. The parking demand for all current activities at Casa Esperanza, including the Year-Round shelter, Emergency Winter Shelter (330 beds total) and Day Center was previously calculated to be met with a total of thirty-three (33) spaces (twenty (20) spaces provided off-site). The temporary increase in the year round capacity, through June 30th, to 140 beds will not exceed the parking demand of the overall approved project.
 - E. The appearance of the developed site in terms of the arrangement, height, scale and architecture of the building, location of parking areas, landscaping and other features is compatible with the area since the building and provision of landscaping have improved its appearance and made it more consistent with recent buildings in the area, such as the Fire Station, and with the overall character of the industrial and commercial area.
- II. Said approval is subject to the following conditions:

- A. **Recorded Agreement.** The following conditions shall be imposed on the use, possession and enjoyment of the Real Property and shall be documented in a written instrument which shall be reviewed as to form and content by the City Attorney, Community Development Director and/or Public Works Director. Owner shall record the approved document with the Office of the County Recorder.
1. **Uninterrupted Water Flow.** The Owner shall provide for the flow of water through the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate. The Owner is responsible for the adequacy of any drainage facilities and for the continued maintenance thereof in a manner which will preclude any hazard to life, health or damage to the Real Property or any adjoining property.
 2. **Recreational Vehicle Storage.** No recreational vehicles, boats or trailers shall be stored on the Real Property (although recreational vehicles that belong to shelter occupants may be parked on-site overnight or during the day).
 3. **Landscape Plan Compliance.** Owner shall comply with the Landscape Plan as 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.
 4. **Water Rights Assignment.** Owner shall assign to the City of Santa Barbara the exclusive right to extract water from under the Real Property.
 5. **Allowed Development.** The development of the Real Property is limited to 25,392 sq. ft. of building area.
 - a. **Day Center Operations/Community Kitchen.** Owner may operate a day center on a daily basis. Day center operations shall be limited to a maximum of eighteen (18) staff and volunteers. A noon-time meal may be served daily to up to 200 clients. All meals served from the real property shall be consumed on the real property. The applicant shall report back to the Planning Commission, in 45 days of approval (3-26-09), the progress on exploration with other agencies in the community for additional food service at alternative locations.
 - b. **Emergency Shelter.** From December 1 through March 15³¹, Owner may operate an emergency shelter on the real property with up to 230 beds, with a monthly average of no more than 200 beds. At the request of the shelter operator, the Community Development Director may extend the duration of the emergency shelter operation due to cold and/or rainy weather. Notice shall be given to the neighborhood by means of the Milpas Action Task Force no later than 48 hours prior to a change in schedule.

- c. **Shelter Operations.** From ~~March 16~~ April 1 through November 30 of each year, Owner may operate a shelter on the real property with up to 100 beds. From April 1, 2009, through June 30, 2009, Owner may operate a shelter on the real property with up to 140 beds.
 - d. **Detoxification Program.** Owner may operate a residential non-medical based detoxification program for up to 12 clients with a maximum stay of 14 days.
 - e. **Parking/Bicycle Storage and Access.** At all times, Owner shall provide a total of 33 parking spaces for use by staff, volunteers and clients. Thirteen spaces shall be provided on-site at 816 Cacique Street and twenty spaces shall be provided off-site at 110 S. Quarantina Street. The off-site parking lot shall be reserved for use by staff and volunteers and, secondarily, clients. If this off-site lot is needed at night, it shall be used for overnight staff parking. Signs shall be provided at the on-site parking entrances directing users to the off-site parking lot when on-site parking is full, subject to review and approval under the Sign Ordinance. Secure bicycle storage for sixty (60) bicycles shall be provided, subject to review and approval by the Transportation Planning Manager. Include a door that provides access to the rear of the building that does not exit through the kitchen for the purpose of providing access to bicycle storage.
 - f. **Increases to Meet Critical Need.** Upon a written determination by the Chief of Police (or his designee) that the shelter bed limitations contained herein need to be exceeded in order to provide adequate and safe shelter to homeless individuals within the City due to weather related conditions or concerns related to public safety, the bed limitations contained herein may be exceeded by an amount not to exceed ten percent (10%); provided, the determination of the Chief of Police is provided to Owner and to the Milpas Action Task Force within 48 hours of its issuance and each such determination shall be valid only for a period of seven (7) days.
 - g. **Fielding Institute Study.** The applicant shall provide an update within 45 days (of March 26, 2009) to the Planning Commission on the status of a Fielding Institute Study being done in cooperation with the City Police Department examining the frequency and nature of police contacts and problems in the vicinity of the shelter with the different populations served at the shelter (i.e. residents in the evening program versus residents in the day program). The update shall include the study's expected completion date.
6. **Lighting.** Exterior lighting shall be provided on both properties and shall be consistent with the City's lighting ordinance. No floodlights shall be allowed. All lighting shall be directed toward the ground.

7. **Tree Protection.** The street trees within the City's right-of-way shall be preserved and protected.
8. **Transportation Demand Management.** The following alternative mode incentives shall be incorporated into the project to reduce traffic impacts caused by the project. Such provisions shall be included in the lease/rental agreements of future tenants as a required "Transportation Management Plan." A copy of the clause in the lease/rental agreement needed to comply with this condition shall be provided to the Community Development Director and Transportation and Parking Manager.
 - a. **Bus Passes.** Owner or all employers shall contact the Metropolitan Transit District (MTD) to purchase bus passes or the equivalent for their employees and clients. These passes or tokens shall be provided free of charge to employees and clients who request them for travel to and from the facility. Notice of the free passes shall be provided to existing employees and new employees when they are hired and clients by posting signs in the facility. A copy of the contract with MTD shall be provided to the Transportation Planning Manager.
 - b. **Bus Routes and Schedules Posted.** Notice of MTD bus routes and schedules shall be placed and maintained up-to-date in a central (public) location accessible to employees and clients.
 - c. **Ride-Sharing Program.** Employees shall be made aware of the Ride-Sharing Program or similar successor programs administered by the Santa Barbara County Association of Governments or successor agency. The Owner and/or all employers shall have all employees registered semi-annually in the Ride-Sharing Program and shall make every effort to encourage participation in the program.
9. **Neighborhood Communication.** Casa Esperanza shall regularly meet with neighborhood representatives in order to handle issues and concerns regarding its operations. The Milpas Action Task Force (MATF) shall be the forum for these meetings, and shall include representatives from area property owners, businesses, and residents, the City of Santa Barbara, and Casa Esperanza. Meetings may be called by the Owner or the MATF, when determined necessary. The applicant will provide the Planning Commission with an update within 45 days of approval (3-26-09).
10. **Neighborhood Outreach.** Staff of Casa Esperanza shall conduct daily patrols through the neighborhood. This Outreach Program currently includes both sides of Milpas from the beach to Mason Street, and the area between the railroad tracks and US 101, and the Cacique/Quarantina/US101 triangle. This area may be revised by the Milpas Action Task Force in response to local conditions. Because of the area's scope, each segment may not be visited daily, but shall be visited more than once a week. Outreach involves contacting businesses and

residents to hear what is going on. The name and telephone number of a contact person will be distributed along with information regarding where complaints about facility operations may be directed. Any complaints received and the staff response will be logged and made available to the public upon request. The Outreach Program shall also refer businesses and residents to the Police Department for crime prevention assessment. The applicant will provide the Planning Commission with an update within 45 days of approval (3-26-09).

11. **Neighborhood Watch/Patrol.** In addition, the operator shall conduct a neighborhood watch and clean-up patrol within the patrol area defined above by the Milpas Action Task Force. In addition to litter clean-up, the purpose of the patrols is to observe homeless activities in the area, and to enforce the facility's Code of Conduct. The applicant will provide the Planning Commission with an update within 45 days of approval (3-26-09).
12. **Property Maintenance.** The properties shall be maintained in accordance with the approved plans. The applicant will provide the Planning Commission with an update within 45 days of approval (3-26-09).

- B. **Report to Planning Commission.** Casa Esperanza shall provide progress reports to the Planning Commission every two years, with the next report due in May 2006/2010. Compliance with the conditions of approval and progress in meeting the corrective action objectives in the September 14, 2004 Milpas Action Task Force Report shall be addressed. Discussion of overall operations, statistical information of the numbers of persons served, complaints received and the response to those complaints, and parking demand and utilization should also be included. The Planning Commission reserves the right to further condition the project as necessary to sustain operation.

This motion was passed and adopted on the 26th day of March, 2009 by the Planning Commission of the city of Santa Barbara, by the following vote:

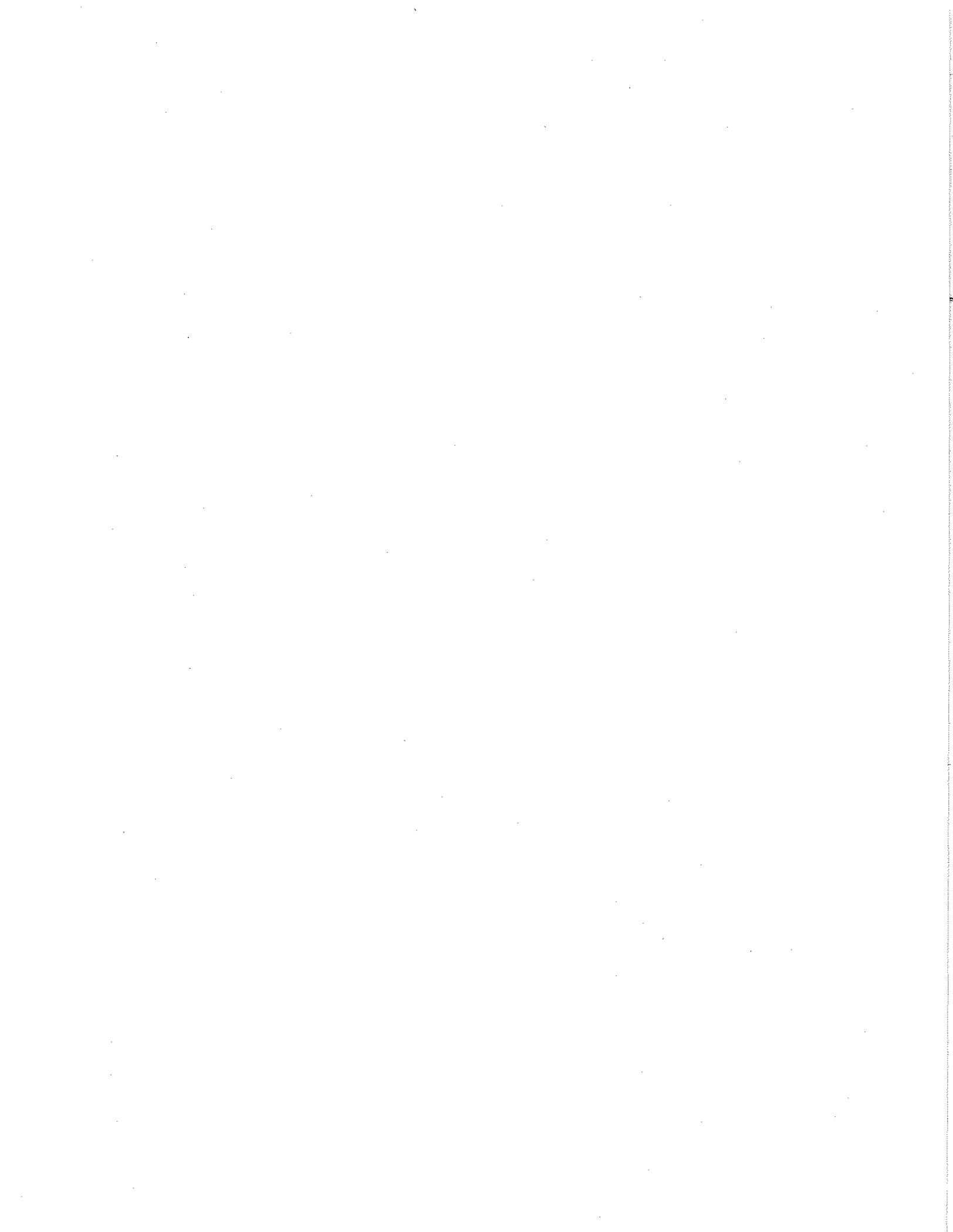
AYES: 3 NOES: 2 (Jacobs, Jostes) ABSTAIN: 0 ABSENT: 3 (Bartlett, Jostes, Lodge)

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

Julie Rodriguez, Planning Commission Secretary

Date

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



DRAFT

City of Santa Barbara Planning Division

PLANNING COMMISSION MINUTES

April 2, 2009

CALL TO ORDER:

Chair Larson called the meeting to order at 1:14 P.M.

I. ROLL CALL:

Present:

Chair Stella Larson
Vice-Chair Addison S. Thompson
Commissioners Bruce Bartlett, Sheila Lodge, and Harwood A. White, Jr.

Absent:

Commissioners Charmaine Jacobs and John Jostes

STAFF PRESENT:

Danny Kato, Senior Planner
N. Scott Vincent, Assistant City Attorney
Steven Faulstich, Housing Programs Supervisor
Michael Berman, Project Planner/Environmental Analyst
Suzanne Johnston, Assistant Planner
Andrew Bermond, Assistant Planner
Julie Rodriguez, Planning Commission Secretary

II. PRELIMINARY MATTERS:

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

None.

B. Announcements and appeals.

Mr. Kato made the following announcements:

1. There will be a Special Meeting of the Planning Commission on Friday, May 8, 2009 in Council Chambers at 1 P.M. to hear updates on Plan Santa Barbara and the *PlanSB* Environmental Impact Report.

2. Three Staff Hearing Officer decisions have been appealed:
 - a. 436 Corona del Mar Drive
 - b. 1415 Mission Ridge Road
 - c. 618 San Pascual Street
- C. Comments from members of the public pertaining to items not on this agenda.
Chair Larson opened the public hearing at 1:17 P.M. and, with no one wishing to speak, closed the hearing.

III. **CONSENT ITEM:**

ACTUAL TIME: 1:18 P.M.

EX PARTE COMMUNICATION:

Commissioner Bartlett disclosed an ex parte communication with the applicant regarding story poles contractors.

APPLICATION OF SIEGLINDE PUKKE, SHUBIN & DONALDSON ARCHITECTS, INC. FOR ANABILT, LLC, 412 AND 414 ANACAPA STREET, APN 031-271-019, C-M COMMERCIAL MANUFACTURING ZONE, GENERAL PLAN DESIGNATION: INDUSTRIAL (MST2008-00322)

The proposal includes subdividing an existing 13,500 square foot vacant parcel into three new lots and construction of a new, three-story, sustainable, mixed-use building on each new parcel. The proposal includes a total of 4,074 net square feet of commercial and 7,113 net square feet of residential. Lot 1 includes 1,780 net square feet of commercial area and a 1,930 net square foot residential unit on a 4,760 square foot lot with one covered and two uncovered parking spaces. Lot 2 includes 1,756 net square feet of commercial area and a 1,888 square foot residential unit on a 5,070 square foot lot with parking provided in one covered and three uncovered parking spaces. Lot 3 includes 538 net square feet of commercial area and a 3,295 net square foot residential unit on a 3,670 square foot lot with parking provided in two covered parking spaces and two uncovered parking spaces.

The discretionary applications required for this project are:

1. A Tentative Subdivision Map to allow the division of one (1) parcel into three (3) lots (SBMC 27.07);
2. A Public Street Waiver to allow the approval of a subdivision where access is provided by a private driveway that serves more than two lots (SBMC §22.60.300); and
3. A Development Plan to allow the construction of a total of 4,074 square feet of nonresidential development. (SBMC §28.87.300)..

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15303, New Construction of Small Structures and 15315, Minor Land Divisions.

Case Planner: Suzanne Johnston, Assistant Planner
Email: SJohnston@SantaBarbaraCA.gov

Suzanne Johnston, Assistant Planner, gave the Staff presentation.

Robin Donaldson, Owner and Applicant, gave the applicant presentation.

Chair Larson opened the public hearing at 1:32 P.M.

Ed Mannon asked the Planning Commission not to approve any new development while there are currently a number of existing properties which are either vacant or for sale/lease.

With no one else wishing to speak, the public hearing was closed at 1:34 P.M.

Mr. Donaldson answered the Planning Commission's questions about consideration given for lowering the plate heights 4' after seeing the story poles erected, and clarified the variation in setbacks on Anacapa Street.

Staff provided the Planning Commission clarification regarding Measure E allocation of square footage vacant and small additions categories.

The Commissioners made the following comments:

1. Commissioner White commented on the project uniqueness in land use and supports the project. Appreciates the open space and would like more landscaping in the front. The project is in the C-M Zone; would like CC&R's to say that adjacent properties could still develop in the C-M Zone.
2. Commissioner Lodge appreciated the inclusion of residential use in the project and the inclusion of windows. Believes canopy trees would soften the landscaping. Would like to see a larger planter in the front landscaping.
3. Commissioner Bartlett welcomed the approach taken by the three lots and the inherent security created by design. Appreciates that the applicant did not pursue the maximum density allowed under the ordinance and that no parking modifications are being sought due to the creative use of off-site parking agreements within the proposed development.
4. Commissioner Larson asked the applicant to consider LEED Certification.

MOTION: Bartlett/White

Assigned Resolution No. 009-09

Approved the project, making the findings for the Tentative Subdivision Map, Public Street Waiver, and Development Plan outlined in the Staff Report, subject to the Conditions of Approval in Exhibit A of the Staff Report with the following revisions to the Conditions of Approval: 1) Applicant to reduce the height of the building on Lot 3 by approximately 4' from the submitted plans; 2) Change Item 6 on page 4 from off-site detention to 'on-site detention; and 3) CC&R's to include an advisory statement of the C-M zone and allowed uses for the C-M zone.

Scott Vincent, Assistant City Attorney, suggested including in the CC&R's for each of the three lots acknowledging the C-M zone and the allowed uses for the C-M zone.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 0 Absent: 2 (Jacobs, Jostes)

Chair Larson announced the ten calendar day appeal period.

IV. DISCUSSION ITEM:

ACTUAL TIME: 1:56 P.M.

US 101 IMPROVEMENT PROJECT UPDATE

As required by the Coastal Development Permit issued by the Planning Commission on December 13, 2004 City and California Department of Transportation Staff are providing an update on the status of the project.

Case Planner: Michael Berman, Environmental Analyst/Project Planner
Email: MBerman@SantaBarbaraCA.gov

Michael Berman, Environmental Analyst/Project Planner, gave the Staff presentation joined by Mike Sandecki, Caltrans Associate Environmental Planner; David C. Beard, Caltrans Senior Transportation Engineer; Fred Luna, SBCAG, and Kirsten Ayars, Ayars and Associates.

The Commissioners made the following comments:

1. Commissioner Larson expressed concern for loss of landscaping along Highway 101 and loss of local character.
2. Commissioners White and Thompson congratulated the project team for keeping the public informed and keeping the traffic moving while making improvements.

Mr. Berman updated the Commission on the forthcoming plans to replace the Railroad Bridge over Sycamore Creek that will be a part of another project

David Beard, Caltrans Project Manager, responded to the Planning Commission's question about the tennis court area by describing the stucco finish on the tennis wall, as approved by the Architectural Board of Review and Historic Landmarks Commission.

Kirsten Ayers responded that graffiti abatement in the construction zone is the responsibility of the contractor, and then the owner once the project is completed. The Milpas Street Southbound on-ramp will be opening soon and is month ahead of schedule. Ms. Ayers explained the staging for the Hot Springs Road roundabout construction will be shifting around and is in the first stage of construction, with the second stage scheduled to start soon.

V. **NEW ITEMS:**

ACTUAL TIME: 2:21 P.M.

A. **APPLICATION OF STEVEN FAULSTICH, CITY HOUSING PROGRAMS SUPERVISOR, REQUESTING THAT THE PLANNING COMMISSION MAKE A RECOMMENDATION TO THE CITY COUNCIL REGARDING THE PROPOSED AMENDMENTS TO THE CITY'S INCLUSIONARY HOUSING ORDINANCE (MST2008-00574)**

The project would amend the IHO to apply to projects with two to nine units. An in-lieu fee of \$17,800 per market rate unit included in the project would be charged when an affordable unit would not be provided as part of the project. The ordinance would also state that where two to four new units are proposed, the first unit would not be required to pay the in-lieu fee. The requirement for a lot area modification for inclusionary housing would be eliminated. Projects that provide 30% of the units as upper-middle income affordable units would be exempt from the ordinance. The in-lieu fee could be used for purchasing and reselling of existing middle and upper middle income housing, subsidizing the creation of middle and upper middle income housing, and ensuring compliance with middle and upper middle income housing policies and procedures.

The required Planning Commission action for this project is a recommendation to the City Council regarding the proposed Ordinance Amendment.

On March 19, 2009, the Planning Commission held an environmental hearing to receive Planning Commission and public comment on the Draft Mitigated Negative Declaration (MND) for the proposed amendment. The City Council will consider and adopt the Final Mitigated Negative Declaration when it considers the amendment to the IHO.

Case Planner: Michael Berman, Environmental Analyst/Project Planner
 Email: MBerman@SantaBarbaraCA.gov

Michael Berman, Environmental Analyst/Project Planner, and Steven Faulstich, Housing Programs Supervisor, gave the Staff presentation. .

Chair Larson opened the public hearing at 2:45 P.M.

The following people spoke in opposition to the amendment or with concerns:

1. Jim Caldwell, Santa Barbara Association of Realtors, resubmitted written comment and stated that dropping the threshold below five units would cause housing prices to go up and if developers felt they could not recuperate the cost, they would just not be able to develop.
2. Cathie McCammon, Allied Neighborhood Association, felt that in-lieu fees would fall on the small market rate units and asked the Commission for a temporary compromise such as only applying the in-lieu fees for development of 6-9 units. She stated that Inclusionary Housing should be covered by the Plan Santa Barbara process, since it will be dealing with affordable-by-design.

Mickey Flacks supported the Inclusionary Housing Ordinance Amendment and felt that the fee provides a fund for housing. In-lieu fees assist with housing for middle income and low income housing; without it, market rate developers will only build upscale housing.

With no one else wishing to speak, the public hearing was closed at 2:55 P.M.

Staff answered additional Planning Commission questions about how the approximate 30 new residential units over the next twenty years were calculated based on past analysis of housing units that could be subsidized using in-lieu fees.

The Commissioners made the following comments:

1. Last August, Commissioner Lodge had checked with Dr. Bill Watkins, Director of the UCSB Economic Forecast Project and inquired if multiplier factors had been studied for impact by development of new luxury condominiums. They had not, but confirmed that there is a multiplier effect resulting from new housing that contributes to the job market. Was initially supportive of the inclusionary housing amendment because it does provide the possible opportunity to provide new affordable units and can possibly be used to buy-down existing housing to affordable prices. But agrees with comments that the Inclusionary Housing Ordinance is not achieving a jobs-housing balance, and has not discouraged the building of large luxury units.
2. Commissioner White agreed with the concept of inclusionary fees but was concerned that the in-lieu fees be surgical and nimble and accomplish their goals and do as little harm as possible on the housing market. Suggest reconsidering an inclusionary housing fee for mitigating the housing impact

of commercial developments that existed 15 years ago and would like to see a commercial in-lieu fee added as part of the amendment. He stated he is worried about small units, such as in the R-3 zone that would be discouraged from development and would like to see an accommodation made that encourages small unit development and exempts small units from inclusionary fees. Noted that there are fewer permits being sought for condominium projects. Would like to see exemption of fees in a blighted area, such as lower Voluntario Street near the freeway. Noted that there are few condominium permits being filed and suggested that there should be exceptions in times of economic stress and for areas that are depressed. Supports a condominium conversion in-lieu fee.

3. Commissioners White, Bartlett and Thompson would like to see more affordable housing but do not see this amendment as the mechanism for developing it.
4. Commissioners Bartlett, Thompson, and Larson suggested waiting to incorporate changes to inclusionary housing policy into the Plan Santa Barbara process. Look to ways to encourage this type of affordable housing. Cannot see this amendment as being helpful in this economy and it does not need to be rushed ahead of the general plan update process.
5. Commissioner Thompson felt that this topic needs more discussion than adding an exaction to small building projects in town. There are unintended consequences for attempts to get more affordable housing carved into market rate housing, and they have been that we're just inducing bigger market-rate projects.
6. Commissioners Thompson and Larson suggested looking for a policy that rewards developers for building what is needed, not taxing them.
7. Commissioners Bartlett and Thompson agreed that increasing in-lieu fees would impact developer's costs resulting in the potential to halt development. We need a carrot, not a stick. Disagrees with using in-lieu funds to pay for administrative costs of enforcing middle-income affordability restrictions, and feels that City general funds should be used instead. Not comfortable with calculation formulas for in-lieu fees because it appears that we are trying to back-in to an acceptable number.
8. Commissioner Bartlett and Larson would like to see an incentive for building rental stock; nothing has been built in years. Other communities are doing this, unfortunately not Santa Barbara.

Mr. Faulstich added that the Inclusionary Housing Ordinance, section 28.43.070(D), already includes a graduated reduction of in-lieu fees for smaller units. Units between 1400-1700 square feet receive a reduced in-lieu fee, and there is a 30% reduction in in-lieu fee for units below 800 square feet.

In response to the changing structure of fees that Staff has been reviewing, Scott Vincent, Assistant City Attorney, stated that the nexus study for the inclusionary housing ordinance justified and supported the full fee of \$354,000 for each required inclusionary unit. The calculation of the 5% fee in this proposal is supported by the nexus study; the difference is what is palatable in this market. Hence, there is legal support for an inclusionary fee even on smaller projects.

Mr. Vincent reviewed the typical approach for reviewing an ordinance amendment and how a recommendation is consistent with the government code.

MOTION: Thompson/Bartlett

Assigned Resolution No. 010-09

Recommended that the City Council not take any action on the Amendment until further analysis of the proposed changes is undertaken and completed through the General Plan Update process, including a study of incentives for new rental housing.

This motion carried by the following vote:

Ayes: 4 Noes: 0 Abstain: 1 (White) Absent: 2 (Jacobs, Jostes)

Commissioner White could support the motion if it did not include Plan Santa Barbara, but left the analysis to be done by City Council.

Chair Larson called for a recess at 3:29 P.M. and reconvened the meeting at 3:39 P.M.

ACTUAL TIME: 3:39 P.M.

EX PARTE COMMUNICATION:

Commissioner White disclosed an ex parte communication with the Applicant regarding the project.

- B. **APPLICATION OF GELARE MACON, AGENT FOR THE TOWBES GROUP, 400 BLOCK OF SOUTH FAIRVIEW AVENUE, 073-045-003, A-F, SP-6, S-D-3, AIRPORT FACILITIES, AIRPORT INDUSTRIAL AREA SPECIFIC PLAN AND COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: MAJOR PUBLIC AND INSTITUTIONAL (MST 2008-000032, CDP2008-00020)**

The project consists of the installation of two storm drain outfalls and rock rip-rap on the eastern bank of San Pedro Creek in the City of Santa Barbara on Santa Barbara Airport Property along Fairview Avenue. This proposed project would satisfy conditions of approval for the Towbes office development project on the east side of Fairview Avenue in the City of Goleta. The discretionary application required for this project is a Coastal Development Permit to install a 250 square foot

riprap headwall, two storm drain outfalls, and restore 1,000 square feet of creek bank habitat Appealable Jurisdiction of the Coastal Zone (SBMC §28.45.009).

The Planning Commission will consider approval of the Mitigated Negative Declaration prepared for the project pursuant to the California Environmental Quality Act Guidelines Section 15074.

Case Planner: Andrew Bermond, Associate Planner
Email: ABermond@SantaBarbaraCA.gov

Andrew Bermond, Associate Planner, gave the Staff presentation.

Chair Larson opened the public hearing at 3:46 P.M. and, with no one wishing to speak, closed the hearing.

MOTION: White/Thompson **Assigned Resolution No. 011-09**
Approved the project, making the findings for adopting the Mitigated Negative Declaration (MND) and approve the Coastal Development Permit outlined in the Staff Report, subject to the Conditions of Approval in Exhibit A of the Staff Report.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 0 Absent: 2 (Jacobs, Jostes)

Chair Larson announced the ten calendar day appeal period.

VI. ADMINISTRATIVE AGENDA

ACTUAL TIME: 3:50 P.M.

A. Committee and Liaison Reports.

Commissioner Larson reported on the attending the Historic Landmarks Commission meeting and gave an update on the Cabrillo Boulevard improvements.

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

None were requested.

C. Action on the review and consideration of the items of the Draft Minutes and Resolutions of March 5, 2009:

- a. Draft Minutes of March 5, 2009
- b. Resolution 005-09
601 Norman Firestone Road

- c. Resolution 006-09
28 W. Cabrillo Boulevard
- d. Resolution 007-09
210 & 216 Meigs Road and 290 Lighthouse Road

MOTION: Thompson/Lodge Approve the minutes and resolutions of March 5, 2009 as edited.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 0 Absent: 2(Jacobs, Jostes)

VII. ADJOURNMENT

Chair Larson adjourned the meeting at 4:00 P.M.

Submitted by,

Julie Rodriguez, Planning Commission Secretary



City of Santa Barbara California

DRAFT

CITY OF SANTA BARBARA PLANNING COMMISSION

**RESOLUTION NO. 009-09
412 AND 414 ANACAPA STREET
TENTATIVE SUBDIVISION MAP, PUBLIC STREET WAIVER,
AND DEVELOPMENT PLAN
APRIL 2, 2009**

**APPLICATION OF SIEGLINDE PUKKE, SHUBIN & DONALDSON ARCHITECTS, INC.
FOR ANABILT, LLC, 412 AND 414 ANACAPA STREET, APN 031-271-019, C-M
COMMERCIAL MANUFACTURING ZONE, GENERAL PLAN DESIGNATION:
INDUSTRIAL (MST2008-00322)**

The proposal includes subdividing an existing 13,500 square foot vacant parcel into three new lots and construction of a new, three-story, sustainable, mixed-use building on each new parcel. The proposal includes a total of 4,074 net square feet of commercial and 7,113 net square feet of residential. Lot 1 includes 1,780 net square feet of commercial area and a 1,930 net square foot residential unit on a 4,760 square foot lot with one covered and two uncovered parking spaces. Lot 2 includes 1,756 net square feet of commercial area and a 1,888 square foot residential unit on a 5,070 square foot lot with parking provided in one covered and three uncovered parking spaces. Lot 3 includes 538 net square feet of commercial area and a 3,295 net square foot residential unit on a 3,670 square foot lot with parking provided in two covered parking spaces and two uncovered parking spaces.

The discretionary applications required for this project are:

1. A Tentative Subdivision Map to allow the division of one (1) parcel into three (3) lots (SBMC 27.07);
2. A Public Street Waiver to allow the approval of a subdivision where access is provided by a private driveway that serves more than two lots (SBMC §22.60.300); and
3. A Development Plan to allow the construction of a total of 4,074 square feet of nonresidential development. (SBMC §28.87.300)..

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15303, New Construction of Small Structures and 15315, Minor Land Divisions.

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

WHEREAS no one appeared to speak in favor of the application, and one person appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, March 26, 2009
2. Site Plans

3. Correspondence received in opposition to the project:
 - a. Paula Westbury, Santa Barbara, CA

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

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

A. THE TENTATIVE MAP (SBMC §27.07.100)

The Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the city of Santa Barbara because the lots sizes meet the minimum lot area requirements for density purposes and the proposed project and its uses meet all other provisions of the code. The site is physically suitable for the proposed development and the proposed project is consistent with the variable density provisions of the Municipal Code and the General Plan as show in Sections V and VI.B. above, and the proposed use is consistent with the vision for this neighborhood of the General Plan. The design of the project will not cause substantial environmental damage the project will reduce the site runoff, does not have traffic or air quality impacts, and the associated improvements will not cause serious public health problems.

B. FOR THE DEVELOPMENT PLAN (SBMC §28.87.300)

1. The proposed development will not have a significant unmitigated adverse impact upon City and South Coast affordable housing stock because the proposed project is small in scale and will involve only a small number of employees, the project is not expected to create new demand for low to moderate income housing in the area; and
2. The proposed development will not have a significant unmitigated adverse impact on the City's water resources because the project would not represent a significant incremental increase to the present demand and no significant impact on the dependable water supply is expected to occur as stated in Section VI.C. above.
3. The project will generate approximately 10 a.m. peak hour trips, 15 p.m. peak hour trips, and 130 average daily trips. When these trips were added to the existing street network, which will not have a significant unmitigated adverse impact on the City's traffic.
4. Resources will be available will be in place at the time of project occupancy and that no traffic improvements are required.

II. Said approval is subject to the following conditions:

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. **Useable Common Open Space.** Adequate usable common open space shall be provided in a location accessible by all units within the development.

2. **Minimize Visual Effects of Paving.** Textured or colored pavement shall be used in paved areas of the project to minimize the visual effect of the expanse of paving, create a pedestrian environment, and provide access for all users.
3. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.
4. **Permeable Paving.** Incorporate a permeable paving system for the project driveway, walkways and parking areas that will allow a portion of the paved area runoff to percolate into the ground, except as necessary to meet Fire Department weight requirements. Materials in driveways and parking areas must be approved by the Public Works Director/Transportation Manager.
5. **Building Height.** Applicant shall reduce the building on proposed Lot 3 (rear lot) by approximately 4' from the originally submitted plans.

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 April 2, 2009 is limited to 3 lots and a total of 4,074 square feet of commercial development 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. Lot 1 includes 1,780 net square feet of commercial area and a 1,930 net square foot residential unit on a 4,760 square foot lot with one covered and three uncovered parking spaces. Lot 2 includes 1,756 net square feet of commercial area and a 1,888 square foot residential unit on a 5,070 square foot lot with parking provided in one covered and three uncovered parking spaces. Lot 3 includes 538 net square feet of commercial area and a 3,295 net square foot residential unit on a 3,670 square foot lot with parking provided in two covered parking spaces and two uncovered.
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 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 parcels.
 - b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
 - c. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
 - d. **Trash and Recycling.** 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. **Gates.** Any gates that have the potential to block access to any designated commercial space shall be locked in the open position during business hours.
- f. **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.
- g. **C-M Zone.** CC&R's for each lot shall include an advisory statement that future development of adjacent parcels could consist of any uses that are permitted as defined in SBMC§28.69 C-M Commercial Manufacturing Zone.

7. **Use Limitations.** Due to potential parking impacts, the residential floor area shall not be converted to commercial floor area without further environmental review. Prior to initiating a change of use, the Owner shall submit a letter to the Community Development Director detailing the proposal, and the Director shall determine the appropriate review procedure and notify the Applicant.

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

C. **Public Works Submittal Prior to 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 Parcel Map and prior to the issuance of any permits for the project:

- 1. **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.
- 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. **Anacapa Street Public Improvement Plans.** The Owner shall submit C-1 public improvement plans for construction of improvements along the property frontage on Anacapa Street. Public Works C-1 plans shall be submitted separately from plans submitted for a Building Permit. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: sidewalk, driveway apron modified to meet Title 24 requirements, curbs, gutters, asphalt concrete, crack seal to the centerline of the street along entire subject property frontage and 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 (drainage pipe, curb drain outlets, slot/trench drain, drop inlet, ~~off-site~~ on-site detention, erosion protection (provide off-site storm water BMP plan), etc.), preserve and/or reset survey monuments and contractor stamps, installation of commercial fire hydrant and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.
7. **Land Development Agreement.** The Owner shall submit an executed Agreement for Land Development Improvements, prepared by the Engineering Division, an Engineer's Estimate, signed, and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement.
8. **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.

9. **Maintenance Agreement Required.** The Owner shall submit an Executed Agreement for Maintenance of the proposed driveway, subject to the review and approval of the Public Works Director and City Attorney.

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

1. **Recordation of Final Map Agreements.** After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department prior to issuance of building permits for individual parcels.

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

3. **Solid Waste Management Plan.** Owner shall submit a solid waste management plan that identifies feasible measures to address the construction and operation of the office uses which may include, but are not limited to, the following:

a. Provision of space and/or bins for storage of recyclable materials within the project site. This information shall be shown on the building plans and installed as a part of the proposed project's improvements.

b. Development and implementation of a plan for collection of recyclable materials on a regular basis.

c. Development of source reduction measures, indicating the method and amount of expected reduction.

d. Implementation of a program to purchase recycled materials used in association with the proposed project (paper, newsprint, etc.). This could include requesting suppliers to show recycled material content.

e. Implementation of a monitoring program (quarterly, bi-annually) to attain and maintain a 35-50% minimum participation in recycling efforts.

f. Implementation of a composting landscape waste reduction program.

4. **Traffic Control Plan.** A traffic control plan shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines. Traffic Control Plans are subject to approval by the Public Works Director/Transportation Manager. Construction and storage in the public right-of-way is prohibited during Fiesta in the affected areas (around McKenzie Park, Downtown and Waterfront) and during the Holiday Shopping Season (between Thanksgiving Day and New Years Day) in all commercial shopping areas, including but not limited to Upper State Street, the Mesa shopping area, Downtown and Coast Village Road.

- 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. **Zoning Compliance Declaration.** The Owner shall file a Zoning Compliance Declaration to assure that the residential units shall not be converted to commercial usage.
 2. **Neighborhood Notification Prior to Construction.** At least twenty (20) days prior to commencement of construction, the contractor shall provide written notice to all property owners, businesses, and residents within 300 feet of the project area. The notice shall contain a description of the project, the construction schedule, including days and hours of construction, the name and phone number of the Contractor(s), site rules and Conditions of Approval pertaining to construction activities and any additional information that will assist the Building Inspectors, Police Officers and the public in addressing problems that may arise during construction. The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person(s) who compiled the mailing list shall be submitted to the Planning Division.
 3. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.
 4. **Green Building Techniques Required.** Owner shall design the project to meet Santa Barbara Built Green Two-Star Standards and strive to meet the Three-Star Standards.
 5. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment that states that, prior to disturbing any part of the project site for any reason and after the Building permit has been issued, the General Contractor shall schedule a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, the assigned Building Inspector, the Planning Division, the Property Owner, the Architect, the Contractor and each subcontractor.
- 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. **Post-Construction Erosion Control and Water Quality Plan.** Provide an engineered drainage plan that addresses the existing drainage patterns and leads towards improvement of the quality and rate of water run-off conditions from the site by capturing, infiltrating, and/or treating drainage and preventing erosion. The Owner shall employ passive water quality methods, such as bioswales, catch basins, or storm drain on the Real Property, or other measures specified in the Erosion Control Plan, to intercept all sediment and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) from the parking lot areas and other improved, hard-surfaced areas prior to discharge into the public storm drain system, including any creeks. All proposed methods shall be reviewed and approved by the Public Works Department and the Community Development Department. Maintenance of these facilities shall be provided by the Owner, as outlined in Condition C.5, above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.
4. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street. Dumpsters and containers

with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.

5. **Vehicle Access.** Vehicles exiting to Anacapa Street shall be restricted to left turns only, and a No Right Turn sign shall be posted and maintained on-site advising motorists of this restriction.
6. **Project Directory.** A project directory, listing all units on-site shall be indicated on the project plans. This directory shall be lit sufficiently for readability for site visitors and placed in a location or locations acceptable to the Fire Department, shall meet current accessibility requirements, and is subject to Sign Committee Approval.
7. **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.
8. **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. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and

Transportation Divisions, Building Division, Planning Division, the Property Owner, Architect, Contractor and each Subcontractor.

2. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met.
3. **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.
4. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.
5. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Transportation Manager.
6. **Haul Routes.** The haul route(s) for all construction-related trucks with a gross vehicle weight rating of three tons or more, entering or exiting the site, shall be approved by the Transportation Manager.
7. **Traffic Control Plan.** All elements of the approved Traffic Control Plan shall be carried out by the Contractor.
8. **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
Cesar Chavez Day	March 31 st
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.

9. **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.

10. **Water Sprinkling During Grading.** The following dust control measures shall be required, and shall be accomplished using recycled water whenever the Public Works Director determines that it is reasonably available:
 - a. Site grading and transportation of fill materials.

- b. Regular water sprinkling; during clearing, grading, earth moving or excavation.
 - c. Sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied on-site to prevent dust from leaving the site.
 - d. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.
 - e. Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement on-site damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph.
11. **Expeditious Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used, as directed by the Building Inspector.
12. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.
13. **Street Sweeping.** The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.
14. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
15. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number(s), work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
16. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
17. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24

hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.

18. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the applicant shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

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

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

- 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 (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. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
 4. **Fire Hydrant Replacement.** Replace existing nonconforming type fire hydrant(s) with commercial-type hydrant(s) described in Standard Detail 6-003.1 Paragraph 2 of the Public Works Department Standard Details.
 5. **Manholes.** Raise all sewer and water manholes on easement to final finished grade.
 6. **Noise Measurements.** Submit a final report from a licensed acoustical engineer, verifying that interior and exterior living area noise levels are within acceptable levels as specified in the Noise Element. In the event the noise is not mitigated to acceptable levels, additional mitigation measures shall be recommended by the noise specialist and implemented subject to the review and approval of the Building and Safety Division and the Architectural Board of Review (ABR).
 7. **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 TENTATIVE SUBDIVISION MAP TIME LIMITS:

The Planning Commission's action approving the Tentative Map shall expire three (3) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110.

This motion was passed and adopted on the 2nd day of April, 2009 by the Planning Commission of the city of Santa Barbara, by the following vote:

AYES: 5 NOES: 0 ABSTAIN: 0 ABSENT: 2 (Jacobs, Jostes)

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

Julie Rodriguez, Planning Commission Secretary

Date

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



City of Santa Barbara California

DRAFT

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 010-09

CITYWIDE

RECOMMENDATION TO CITY COUNCIL ON INCLUSIONARY HOUSING ORDINANCE AMENDMENT

APRIL 2 2009

**APPLICATION OF STEVEN FAULSTICH, CITY HOUSING PROGRAMS SUPERVISOR,
REQUESTING THAT THE PLANNING COMMISSION MAKE A RECOMMENDATION TO
THE CITY COUNCIL REGARDING THE PROPOSED AMENDMENTS TO THE CITY'S
INCLUSIONARY HOUSING ORDINANCE (MST2008-00574)**

The project would amend the IHO to apply to projects with two to nine units. An in-lieu fee of \$17,800 per market rate unit included in the project would be charged when an affordable unit would not be provided as part of the project. The ordinance would also state that where two to four new units are proposed, the first unit would not be required to pay the in-lieu fee. The requirement for a lot area modification for inclusionary housing would be eliminated. Projects that provide 30% of the units as upper-middle income affordable units would be exempt from the ordinance. The in-lieu fee could be used for purchasing and reselling of existing middle and upper middle income housing, subsidizing the creation of middle and upper middle income housing, and ensuring compliance with middle and upper middle income housing policies and procedures.

The required Planning Commission action for this project is a recommendation to the City Council regarding the proposed Ordinance Amendment.

On March 19, 2009, the Planning Commission held an environmental hearing to receive Planning Commission and public comment on the Draft Mitigated Negative Declaration (MND) for the proposed amendment. The City Council will consider and adopt the Final Mitigated Negative Declaration when it considers the amendment to the IHO.

WHEREAS, the Planning Commission has held the required public hearings on the above application on March 19, 2009 and April 2, 2009, and the Applicant was present.

WHEREAS, 1 person appeared to speak in favor of the amendment, and 5 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Reports with Attachments: March 12, 2009 and March 26, 2009
2. Correspondence received in opposition to the amendment:
 - a. Cathie McCammon, Allied Neighborhood Association
 - b. Steven Johnson, via email
 - c. Paula Westbury, Santa Barbara
 - d. Alyson Spann, Santa Barbara Association of REALTORS at hearing.

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission recommended that the City Council not take any action on the Amendment until further analysis of the proposed changes is undertaken and completed through the General Plan Update process, including a study of incentives for new rental housing.

This motion was passed and adopted on the 2nd day of April, 2009 by the Planning Commission of the city of Santa Barbara, by the following vote:

AYES: 4 NOES: 0 ABSTAIN: 1 (White) ABSENT: 2 (Jacobs, Jostes)

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

Julie Rodriguez, Planning Commission Secretary

Date

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



City of Santa Barbara California

DRAFT

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 011-09

400 SOUTH FAIRVIEW AVENUE

MITIGATED NEGATIVE DECLARATION AND COASTAL DEVELOPMENT PERMIT

APRIL 2, 2009

APPLICATION OF GELARE MACON, AGENT FOR THE TOWBES GROUP, 400 BLOCK OF SOUTH FAIRVIEW AVENUE, 073-045-003, A-F, SP-6, S-D-3, AIRPORT FACILITIES, AIRPORT INDUSTRIAL AREA SPECIFIC PLAN AND COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: MAJOR PUBLIC AND INSTITUTIONAL (MST 2008-000032, CDP2008-00020)

The project consists of the installation of two storm drain outfalls and rock rip-rap on the eastern bank of San Pedro Creek in the City of Santa Barbara on Santa Barbara Airport Property along Fairview Avenue. This proposed project would satisfy conditions of approval for the Towbes office development project on the east side of Fairview Avenue in the City of Goleta. The discretionary application required for this project is a Coastal Development Permit to install a 250 square foot riprap headwall, two storm drain outfalls, and restore 1,000 square feet of creek bank habitat Appealable Jurisdiction of the Coastal Zone (SBMC §28.45.009).

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

WHEREAS, no one appeared to speak in favor of the application, and no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, May 27, 2009
2. Site Plans
3. Correspondence received in opposition to the project:
 - a. Paula Westbury, Santa Barbara, CA

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

- I. Approved the subject application making the following findings and determinations:
 - A. **FINAL MITIGATED NEGATIVE DECLARATION ADOPTION (CEQA GUIDELINES §15074)**
 1. The Planning Commission has considered the proposed Final Mitigated Negative Declaration together with comments received during the public review period process.
 2. The Planning Commission finds on the basis of the whole record before it (including the initial study and comments received) that there is no substantial evidence that the project, as mitigated, will have a significant impact on the

environment. The Final Mitigated Negative Declaration dated March 10, 2009 is hereby adopted.

3. The Planning Commission finds that the Final Mitigated Negative Declaration reflects the Planning Commission's independent judgment and analysis.
4. The Planning Commission finds that the Final Mitigated Negative Declaration has been prepared in compliance with CEQA, and constitutes adequate environmental evaluation for the proposed project.
5. A mitigation monitoring and reporting program for measures required in the project or made a condition of approval to mitigate or avoid significant environmental effects has been prepared.
6. The location and custodian of the documents or other materials 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, California.
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. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.060)

1. The project is consistent with the policies of the California Coastal Act, because it would be a flood control project that has been designed to minimize environmental impacts to the extent feasible as described in Section VII of the staff report (Coastal Act Section 30236).
2. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code, because it would be constructed in previously disturbed areas and would not adversely affect cultural or biological resources (Policies F-3 and C-12) as described in Section VII of this staff report.
3. The project is consistent with the Chapter 3 (commencing with Section 30200) Policies of the Coastal Act regarding public access and public recreation, because it would not introduce a new impediment to public access as it would not impede travel on any existing trail or roadway.

II. Said approval is subject to the following conditions:

- A. **California Department of Fish and Game Fees Required.** Pursuant to Section 21089(b) of the California Public Resources Code and Section 711.4 et. seq. of the California Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified Department of Fish and Game fees are paid and

filed with the California Department of Fish and Game within five days of the project approval. The fee required is \$1,876.75 for projects with Negative Declarations. Without the appropriate fee, the Notice of Determination cannot be filed and the project approval is not operative, vested, or final. The fee shall be delivered to the Planning Division immediately upon project approval in the form of a check payable to the California Department of Fish and Game.

- B. **Public Works Requirements Prior to Public Works Permit Issuance.** The Applicant 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 Public Works Permit for the project.
1. **Fairview Avenue Public Improvement Plans.** The Applicant shall submit C-1 public improvement plans for construction of improvements along the property frontage on Fairview Avenue. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: sidewalk, driveway apron modified to meet Title 24 requirements, curbs, gutters, access ramp(s), asphalt concrete, concrete pavement on aggregate base, crack seal to the centerline of the street along entire subject property frontage and a minimum of 20 feet beyond the limit of all trenching, underground service utilities, public drainage improvements with supporting drainage calculations and/or hydrology report for installation of drainage pipe and erosion protection (provide off-site storm water BMP plan).
 2. **Traffic Control Plan.** A traffic control plan shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines. Traffic Control Plans are subject to approval by the Public Works Director/Transportation Manager.
- C. **Community Development Requirements with Public Works Permit Application.** The following shall be submitted with the application for a Public Works permit and finalized prior to Public Works Permit issuance:
1. **Project Environmental Coordinator Required.** Submit to the Planning Division a contract with a qualified representative for the Applicant, subject to approval of the contract and the representative by the Planning Division, to act as the Project Environmental Coordinator (PEC). The PEC shall be responsible for assuring full compliance with the provisions of the Mitigation Monitoring and Reporting Program (MMRP) and Conditions of Approval to the City. The contract shall include the following, at a minimum:
 - a. The frequency and/or schedule of the monitoring of the mitigation measures.
 - b. A method for monitoring the mitigation measures.
 - c. A list of reporting procedures, including the responsible party, and frequency.
 - d. A list of other monitors to be hired, if applicable, and their qualifications.

- e. Submittal of monthly reports during demolition, excavation, grading and footing installation and monthly reports on all other construction activity regarding MMRP and condition compliance by the PEC to the Community Development Department/case planner.
 - f. The PEC shall have authority over all other monitors/specialists, the contractor, and all construction personnel for those actions that relate to the items listed in the MMRP and conditions of approval, including the authority to stop work, if necessary, to achieve compliance with mitigation measures.
 - g. The PEC shall monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when construction work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District upon request (*Required Mitigation Measure AQ-8*).
2. **Neighborhood Notification Prior to Construction.** At least twenty (20) days prior to commencement of construction, the contractor shall provide written notice to all property Applicants, businesses, and residents within 300 feet of the project area. The notice shall contain a description of the project, the construction schedule, including days and hours of construction, the name and phone number of the (Project Environmental Coordinator (PEC) and Contractor(s), site rules and Conditions of Approval pertaining to construction activities and any additional information that will assist the Building Inspectors, Police Officers and the public in addressing problems that may arise during construction. The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person(s) who compiled the mailing list shall be submitted to the Planning Division.
3. **Contractor and Subcontractor Notification.** The Applicant shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.
4. **Construction Dust Control – Minimize Disturbed Area/Speed.** Amount of disturbed area shall be minimized and on site vehicle speeds shall be limited to 15 miles per hour or less (*Required Mitigation Measure AQ-1*).
5. **Construction Dust Control - Watering.** During site grading and transportation of fill materials, regular water sprinkling shall use reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph (*Required Mitigation Measure AQ-2*).

6. **Construction Dust Control – Tarping.** Trucks transporting fill material to and from the site shall be covered from the point of origin (*Required Mitigation Measure AQ-3*).
7. **Construction Dust Control – Gravel Pads.** Gravel pads shall be installed at all access points to prevent tracking of mud on to public roads (*Required Mitigation Measure AQ-4*).
8. **Construction Dust Control – Stockpiling.** If importation, exportation and stockpiling of fill material are involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation (*Required Mitigation Measure AQ-5*).
9. **Construction Dust Control – Disturbed Area Treatment.** After clearing, grading, earth moving or excavation is completed, the entire area of disturbed soil shall be treated to prevent wind pickup of soil. This may be accomplished by:
 - a. Seeding and watering until grass cover is grown;
 - b. Spreading soil binders;
 - c. Sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind;
 - d. Other methods approved in advance by the Air Pollution Control District (*Required Mitigation Measure AQ-6*).
10. **Construction Dust Control – Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible after grading unless seeding or soil binders are used (*Required Mitigation Measure AQ-7*).
11. **Portable Construction Equipment.** All portable diesel-powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit (*Required Mitigation Measure AQ-9*).
12. **Fleet Owners.** Fleet owners shall comply with to sections 2449, 2449.2, and 2449.3 in Title 13, Article 4.8, Chapter 9, of the California Code of regulations (CCR) to reduce diesel particulate matter and criteria pollutant emissions from in-use off-road diesel-fueled vehicles (*Required Mitigation Measure AQ-10*).

13. **Engine Size.** The engine size of construction equipment shall be the minimum practical size (*Required Mitigation Measure AQ-11*).
14. **Equipment Numbers.** The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time (*Required Mitigation Measure AQ-12*).
15. **Equipment maintenance.** All construction equipment shall be maintained in tune per the manufacturer's specifications (*Required Mitigation Measure AQ-13*).
16. **Catalytic Converters.** Catalytic converters shall be installed on gasoline-powered equipment, if feasible (*Required Mitigation Measure AQ-14*).
17. **Diesel Construction Equipment.** Diesel construction equipment meeting the California Air Resources Board (CARB) Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting CARB Tier 2 or higher emission standards should be used to the maximum extent feasible (*Required Mitigation Measure AQ-15*).
18. **Engine Timing and Diesel Catalytic Converters.** Other diesel construction equipment, which does not meet CARB standards, shall be equipped with two to four degree engine timing retard or pre-combustion chamber engines. Diesel catalytic converters, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California shall be installed, if available (*Required Mitigation Measure AQ-16*).
19. **Diesel Replacements.** Diesel powered equipment shall be replaced by electric equipment whenever feasible (*Required Mitigation Measure AQ-17*).
20. **Idling Limitation.** Idling of heavy-duty diesel trucks during loading and unloading shall be prohibited; electric auxiliary power units shall be used whenever possible (*Required Mitigation Measure AQ-18*).
21. **Restoration Plan.** Applicant shall submit final landscaping and restoration plans for the project to be reviewed by City staff. The plans should include restoration of all temporarily disturbed habitat areas with native riparian and wetland species and creation of 1,000 sq. ft. of additional riparian and wetland habitat area onsite to mitigate the permanent loss of 250 sq. ft. of habitat. Initial planting shall occur in concert with or immediately following construction activities associated with the project. Monitoring and reporting shall occur for a period of at least three years and up to five years following initial planting if the performance criteria are not met. If performance criteria are not met by the end of year 5, then the choice of plants, site conditions, performance criteria, and other factors would be reevaluated by a qualified biologist. A new restoration effort would be implemented with a new 3-5 year monitoring period. Performance criteria for the initial planting effort would be as follows: 85%

survival one year after planting, 90% survival two years after planting, 95% survival three years after planting. Weed cover criteria for creek banks (including only noxious weeds, not naturalized non-aggressive plants) would be no more than 10% cover at any time during the monitoring and maintenance period (*Required Mitigation Measure BIO-1*).

22. **Existing Tree Protection.** Applicant shall avoid existing willow and sycamore trees at the project site during construction placing protective fencing around the willow trees or clumps to prevent unauthorized grading or construction activity that could damage trees (*Required Mitigation Measure BIO-2*).
23. **Construction Area Restoration.** Applicant shall restore the construction area to pre-construction grade and conditions using on-site materials to the extent feasible (*Required Mitigation Measure BIO-3*).
24. **Bird Nesting Season Construction Limitation.** Proposed project grading and construction activities, including tree removal and other disturbances to vegetation, shall, to the extent feasible, be limited to periods outside of the breeding bird season (February 1-August 30) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). If project grading and construction activities cannot feasibly be avoided during the breeding bird season, beginning ~~thirty-three~~ three (3) days prior to the disturbance of suitable nesting habitat the applicant shall conduct daily bird surveys to detect protected native birds in the habitat to be disturbed and other habitat within 300 feet of the construction work area (within 500 feet for raptors) as access to adjacent properties allow. The surveys shall be conducted by a qualified biologist with experience in conducting breeding bird surveys. The surveys shall continue on a weekly basis with the last survey being conducted no more than three (3) days prior to the initiation of clearance and/or construction work. Should an active nest be located, clearing and construction within 300 feet of the nest (500 feet for raptor nests), or as determined by a qualified biological monitor, must be postponed until the nest is vacated and juveniles have fledged and when there is no evidence of a second attempt at nesting.

Limits of construction to avoid a nest shall be established in the field with flagging and stakes or construction fencing marking the protected areas 300 feet (or 500 feet) from the nest. Construction personnel shall be instructed on the sensitivity of the area. The applicant shall record the results of the recommended protective measures described by this condition to document compliance with applicable State and federal laws pertaining to the protection of native birds (*Required Mitigation Measure BIO-4*).

25. **Archaeological Monitor Required.** The following language shall be reproduced on the construction plans submitted for building plan check and the directives of this mitigation measures followed:

- a. Prior to the issuance of a public works permit, the applicant shall contract with a City-approved archaeologist to provide for monitoring of additional ground disturbing activities, and, as may be determined to be necessary based on the results of the surface survey. The archaeologist shall include a City qualified Native American monitor who shall be required to be on-site during all excavation activities. Contract(s) shall be subject to the review and approval of the Environmental Analyst.
- b. The General Contractor shall schedule a construction conference. The conference shall include representatives from the Public Works Department, Building Division, Planning Division, the Property Owner and Contractor. Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such cultural resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and a City-approved archaeologist shall be consulted. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, including but not limited to redirection of grading and/or excavation activities. If the findings are potentially significant, a Phase 3-recovery program shall be prepared and accepted by the Environmental Analyst and the Historic Landmarks Commission. That portion of the Phase 3 program, which requires work on-site, shall be completed prior to continuing construction in the affected area. If prehistoric or other Native American remains are encountered, a Native American representative shall be contacted and shall remain present during all further subsurface disturbances in the area of the find.
- c. If any archaeological artifacts, exotic rock (non-native) or unusual amounts of shell or bone are uncovered during any on-site grading, trenching or construction activities, all work must stop immediately in the area and a City-approved archaeologist retained by the applicant to evaluate the deposit. The City of Santa Barbara Environmental Analyst must also be contacted for review of the archaeological find(s). If the discovery consists of potentially human remains, the Santa Barbara County Coroner and the California Native American Heritage Commission must also be contacted and State procedures followed. Work in the area may only proceed after authorization is granted by the Environmental Analyst (*Required Mitigation Measure CR-1*).

26. **Herbicide Spill Avoidance.** Herbicides shall be mixed away from the vicinity of the channel and any other waterway in case of a spill (*Required Mitigation Measure HAZ-1*).
27. **Loud Construction Activities Limitation.** Noise generating construction activity shall be prohibited Saturdays, Sundays, all holidays, and between the hours of 4 p.m. to 7 a.m. Holidays are defined as those days which are observed by the City of Santa Barbara as official holidays by City employees (*Required Mitigation Measure NOI-1*).
28. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices. Sound control devices and techniques such as noise shields and blankets shall be employed as needed to reduce the level of noise to surrounding residents, as determined by the City Building Official (*Required Mitigation Measure NOI-2*).
29. **Construction Site Recycling.** Recycling and/or reuse of demolition/construction and green waste materials shall be carried out and containers shall be provided on site for that purpose during the construction period (*Required Mitigation Measure PR-1*).
30. **Peak Hour Avoidance.** Construction-related truck trips shall not be scheduled during peak hours (7:30 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) to help reduce truck traffic on adjacent streets and roadways (*Required Mitigation Measure TC-1*).
31. **Truck Routing.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Transportation Manager (*Required Mitigation Measure TC-2*).
32. **Haul Route Approval.** The haul route(s) for all construction-related trucks, three tons or more, entering or exiting the site, shall be approved by the Transportation Manager (*Required Mitigation Measure TC-3*).
33. **Construction Worker Parking.** Construction parking and storage shall be provided in locations subject to the approval of the Transportation Manager. During construction, free parking spaces for construction workers shall be provided on-site or off-site (*Required Mitigation Measure TC-4*).
34. **Storm Water Pollution Prevention Plan.** The Storm Water Pollution Prevention Plan (SWPPP) utilizing Best Management Practices shall be used for grading and construction activities and approved by the building Division and included on all plans submitted for a public works permit to maintain all sediment on site and out of the drainage system. The plan shall include, at a minimum:
 - a. Install silt fence, sand bag, hay bale or silt devices where necessary around the project site to prevent offsite transport of sediment.

- b. Bare soils shall be protected from erosion by applying heavy seeding, within five days of clearing or inactivity in construction.
- c. Construction entrances shall be stabilized immediately after grading and frequently maintained to prevent erosion and control dust.
- d. Establish fuel and vehicle maintenance staging areas on impervious surfaces located away from all drainage courses, and design these areas to control runoff.
- e. Maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- f. Minimize the area of bare soil exposed at one time.
- g. The construction contract shall contain a provision that all motorized equipment shall be maintained and maintenance verified by the Project Environmental Coordinator prior to the commencement of work onsite, as well as regularly checked for leakage of hazardous materials. In addition, the work contract shall contain a provision that spill containment and clean-up materials shall be present at all times at the work site. Crews shall be informed of the importance of avoiding spills in the streams and the riparian area. No equipment maintenance or washing shall occur within the creek or adjacent native riparian vegetation area (*Required Mitigation Measure WE-1*).

35. **Construction During Dry Season.** Construction activity in the area where flows occur in the channel shall be limited to the dry season months of April 15 to November 15. In the event that water is flowing in the San Pedro Creek channel within 50 feet of the proposed project at the time of proposed construction, a biologist approved by City staff shall be on site to monitor for fish species and relocate them as necessary. Water flows shall be diverted to avoid the project site without causing damage to the bed or banks of the creek and providing for fish passage where feasible. Construction activities should be avoided, to the extent feasible, during times when San Pedro Creek is flowing (*Required Mitigation Measure WE-2*).

D. **Public Works Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Engineering Division for Public Works permits.

- 1. **Mitigation Monitoring and Reporting Requirement.** Applicant shall implement the Mitigation Monitoring and Reporting Program (MMRP) for the project's mitigation measures, as stated in the Mitigated Negative Declaration for the project.
- 2. **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., Archaeologist contract submitted to Community Development 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 Applicant		Date
Contractor	Date	License No.
Architect	Date	License No.
Engineer	Date	License No.

E. **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. **Haul Routes.** The haul route(s) for all construction-related trucks with a gross vehicle weight rating (GVWR) of three tons or more, entering or exiting the site, shall be approved by the Transportation Manager.
2. **Traffic Control Plan.** All elements of the approved Traffic Control Plan shall be carried out by the Contractor.
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.
- F. **Prior to Project Completion.** Prior to issuance of the Certificate of Occupancy, the Applicant shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (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. **Manholes.** Raise all sewer and water manholes on easement to final finished grade.
 3. **Existing Street Trees.** Submit a letter from a qualified arborist, verifying that the existing street tree(s) have been properly pruned and trimmed.
 4. **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 Final Inspection, whichever is earlier.
 5. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.
 6. **Mitigation Monitoring Report.** Submit a final construction report for mitigation monitoring.
 7. **Biological Monitoring Contract.** Submit a contract with a qualified biologist acceptable to the City for on-going monitoring.
- G. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Applicant 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/Applicant 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/Applicant 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/Applicant 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.

This motion was passed and adopted on the 2nd day of April, 2009 by the Planning Commission of the city of Santa Barbara, by the following vote:

AYES: 5 NOES: 0 ABSTAIN: 0 ABSENT: 2 (Jacobs, Jostes)

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

Julie Rodriguez, Planning Commission Secretary

Date

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

