



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: May 28, 2009
AGENDA DATE: June 4, 2009
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
 Bettie Weiss, City Planner *BLW*
SUBJECT: ZONING ORDINANCE SECTION 28.87.300 AMENDMENT
 DEVELOPMENT PLAN REVIEW & APPROVAL – STANDARDS FOR
 NON-RESIDENTIAL PROJECTS

I. PROJECT DESCRIPTION & DISCUSSION

The Council is considering a proposed Zoning Ordinance Amendment to continue to 2015 the existing standards for review of non-residential construction projects. All other provisions of the Zoning Ordinance will remain the same. The purpose of the Planning Commission hearing is for review of the ordinance amendment before forwarding to the Council its recommendation on adoption.

Background - Charter Section 1508

In November 1989, city voters approved an amendment to the City Charter establishing Section 1508 to regulate non-residential growth in the community. By its own language, Charter Section 1508 does not extend beyond December 31, 2009. The significant growth management decisions as prescribed by Charter Section 1508, and made by the Council in the General Plan Update process of 1990 are implemented in the Zoning Ordinance. Municipal Code Section 28.87.300, Development Plan Review and Approval. This section contains many key provisions including definitions, allocation categories such as Community Priority, Small Additions, etc., and standards for processing all non-residential projects in the city. Reflecting the expiration of Charter Section 1508, Municipal Code Section 28.87.300 is drafted so that its provisions apply to development occurring before January 1, 2010.

Proposed Amendment

Community Development staff and the City Attorney are initiating a zoning ordinance amendment for the continued processing of non-residential projects, beyond January 1, 2010, with the process unchanged for non-residential construction projects consistent with Municipal Code Section 28.87.300. This proposed code amendment does not affect the expiration of Charter Section 1508 that would still occur. On May 12, 2009, the Council Ordinance Committee considered the proposed amendment and

directed Staff to proceed with the amendment process, including this hearing before the Planning Commission.

Plan SB

Planning Staff has explained that during the current General Plan Update process known as *Plan Santa Barbara (PlanSB)*, the City intends to continue processing projects under the current standards until the Council adopts new policies and standards. In consultation with the City Attorney, it was determined that to be completely clear, Section 28.87.300 of the Municipal Code should be amended to extend the date from January 1, 2010 to a later date. This extension would maintain the status quo until *PlanSB* is completed. As *PlanSB* results in changes to City policy regarding non-residential construction, those policy changes would be incorporated into the Municipal Code through the adoption of the *PlanSB* implementing ordinances.

Staff anticipates that Council action on key parts of *PlanSB* will happen next year, and that some additional time will also be necessary to ensure that implementing ordinances that govern growth management are appropriately reviewed and adopted. Therefore, we recommend that the date specified in Section 28.87.300 be changed from January 1, 2010 to January 1, 2015. If new ordinance standards are adopted before 2015, then the ordinance would be amended further at that time.

3 Million Square Feet, Small Additions & Economic Development

At the Ordinance Committee meeting it was pointed out that section 28.87.300 establishes that approvals under the ordinance shall not exceed 3 million square feet above the October 1988 baseline condition through January 1, 2010. This clause is one of the three statements proposed to be amended to change 2010 to 2015. Therefore, the ordinance would continue to cover the original 3 million square feet. Staff recommends that the ordinance continue to operate in the manner that it currently operates until 2015. For the ordinance to continue to operate in the same manner until 2015, one change is needed to Council Resolution 97-048 to "restock" the Small Addition category.

As the Commission knows, under Measure E up to 600,000 square feet of the 3 million square feet of potential nonresidential growth was allocated to the Small Addition category. Pursuant to Section 28.87.300, the allocation from the Small Addition category was limited to no more than 30,000 square feet per year. Any portion of the annual allocation for Small Additions that remained at the end of the year was transferred to the Economic Development category.

The ordinance and resolution provide that the Economic Development category is supplied with square footage of development potential based on expired Approved and Pending Projects (as defined in 28.87.300) and unallocated Small Additions. Over the life of the Economic Development category 633,109 square feet came from Approved and Pending projects and 295,825 square feet from Small Additions. The use of the Economic Development category has been such that at present 22,499 square feet have preliminary allocations and 299,526 square feet have received final allocations (see attached). The remaining square feet in the Economic Development category as of 2008 is 379,410 square feet.

As a part of the extension of Section 28.87.300, staff recommends the re-allocation of 150,000 square feet from the Economic Development category back to the Small Addition category with 225,985 square feet remaining in Economic Development. This would enable the continuation of the annual allocation of up to 30,000 square feet for Small Additions for the proposed five year extension of the ordinance. As before, the annual un-allocated Small Addition square feet would continue to be transferred into the Economic Development category. The entire amount of the proposed re-allocation is contained within the original 3 million square feet as approved in Charter Section 1508 and implementing ordinances. This proposal in no way expands the amount of potential nonresidential development beyond the original 3 million square foot limit.

Public Input

Public input to date on the proposed amendment includes concern that the local economy not be taken for granted and the PlanSB process consider both economic and environmental impacts (see attached letter). At the Ordinance Committee meeting, a few members of the public came forward to support this amendment yet also had several questions and concerns about the relationship between Measure E, this ordinance, and the Transfer of Existing Development Rights (TEDR) ordinance (see attached letter). Staff and the City Attorney responded to the questions about the approval of the TEDR ordinance and how PlanSB includes a policy to study the TEDR program in terms of its past role under growth management programs based on Charter Section 1508 and how it may be used for potential development in the future based on the new growth management programs that come from PlanSB. Development potential and associated impacts are all being studied in the environmental review process, and Staff believes it will be important for the Council to establish the primary policies on both non-residential and residential growth before determining if or how to adjust the current TEDR ordinance. Following this discussion, the Ordinance Committee voted unanimously to move the recommended amendments forward.

Environmental Review

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15305. The City's adopted list of projects that are consistent with this exemption class include:

Creation of minor new, and minor amendments to existing land use plans, ordinances, guidelines, regulations and/or development standards which do not result in any changes in land use density and which have no potential for significant environmental effects.

Minor Zoning Ordinance amendments that do not significantly change plan uses in an area.

II. RECOMMENDATION

Staff recommends that the Commission consider the proposed amendment of Section 28.87.300 and Council Resolution 97-048 and forward a recommendation to the City Council supporting the adoption of the amendments in order to continue to use the existing standards for non-residential projects Development Plan Review and Approval until January 1, 2015.

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Exhibits:

- A. Draft Ordinance
- B. Council Resolution 97-048
- C. Economic Development Projects Charts
- D. Letters from the Public

ORDINANCE COMMITTEE DISCUSSION DRAFT 5/12/09
SHOWING CHANGES FROM EXISTING CODE

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SANTA BARBARA AMENDING SECTION 28.87.300 OF
CHAPTER 28.87 OF TITLE 28 OF THE MUNICIPAL
CODE REGARDING LIMITATIONS ON
NONRESIDENTIAL DEVELOPMENT WITHIN THE CITY

THE COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

Section One: Section 28.87.300 of Chapter 28.87 of Title 28 of the Santa Barbara Municipal Code is hereby amended to read as follows:

28.87.300 Development Plan Review and Approval.

A. DEVELOPMENT PLAN.

1. Requirement for Development Plan.

a. Planning Commission Review Required. No application for a land use permit for a nonresidential construction project as defined in Subsection B of this Section will be accepted or approved on or after December 6, 1989 unless the project falls within one or more of the categories outlined in Paragraph 2 of this Subsection and defined in Subsection B of this Section. Before any nonresidential construction project is hereafter constructed in any zone including zones at the Santa Barbara Municipal Airport, a complete development plan for the proposed development shall be submitted to the Planning Commission for review and approval. In addition, before residential floor area in any building or structure located in any zone including zones at the Santa Barbara Municipal Airport is converted to nonresidential use, a complete development plan for the proposed conversion shall be submitted to the Planning Commission for review and approval. Before any transfer of existing development rights may be approved pursuant to Chapter 28.95, development plans for both the sending site(s) and receiving site(s) as defined therein shall be approved by Planning Commission or City Council on appeal pursuant to this section.

Any nonresidential project except for Transfer of Existing Development Rights projects, which involves an addition of greater than three thousand (3,000) and less than ten thousand (10,000) square feet of floor area and which does not require the preparation of an Environmental Impact Report, shall

be placed on the Planning Commission Consent Calendar for review and action. The only findings in Paragraph D.1 applicable to these projects are Findings d, e, f, and g. These findings shall be made at the time of Planning Commission approval.

b. Exceptions.

(1) Notwithstanding the provisions of Subparagraph a. of this Subsection, any nonresidential project which involves an addition of one thousand (1,000) square feet or less, and which does not require the preparation of an Environmental Impact Report, shall not be required to receive development plan approval.

(2) Notwithstanding the provisions of Subparagraph a. of this Subsection, any nonresidential construction project which involves the following shall not be required to receive development plan approval from the Planning Commission:

a. an addition of greater than one thousand (1,000) and less than or equal to three thousand (3,000) square feet of floor area, and;

b. does not require the preparation of an Environmental Impact Report, and;

c. does not require some other form of discretionary approval from the Planning Commission under other applicable provisions of this Code.

(3) Development plan approval for projects not requiring Planning Commission approval under subparagraph (2) above shall be required from the Staff Hearing Officer if the application requires discretionary review by the Staff Hearing Officer under another provision of this Code. Otherwise, development plan approval for projects not requiring Planning Commission approval under subparagraph (2) above shall be required at the time of Preliminary Approval from the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district, or if the structure is a designated City Landmark. Such projects are subject to the findings in Subsection E of this Section and the provisions of Section 28.87.350.

2. Development Potential.

a. Nonresidential Construction Project. Nonresidential construction projects, as defined in Subsection B of this Section, shall be restricted to no more than three million (3,000,000) square feet until the year ~~2010~~2015. This allowable square footage shall be allocated in the following categories, as defined in Subsection B of this Section.

<u>Category</u>	<u>Square Footage</u>	
Approved Projects	900,000 s.f.	
Pending Projects	700,000 s.f.	
Vacant Property	500,000 s.f.	
Minor Additions	Exempt	
Small Additions	600,000 s.f.	
Community Priorities	300,000	s.f

Small Additions shall be limited to no more than thirty thousand (30,000) square feet annually. Procedures for allocating square footage under these categories shall be established by resolution of City Council.

Notwithstanding the development restrictions established above, the Planning Commission or City Council on appeal may approve nonresidential development projects determined by the City Council to promote Economic Development. However, the total development square footage of all Economic Development Projects approved prior to January 1, ~~2010~~2015 shall not exceed the total square footage of "Approved" or "Pending" projects which have expired or been abandoned and any unused development square footage remaining from the annual allotment in the "Small Additions" category as of the date the Planning Commission or City Council on appeal approves a particular Economic Development Project. Nothing herein shall be deemed to authorize the approval of nonresidential development totalling in excess of three (3) million square feet above the October 1988 baseline condition until January 1, ~~2010~~2015.

b. Other Nonresidential Development. Other nonresidential development may occur so long as it falls within the following categories, as defined in Subsection B of this Section.

- (1) Government Displacement Project.
- (2) Hotel Room for Room Replacement Project.

B. DEFINITIONS.

1. Approved Projects or Revisions thereto. A project which satisfies any of the following criteria:

a. An application for a land use permit for the project (other than an application for Specific Plan approval) which was approved on or before October 26, 1989 and the approval is still valid.

b. The project pertains to implementation of a Specific Plan which was approved prior to April 16, 1986, and the Plan required the construction of substantial

circulation system improvements, and all of those improvements were either:

(1) Installed prior to the effective date of this ordinance; or

(2) Subsequently constructed pursuant to an Owner Participation Agreement (OPA) and installed prior to the approval of any development plan(s).

c. The project consists of a revision to a project which qualifies under either Subparagraph a. or b. of this Paragraph B.2, provided the revision will result in no increase in floor area over the approved amount. Once a revision to a project has been approved that reduces the floor area from the originally approved amount, the unused floor area shall not be reallocated to the project as part of a future revision. The unused floor area shall be available for Economic Development Projects.

2. Community Priority. A project which has been designated by the City Council as a community priority necessary to meet a present or projected need directly related to public health, safety or general welfare.

3. Economic Development Project. A project which has been designated by the City Council as a project that is consistent with the City Charter, General Plan and this Title, will enhance the standard of living for City and South Coast residents and will strengthen the local or regional economy by either creating new permanent employment opportunities or enhancing the City's revenue base. An Economic Development Project should also accomplish one or more of the following:

a. Support diversity and balance in the local or regional economy by establishing or expanding businesses or industries in sectors which currently do not exist on the South Coast or are present only in a limited manner; or

b. Provide new recreational, educational, or cultural opportunities for City residents and visitors; or

c. Provide products or services which are currently not available or are in limited supply either locally or regionally.

For purposes of this Section, "standard of living" is defined as wages, employment, environment, resources, public safety, housing, schools, parks and recreation, social and human services, and cultural arts.

4. Floor Area. Floor Area is the area included within the surrounding exterior walls of a building or portion thereof, exclusive of the area occupied by the surrounding walls, vent shafts and courts, or areas or structures used exclusively for parking. Nonhabitable areas used

exclusively for regional public utility facilities shall not count toward the calculation of floor area. Any floor area which was constructed, approved, demolished or converted in violation of any provision of this Municipal Code, shall not give rise to any right to rebuild or transfer floor area.

5. Floor Area Ratio. The area expressed as the ratio of floor area to total square footage of a parcel.

6. General Welfare. A community priority project which has a broad public benefit (for example: museums, child care facilities, or community centers) and which is not principally operated for private profit.

7. Government Displacement Project. A project which involves the relocation, replacement, or repair of a structure or use acquired, removed or damaged by direct condemnation or negotiated acquisition by the government (federal, state or local), provided the square footage of a project constructed to replace a building acquired or removed by the government does not exceed the square footage of the building so acquired or removed.

8. Hotel Room for Room Replacement Project. A project which consists of replacement or remodeling of existing hotel rooms at the same location on a room for room basis.

9. Land Use Permit. A governmental decision concerning a permit, license, certificate, or other entitlement for use of land, including a conditional use permit, variance, modification, development plan, specific plan, general plan amendment, coastal development permit, conversion permit, subdivision map (except those creating new single family lots), building permit, grading permit, demolition permit, water service connection or any similar approval or use.

10. Minor Addition. A project which consists of a minor addition defined as:

a. A nonresidential addition of one thousand (1,000) square feet or less of floor area to an existing structure; or

b. Construction of a free standing nonresidential structure of one thousand (1,000) square feet or less of floor area on a parcel containing another structure; or

c. Conversion of residential floor area to no more than one thousand (1,000) square feet of nonresidential floor area; or

d. Concurrent construction of nonresidential floor area of one thousand (1,000) square feet or less associated with a new structure constructed under the Approved, Pending, Community Priority or Vacant Property categories.

e. The one thousand square foot limitation defined

in subparagraphs a. through d. above is a cumulative total available per parcel. Once a cumulative total of 1,000 square feet of Minor Additions has been reached, any further additions up to a total of 3,000 square feet (including the Minor Additions) shall be allocated from the Small Addition category.

(1) EXCEPTION: If an existing or proposed building occupies two or more parcels created prior to October 1988, the maximum square footage available for a Minor Addition shall equal the sum of the Minor Additions which could be approved on the individual parcels pursuant to the findings in Subsection E of this Section. For parcels created after October 1988, any remaining Minor Addition allocation shall be divided evenly between all of the parcels created from each parcel eligible for a Minor Addition. The remaining allocation may be divided in a different manner between the parcels created if this division is executed in a legal instrument that is recorded with the County recorder and approved as to form by the City Attorney for each parcel involved at the time of recordation of the Final or Parcel map for the subdivision.

11. Nonresidential Construction Project. A project, or portion thereof, which consists of the construction of or addition of new floor area for other than residential use or the conversion of existing residential floor area to nonresidential use. Repair or replacement of existing floor area is not included in the calculation of new floor area for the purpose of this Section.

12. Pending Project or Revisions thereto. A project which satisfies any of the following criteria:

a. An application for a land use permit for the project was accepted on or before October 26, 1989 and the application: (1) has not been denied by the City; (2) has not been withdrawn by the applicant; (3) has not yet received City approval or (4) has received City approval after October 26, 1989 and that approval is still valid.

b. The project pertains to implementation of a Specific Plan which was approved prior to April 16, 1986 and the project does not qualify under Subparagraph 1.b. of this Subsection.

c. The project consists of a revision to a project which qualifies under either Subparagraph a. or b. of this Paragraph 12, provided the revision will result in no increase in floor area over the amount shown on the pending application. Once a revision to a project has been approved that reduces the floor area from the originally approved amount, the unused floor area shall not be

reallocated to the project as part of a future revision. The unused floor area shall be available for Economic Development Projects.

13. Residential Unit: A dwelling unit as defined in Chapter 28.04, but not including any of the following:

a. A hotel or boarding house as defined in Chapter 28.04 which includes a motel, bed and breakfast inn, or similar facility in which the average duration of stay of the residents, during the six month period prior to February 1, 1990, was less than thirty (30) days.

b. A mobile-home or recreation vehicle as defined in Chapter 28.04.

14. Small Addition. A project which consists of a small addition defined as:

a. A nonresidential addition of more than one thousand (1,000) and less than or equal to three thousand (3,000) square feet of floor area to an existing structure; or

b. Construction of a free standing nonresidential structure of more than one thousand (1,000) and less than or equal to three thousand (3,000) square feet of floor area on a parcel containing another structure; or

c. Conversion of residential floor area to more than one thousand (1,000) and less than three thousand (3,000) square feet of nonresidential floor area; or

d. Concurrent construction of nonresidential floor area of more than one thousand (1,000) and less than or equal to three thousand (3,000) square feet associated with a new structure constructed under the Approved, Pending, Community Priority or Vacant Property categories.

e. The limitations on floor area defined in subparagraphs a. through d. above establish the cumulative total available per parcel. In any case, the combined total of Minor and Small Additions shall not exceed a cumulative total of three thousand (3,000) square feet.

(1) EXCEPTION: In the case where an existing or proposed building occupies two or more parcels created prior to October 1988, the maximum square footage available for a Small Addition shall equal the sum of the Small Additions which could be approved on the individual parcels pursuant to the findings in Subsection E of this Section. For parcels created after October 1988, any remaining Small Addition allocation shall be divided evenly between all of the parcels created from each parcel eligible for a Small Addition. The remaining allocation may be divided in a different manner between the parcels created if this division is executed in a legal instrument that is recorded

with the County recorder and approved as to form by the City Attorney for each parcel involved at the time of recordation of the Final or Parcel map for the subdivision.

f. Procedures for allocating square footage in the Small Addition category shall be established by resolution of the City Council.

15. Vacant Property. A project on a parcel of land which was vacant in October 1988, which consists of construction of a nonresidential structure with a floor area ratio of no more than 0.25.

C. REVIEW BY PRE-APPLICATION REVIEW TEAM. All nonresidential construction projects requiring the preparation of an Environmental Impact Report or involving greater than 3,000 square feet of floor area and subject to this Section shall be reviewed by the Pre-Application Review Team as provided in Chapter 27.07 of this Code.

D. STANDARDS FOR REVIEW. Unless specifically exempt, the following findings shall be made in order to approve a development plan submitted pursuant to this Section.

1. Findings:

a. The proposed development complies with all provisions of this Title; and

b. The proposed development is consistent with the principles of sound community planning; and

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

d. The proposed development will not have a significant unmitigated adverse impact upon City and South Coast affordable housing stock; and

e. The proposed development will not have a significant unmitigated adverse impact on the City's water resources; and

f. The proposed development will not have a significant unmitigated adverse impact on the City's traffic; and

g. Resources will be available and traffic improvements will be in place at the time of project occupancy.

2. Potential for Overriding Considerations:

a. A finding of significant adverse impact under Subparagraph 1.c above can be overridden if it is determined that the economic, social or public benefits of the proposed development outweigh its significant adverse impacts.

b. A finding of significant adverse impact under

Subparagraphs 1.a or 1.b above cannot be overridden.

c. A finding of unmitigated significant adverse impact under Subparagraphs 1.d, 1.e, 1.f, or 1.g above for a Minor Addition Project, Government Displacement Project or that portion of a project which qualifies as a Government Displacement Project, a Community Priority Project, and an Approved Project or Revision thereto can be overridden if it is determined that the benefits of the proposed development outweigh its significant adverse impacts.

3. Exception. Notwithstanding any provision of this Section to the contrary, a development plan shall not be denied based on a finding pursuant to Subparagraph 1.d of this Subsection E if (i) the plan incorporates revisions to a development plan approved by the Planning Commission under this Section prior to February 25, 1988, and (ii) the project shown on the plan will not generate a demand for new housing in excess of the demand generated by the previously approved project.

E. DEVELOPMENT PLAN NOTICE AND HEARING. The Staff Hearing Officer, Planning Commission, or City Council on appeal, shall hold a public hearing prior to taking action on any development plan. Notice of the public hearing shall be given in accordance with Section 28.87.380.

F. SUSPENSIONS AND APPEALS.

1. A decision by the Staff Hearing Officer under this Section may be suspended or appealed according to the provisions of Section 28.05.020.

2. A decision by the Planning Commission under this Section may be appealed according to the provisions of Chapter 1.30. In addition to the procedures specified in Chapter 1.30, notice of the public hearing before the City Council on an appeal from a decision of the Planning Commission regarding a decision of the Staff Hearing Officer shall be provided in the same manner as notice was provided for the hearing before the Planning Commission.

G. FEES. Fees for filing applications and appeals shall be established by resolution of the City Council.

H. EXPIRATION OF DEVELOPMENT PLANS. A development plan approved pursuant to this Section shall expire pursuant to the provisions of Section 28.87.350. For projects with floor area allocated from the Approved, Pending, Economic Development and Small Addition categories, the unused floor area shall be made available for allocation to Economic Development Projects upon expiration of the development plan. For projects with floor area allocated from the Community Priority and Vacant Property categories, the

unused floor area shall revert to the category from which the floor area was allocated upon expiration of the development plan.

I. MULTIPLE DEVELOPMENT PLANS. When more than one valid approved development plan exists for a lot, upon issuance of a building or grading permit for any work authorized by one of the approved development plans, all other development plans approved for that lot are deemed abandoned by the property owner. No building or grading permit shall be issued for any work authorized by a development plan following abandonment of that plan. For projects with floor area allocated from the Approved, Pending, Economic Development and Small Addition categories, any unused floor area shall be made available for allocation to Economic Development Projects upon abandonment of a development plan. For projects with floor area allocated from the Community Priority and Vacant Property categories, any unused floor area shall revert to the category from which the floor area was allocated upon abandonment of a development plan.

RESOLUTION NO. 97-048

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA ESTABLISHING PROCEDURES FOR ADMINISTRATION OF THE AMENDMENTS TO TITLE 28 AND 29 OF THE MUNICIPAL CODE IMPLEMENTING THE GENERAL PLAN UPDATE GROWTH DECISIONS AND CHARTER SECTION 1508 AND RESCINDING RESOLUTION NOS. 91-017, 91-082 AND 96-027.

RECITALS

A. On April 27, 1989, the City Council adopted a series of recommendations on proposed amendments to the City's General Plan and instructed the staff to begin preparation of ordinances and resolutions to implement those recommendations.

B. On November 7, 1989, the voters of the City of Santa Barbara adopted a charter amendment restricting the amount of nonresidential growth which can occur over the next twenty years and directing the Council to adopt measures to assure that those restrictions are not exceeded.

C. On February 12, 1991, the City Council adopted amendments to the Zoning Ordinance to implement the Growth Decisions and Charter Section 1508.

D. On June 18, 1991, the City Council, recognizing the need to allow for large institutions to plan with a comprehensive, long range perspective, amended Resolution 91-017 in order to allow certain types of projects the ability to reserve square footage in the Community Priority Development Allocation Category.

E. On December 13, 1994, the City Council amended the City's S-D-2 Zone to eliminate development plan processing requirements which were different from the requirements of Municipal Code Section 28.87.300.

F. On November 7, 1995, the voters of the City of Santa Barbara amended Charter Section 1508 to create an "Economic Development" floor area allocation category in order to reallocate unused square footage from the "Approved," "Pending" and "Small Addition" allocation categories to nonresidential development projects which promote the economic development of the City.

G. In 1997, the City Council, recognizing the need to allow more flexibility for the expansion of existing businesses during times of economic growth, amended Resolution 96-027 to allow a greater number of Small Addition projects to proceed within the three million square foot growth cap established by Charter Section 1508.

H. This Resolution includes the administrative procedures necessary to implement Charter Section 1508 and the Municipal Code provisions.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA THAT:

The following are the administrative procedures required by Charter Section 1508 and SBMC §28.87.300:

1. Minor Additions, Small Additions, Projects on Vacant Property, Government Displacement Projects, and Revisions to Approved Projects. An application for a land use permit for a nonresidential construction project consisting of a minor addition, small addition, project on vacant property, Government Displacement or revision on an approved project, as those terms are defined in Section 28.87.300 of Chapter 28.87 of Title 28 shall be subject to the following procedure:

(a) Application.

(1) Minor Additions, Projects on Vacant Property, Government Displacement Projects, and Revisions to Approved Projects. An application for a land use permit for a nonresidential construction project involving a proposed minor addition, project on vacant property, government displacement project or revision to an approved project shall be submitted to the Community Development Department in accordance with the standard application requirements in place at the time of submittal.

(2) Small Additions. An application for a land use permit for a nonresidential construction project involving a proposed small addition shall be submitted to the Community Development Department in accordance with the following procedures. Beginning on January 1 of each year, completed applications for small additions will be accepted on a first-come, first-served basis until the 30,000 square foot annual limit has been reached. Applications submitted after this point will be returned to the applicant, with the names of the applicants for the next 10,000 square feet of small additions placed on a Reallocation List for use in the event that projects originally accepted are reduced in size, withdrawn, abandoned or denied. All other potential applicants will be advised to reapply in January of the following year. Project floor area that is approved will be counted toward the 30,000 square foot annual limit in the calendar year that the project application is accepted.

(b) Action.

(1) Minor Additions, Government Displacement Projects, and Revisions to Approved Projects. An application for a minor addition, government displacement project, or revision to an approved project may be considered even if the project will cause a significant unavoidable environment effect or create a traffic impact in violation of adopted City policies. The discretion to approve such a project upon a finding of overriding considerations rests solely with the reviewing body.

(2) Small Additions and Projects on Vacant Property. An application for a small addition or project on vacant property shall not be approved if the project will cause an unavoidable and unmitigated significant adverse environmental effect (as documented in an environmental impact report) other than a cumulative air pollution impact, or create a traffic impact in violation of adopted City policies, including the Circulation Element of the General Plan.

(c) Tracking.

(1) Minor Additions. The cumulative total Minor Additions on a parcel shall not exceed 1,000 square feet.

(2) Minor Additions and Small Additions. Minor Addition square footage developed in conjunction with a Small Addition shall be counted as a Minor Addition. The annual total square footage of such projects shall be subtracted annually from the total square footage available in the Economic Development category. In no case shall the combined total of Small Addition square footage and Minor Addition square footage on a parcel exceed 3,000 square feet.

2. Community Priority Project or Economic Development Project. An application for a land use permit for a nonresidential construction project which has been designated by the City Council as a community priority or economic development project shall be subject to the following procedure:

(a) Application. An application for a land use permit for a nonresidential construction project proposed as a community priority or economic development project shall be submitted to the Community Development Department for a recommendation of community priority or economic development status. The following information shall be included in the application packet:

- A completed Master Application form;

- 3 copies of a Plot Plan including the following:
 - Vicinity Map
 - North Arrow
 - Scale (not smaller than 1"=20')
 - Project address and property owners
 - Land Use Zone
 - Total site acreage
 - Property boundaries
 - Setback dimensions
 - Assessor's Parcel Number(s)
 - Location of proposed Structures
 - Indication of removal of any structures
 - Major trees should be indicated including those proposed for removal
 - Footprint of structures on adjacent properties
 - Location of existing and proposed parking spaces
 - Legend including: net lot area of parcel in square feet and acres, site statistics showing both square footage and percentage of site coverage for all buildings and parking statistics showing the number of spaces required by ordinance and the total number of on-site space (existing and proposed);

- Letter from the applicant containing a description of the project including but not limited to the square footage of existing and proposed structures (consistent with the definition of Floor Area contained in Section 28.87.300 of the Zoning Ordinance), and the square footage associated with any proposed demolition;

- For Community Priority Projects, a Needs Assessment providing Staff and the Council with information necessary to make the finding that the proposed project meets a "present or projected need directly related to public health, safety or general welfare". The content of the Needs Assessment should be as follows:
 - Introduction outlining the proposal
 - Development history of the site; past development activity at the site should be documented, noting types and dates of past permits
 - Existing uses and associated square footage. This section should address the need for expansion and reasons why an allocation is necessary.

- For Economic Development Projects, an assessment providing Staff and the Council with information necessary to make the finding that the proposed project will "enhance the standard of living for City and South Coast Residents and will strengthen the local and regional economy". The content of the assessment should be as follows:

- Introduction outlining the proposal
- Development history of the site; past development activity at the site should be documented, noting types and dates of past permits
- Existing uses and associated square footage. This section should address the need for expansion and reasons why an allocation is necessary.
- Documentation of how the project meets the definition of an Economic Development Project in Section 28.87.300 of the Zoning Ordinance.

The staff recommendation shall be presented to the City Council for a preliminary and non-binding identification of community priority or economic development status. The Preliminary Community Priority Designation or Preliminary Economic Development Designation permits acceptance of the application for processing, but does not commit the City Council, or any City agency, board or commission to approval of the project.

(b) Action.

(1) If a project is granted a Preliminary Designation as a community priority or economic development project, the project application shall continue through the review process in place at the time of application. The Planning Commission shall, as part of the review, be asked to make a recommendation to the City Council concerning the project's ability to meet the Zoning Ordinance definition of a community priority project or an economic development project found in SBMC Section 28.87.300(B). Should the project not require Planning Commission review as part of the established review process, the Commission shall be asked to consider the application for purposes of making that recommendation only. Once the project review, is complete, the application shall be forwarded to the City Council, together with the Planning Commission's recommendation, for a Final Designation as a community priority or economic development project.

(2) Reserving Square Footage in the Community Priority or Economic Development Categories. If an application meets the following criteria, square footage in these categories can be reserved without applying for a land use permit. The application process for a reservation shall be the same as outlined in (a) above. In order to be eligible for a reservation of square footage, the project must exceed 10,000 square feet and be a component of a recognized Facilities Master Plan with inter-related phases of construction, which has been reviewed by the Planning Commission and can be fully implemented within 10 years.

For the purposes of a community priority or economic development project square footage reservation, a Facilities Master Plan shall be a plan which includes the following information:

- The potential for short and long range development for the facility and site;
- A brief history of development occurring at the facility;
- Size and use of existing structures;
- Description of the type and number of parking spaces existing;
- Plans to indicate the size and conceptual location of proposed structures;
- Proposed schedule of implementation of each component.

If Council makes the finding that the project meets the Zoning Ordinance definition of a community priority project or an economic development project found in SBMC Section 28.87.300(B), a reservation of square footage in this Category may be granted by a resolution of the City Council for a period not to exceed five years. Prior to expiration of the Resolution, the applicant shall submit a complete application for a land use permit and a Final Designation as a Community Priority or Economic Development Project.

3. Hotel Replacement. An application for a land use permit for a nonresidential construction project which involves the replacement or remodeling of existing hotel rooms on a room for room basis at the same location shall be subject to the following process:

(a) Application. An application for a land use permit for a proposed hotel room replacement project shall be submitted to the Community Development Department in accordance with the standard application process in place at the time of submittal. All applications shall include a site plan identifying the location and size of all existing hotel rooms. An additional site plan showing the proposed size and location of all rooms after the replacement project is completed shall also be submitted.

(b) Action. Hotel room replacement projects shall not be approved if the project will cause an unavoidable and unmitigated significant adverse environmental effect (as documented in an environmental impact report) other than a cumulative air pollution impact, or create a traffic impact in violation of adopted City policies, including the Circulation Element of the General Plan.

4. Resolution Nos. 91-017, 91-082 and 96-027 are hereby rescinded.

Adopted May 13, 1997

Category	Pending	Approved	Building Permit/C of O Issued	Unallocated	To Economic Development
Approved Projects (900,000) ^{1,2}	155,000	115,996	570,383	0	58,621
Pending Projects (700,000)	36,000	11,091	78,421	0	574,488
Vacant Property (500,000)	100,963	2,400	80,527	316,110	N/A
Total Small Addition (600,000) ³	45,960	26,712	222,017	30,000	275,311
2008 Small Addition (30,000)⁴	5,186	4,300	64	0	20,514
Community Priority (300,000)	68,189	73,389	125,641	32,781	0
Economic Development^{5,6}	104,522	2,703	405,785	395,410	908,420
Total (3,000,000)	510,634	232,291	1,482,774	774,301	

1 Includes Rancho Arroyo and Park Plaza Specific Plans

2 Includes 155,000 of Pending square footage for Cabrillo Plaza Specific Plan.

3 275,311 square feet under "To Economic Development" is comprised of 1/1/90-06/30/96 expired and 1/1/90-12/31/08 "not applied for" square footage.

4 Included in the total Small Additions calculations above.

5 186,259 square feet under "Building Permit/C of O Issued" is comprised of Minor Additions associated with 1997-2008 Small Additions and 219,526 sq. ft. of Economic Development that received building permits, as required by Council Resolution 99-036

6 908,420 square feet under "To Economic Development" is included in calculations for the Economic Development category, but not counted in 3,000,000 sf total.

NOTE: Per Council Resolution Economic Development SF tracked differently. Shown here for representative purposes only.

**PROJECTS WITH PRELIMINARY OR FINAL
ECONOMIC DEVELOPMENT DESIGNATIONS**

PROJECT/ADDRESS	PRELIM. DESIG. (SQ. FT.)	FINAL DESIG. (SQ. FT.)	STATUS/ COMMENT
Gateway Project (Miravant) 6100 Hollister Avenue MST97-00715		80,000	Approved 5/28/2000
Architectural Millworks 815 Quinientos Street MST97-00320		15,000	C of O 1/20/2004
Penfield and Smith 111 E Victoria St MST2002-00243		7,905	BP 2/11/2005
Software.com 630-634 Anacapa Street MST97-00520	26,493		Withdrawn
Alliance Manufacturing Software 1035 Chapala Street MST98-00051	30,257		Withdrawn
Fielding Institute 4151 Foothill Road MST2001-00840 MST2008-00496	22,499 22,499		Prelim with MST2001-00840
Airport Mobile Structure 500 Fowler Rd MST2002-00265		720	Approved 6/20/02
Cottage Hospital 320 W Pueblo St MST2003-00152		182,541	Under Construction
Granada Theatre 1216 State St MST2004-00005		13,360	Approved 3/23/04
SUBTOTALS	22,499*	299,526	SUBTOTALS
ALLOCATED TO DATE: 322,025 SQFT*			
REMAINING UNALLOCATED: 375,985 SQFT			

10-29-08

*Does not include SF from Software.Com or Alliance, which have been withdrawn



May 11, 2009

Ordinance Committee
City of Santa Barbara
PO Box 1990
Santa Barbara, CA 93102-1990

RE: Non-Residential Construction Projects Regulations (Measure E)

Gentlemen:

While I believe it is reasonable for the City Council to extend Measure E until it decides upon actions to be taken on PlanSB, I hope the City will decide to review the economic impacts of PlanSB along with the environmental impacts.

There is a tendency for all of us to take the economy for granted until something like the current recession rolls around, when we realize that a healthy economy can't be taken for granted. Deservedly or not, Santa Barbara does not have a reputation of being a business-friendly community. If it chooses to continue its current policies, it should understand the economic impacts as well as the environmental impacts so that it can make informed decisions.

Thank you for your consideration.

Sincerely yours,

MICHAEL TOWBES

/bjr

cc: Santa Barbara City Council
Planning Division/Community Development Department
Santa Barbara City Planning Commission

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LEAGUE OF WOMEN VOTERS OF SANTA BARBARA, INC.

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www.lwvsantabarbara.org

Statement to City of Santa Barbara Ordinance Committee on 5-12-09

Subject: Zoning Ordinance Amendment for Measure E Regulations

I'm Connie Hannah, speaking for the Santa Barbara League of Women Voters. The League is working to understand the ramifications of the information about Measure E entitlements that emerged during the recent appeal on the El Encanto project. How is it possible for owners to have a right to fully develop one site for residential, and then sell that same square footage to another site? This Transfer of Existing Development Rights is unbelievable double-dipping, and it threatens Santa Barbara with a huge overload of commercial development. If Measure E is what makes this kind of entitlement possible, then Measure E must be changed during this renewal.

For months the Planning Commission has been discussing ways to limit future commercial development so that we can improve our jobs/housing imbalance. This policy totally invalidates those efforts. The remaining commercial from over-developed sites like Chapala One and Paseo Chapala alone would again overwhelm this balance. The League is familiar with the Yanonali condominium project which rezoned a waterfront area site from light industrial to mixed use. That was immediately a great financial boon to the owner. That was interesting because it was purely a residential project, but they put a very small corner store in to justify their mixed use designation. We do not see how they can have any further rights to transfer from this site.

Since the subject of today's meeting is the renewal of Measure E, we ask the City to determine why this interpretation, which has recently emerged, allows doubling of development rights. The League worked to pass Measure E and we have appreciated the excellent effect it has had on city planning. In passing this measure, the public intent was to control the amount of commercial development being permitted, and we think we should make sure now to return to the original intent of Measure E.