



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: January 14, 2010
AGENDA DATE: January 21, 2010
SUBJECT: Review of Staff Hearing Officer Actions
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
 Danny Kato, Senior Planner *DK*
 Susan Reardon, Staff Hearing Officer *SR*

I. DISCUSSION

The purpose of this discussion item is to provide the Planning Commission with information regarding the Staff Hearing Officer (SHO) review process since the last overview with the Planning Commission in September 2008. Since that overview, there have been no changes regarding the types of projects that are reviewed by the SHO.

The SHO reviews applications for:

- 1) Modifications;
- 2) Residential subdivisions of no more than four units or lots, including new condominiums and condominium conversions;
- 3) New commercial condominiums and commercial condominium conversions for any number of units;
- 4) New non-residential development projects with no more than 3,000 square feet of new floor area;
- 5) Lot line adjustments involving four or fewer lots;
- 6) Performance standard permits;
- 7) Medical cannabis dispensary permits; and
- 8) Minor coastal development permits.

II. STAFF HEARING OFFICER ACTIONS

Modification Projects

A major element of the SHO process is the consideration of Modification requests. Staff recommendations and SHO actions on Modification requests are based on policy direction from Council and the Planning Commission, and on the specifics of each case. The key considerations Staff makes in looking at modifications include the following:

1. Avoid modifications when good alternatives exist that comply with the ordinance.
2. Recognition that many areas of the city have become nonconforming since the major rezoning of 1975, and whole neighborhoods are developed with a different standard than the current code. A uniform improvement sometimes seems to be the fair and appropriate action.
3. Site constraints can be justification for modifications, such as: odd shaped or small lots; multiple front yards; existing development footprint, etc.
4. The flexibility of the modification process can be good when the project design is improved and no impacts are created.

Staff continues to hold pre-application meetings with potential applicants for modifications. During this pre-application meeting, Staff reviews plans, photos, and property history, and makes a very preliminary decision about whether to support the proposed Modification. This pre-application screening is very important in the early identification of issues and concerns, and in the identification of alternatives that conform to the zoning requirements, site development, and/or neighborhood issues.

Staff continually recommends that potential applicants propose development that conforms to the Zoning Ordinance. A vast majority of potential applicants follow the recommendation and no longer pursue the modification. Between July 2008 and December 2008, a total of 188 pre-application meetings were held with Staff. Of those, 31 (or 16%) actually applied for Modifications. From January – December 2009, a total of 408 pre-application meetings were held; of which 79 (or 19%) applied for Modifications.

The majority of Modifications requested over the last year and one-half were in the following categories:

	<u>July -Dec 2008</u>	<u>Jan -Dec. 2009</u>
➤ Front setback	30%	40%
➤ Interior setback	38%	26%
➤ Open yard	13%	6%
➤ Fences/hedges/walls/screens	11%	9%
➤ Other various	8%	19%

This is similar with past years' categories:

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
➤ Front setback	32%	40%	30%	40%
➤ Interior setback	21%	25%	35%	26%
➤ Open yard	19%	15%	12%	6%
➤ Fences/hedges/walls/screens	14%	11%	13%	9%
➤ Other various	14%	9%	10%	19%

As can be seen, the number of open yard modification requests is down sharply. This is due in part to the Zoning Ordinance amendments that were adopted in 2008. As part of that amendment package, amendments were made that allowed decks less than 36 inches in height to encroach into the required

open yard and also allowed part of the secondary front yard on corner and through lots to count towards the open yard requirement.

The number of modification requests has gradually gone down over the last several years:

- 214 modification requests in 2004
- 156 modification requests in 2005
- 133 modification requests in 2006
- 149 modification requests in 2007
- 101 modification requests in 2008
- 114 modification requests in 2009

This can be attributed to several factors. One is the general slow down in the economy and the other is that the City is more critical in the review and support of modification requests.

If we compare the number of modification applications reviewed to the average number of building permits the City issues in a year, we find the percentage to be very small. About three percent request modifications (about 3,000 building permits are applied for annually).

Development Review Projects

The main objectives in the establishment of the SHO process was to streamline the review of development applications for small, non-controversial projects and to allow more time at the Planning Commission hearings to review major projects and policy concerns. Over the last year and one-half, the SHO has acted on 26 development review projects (Exhibits A & B), including six Medical Cannabis Dispensary Permit applications. In this same time period, the Planning Commission acted on 86 development review applications. The SHO review represents 23 percent of the development review actions taken by the City thus freeing up significant time on the Planning Commission agendas for major projects and policy issues.

III. APPEALS

Over the last year and one-half there have been six appeal hearings on SHO actions. This is less than three percent of the total number of projects acted on by the SHO. In addition, there are two pending appeals on approved Medical Cannabis Dispensary Permits; 741-781 Chapala (approved Oct. 7, 2009) and 302 E. Haley (approved Nov. 4, 2009).

SHO Appeals

2140 Mission Ridge

On March 11, 2009, the SHO approved a request for a modification to allow a two story addition to be located within the required open yard. A neighbor appealed the decision stating that incorrect information was presented to the SHO, which resulted in a poor decision. On June 4, 2009, the Planning Commission denied the appeal and upheld the approval of the project.

436 Corona Del Mar

On March 11, 2009, the SHO approved a Coastal Development Permit for a proposed three-story duplex and new garage and a modification to allow the garage to encroach three feet into the six foot required interior setback. The project was appealed by The Friends of Outer State Street, and on May 14, 2009, the Planning Commission denied the appeal and upheld the decision of the SHO. The Friends of Outer State Street appealed the Planning Commission's decision and on August 4, 2009, the City Council denied the appeal and upheld the approval of the project.

2105 Anacapa St.

On March 25, 2009, the SHO approved a modification of the front setback to allow window and door changes to a non-conforming building. The project was appealed by The Friends of Outer State Street and on June 4, 2009, the Planning Commission denied the appeal and upheld the decision of the SHO.

500 N. Milpas

On June 3, 2009, the SHO approved a Medical Cannabis Dispensary Permit application for a new dispensary in an existing commercial building. Concerned citizens appealed the approval, and on July 15, 2009, the Planning Commission denied the appeal and upheld the project approval.

617 Bradbury Ave

On June 17 and July 15, 2009, the SHO reviewed a request for a tentative subdivision map for two new residential and two new commercial condominiums as well as a request for a modification to allow the required open area to be located in the front yard. The SHO approved the project, and a neighbor appealed the decision. On September 17, 2009, the Planning Commission upheld the appeal and denied the project. The applicant appealed the Planning Commission's decision and on December 8, 2009, the City Council held the appeal hearing and continued the project indefinitely with the direction for the project to return to the Architectural Board of Review to: 1) reduce the project in size, bulk and scale, consisting of at least 1/6 of the bulk of the rear building (approx. 500 sq.ft.); 2) look at whether there are some Victorian or Craftsman elements that can be added and that are compatible with the neighborhood; and 3) to retain the open area in the front yard.

631 Olive Street

On July 29, 2009, the SHO reviewed and approved an application to convert a portion of an existing residence to a Medical Cannabis Dispensary Permit. The Housing Authority appealed the decision and on Sept. 10, 2009, the Planning Commission denied appeal and upheld the approval of the project.

IV. CONCLUSION

In general, the number of modification applications has declined over the past several years due to several factors. Staff continues to hold the modification pre-application meetings and encourage applicants to propose development that is consistent with the zoning regulations. The majority of applicants redesign their projects to comply with the Zoning Ordinance. The number of modification applications continues to make up a small percentage of the total number of building permit applications the city receives in a year.

Staff's review of the appeals which have occurred over the last year and one-half indicates that in general, the Planning Commission, SHO, and Staff seem to be on the same track in terms of implementing City policies and the intent of development standards. The relationship and regular communication between the SHO and Planning Commission liaison is very important for the flow of information and consistency in the application of City policy to reduce the potential number of appeals. Additionally, the appeal process is valuable for the small number of cases where issues require more consideration to resolve.

Exhibits:

- A. Staff Hearing Officer Actions, July 2008–December 2009
- B. Staff Hearing Officer Actions, January 2009–December 2009

**Staff Hearing Officer Actions
Non-Development Review Projects
July 2008 – December 2008**

Type of Modification	Approved	Denied/Partial appv'd	Total
Front Setback	14		14
Interior Setback	17	1	18
Rear Setback			
Double Setback			
Open Yard	6		6
10% Open Yard			
Private Outdoor Living Space			
Distance between bldgs			
Parking location			
Parking req.			
Parking uncovered			
Fence/wall/hedge	5		5
Lot Area	1		1
Accessory Structure – size	2		2
Accessory Structure location			
Solar Height Limit			
Floor Area Unit Size			
Street Frontage			
Height Limit			
Medical Cannabis Dispensary Permits	1		1
Additional Dwelling Units (PSP)			
Total	46	1	47

EXHIBIT A

Development Review Projects July 2008 – December 2008

Coastal Development Permit

402 Orilla Del Mar

The project involved the conversion of existing vacation rental resort unit into a manager's unit (not for use as sleeping quarters), a laundry room and guest common area and, a second story addition to replace converted rental unit. A modification of the front setback and development plan approval were also granted.

1405 Harbor View Drive

The project involved the demolition of an existing single-family residence and detached garage and construction of two new single-family residences each with an attached two-car garage. Two modifications were granted to allow a portion of the second story floor area to encroach into the required open yard area

**Staff Hearing Officer
Non-Development Review Projects
January 2009 – December 2009**

Type of Modification	Approved	Tea Fire Rebuild	Denied/Partial appv'd	Total
Front Setback	26	21	2	49
Interior Setback	18	13	1	32
Rear Setback				
Double Setback		1		1
Open Yard	5	1	1	7
10% Open Yard				
Private Outdoor Living Space	1			1
Distance between bldgs	1			1
Parking location	3	1		4
Parking req.	2			2
Parking uncovered				
Fence/wall/hedge	10	1		11
Lot Area				
Accessory Structure – size	1	2		3
Accessory Structure location	1	1		2
Solar Height Limit		1		1
Floor Area Unit Size				
Street Frontage				
Height Limit				
Medical Cannabis Dispensary Permit	5			5 ¹
Additional Dwelling Units (PSP)	2			2
Total	75	42	4	121

¹ One permit was revoked by the Planning Commission and two permits are pending appeal before the Planning Commission.

Development Review Projects January 2009 – December 2009

New Residential Condominiums

618 San Pascual St – Habitat for Humanity Project

Construction of four new attached residential condominium units price restricted to low-income households and four attached single-car garages. The public alley on the 500 block of W. Ortega Street would provide automobile access to the site. The project also included modifications for lot area, parking requirements, fence/wall height, and setbacks.

110 W Sola St.

Demolish an existing one-story commercial office building and construct a new three-story mixed-use building. The new building is comprised of four residential condominium units, three commercial condominium units, and fifteen covered parking spaces. A modification of the interior setback was granted to allow the building to encroach into the required interior.

505 Wentworth Ave

Construct three new residential condominiums with attached two-car garages. No modifications were requested.

617 Bradbury Ave

Demolish an existing single family unit and construct a new three story mixed-use building containing two residential and two commercial condominiums. A modification to allow the common open area to be located in the front yard was granted. This project was appealed to the Planning Commission. The Planning Commission upheld the appeal and denied the project. The applicant appealed the Planning Commission's denial. The City Council held a public hearing on the appeal and continued the project indefinitely with direction.

Condominium Conversions

416 and 418 Montgomery Street

Convert two existing residential units to condominium units. No modifications were requested.

825 W. Victoria and 1229 Gillespie Street

Convert two existing single-family residences to condominiums. No modifications were requested.

716 N. Voluntario St

Convert two existing detached residential units to condominiums. No modifications were requested.

401 W. De la Guerra St and 781 Castillo St

Convert an existing duplex to condominiums. No modifications were requested.

Land Subdivision or Lot Line Adjustment

1730 Calle Poniente and 1415 La Cima Road

A Lot Line Adjustment between two existing lots. Two street frontage modifications were granted as part of the project.

101 W. Canon Perdido St

Subdivide an existing lot and convert an existing building into four commercial condominium units. No modifications were requested.

Coastal Development Permits

436 Corona Del Mar Drive

Demolish the existing residence and non-conforming garage and construct a new three-story duplex and a detached two-car garage. A modification to allow the new garage to encroach into the interior setback was also granted. The project was appealed to the Planning Commission and then City Council. The appeal was denied and the decision of the Staff Hearing Officer was upheld by both the Planning Commission and City Council.

1931 El Camino de la Luz

Convert the existing garage to habitable space and add a new carport. No modifications were requested. This project was withdrawn after project approval.

1660 Shoreline Dr.

Proposed addition to an existing single-family residence. A modification was requested to allow an addition to the existing dining room and a new bedroom to encroach into the non-conforming front setback. Both encroachments were approved but with a less encroachment than requested.