



## City of Santa Barbara Planning Division

### PLANNING COMMISSION MINUTES

January 7, 2016

#### CALL TO ORDER:

Chair Thompson called the meeting to order at 1:00 P.M.

#### **I. ROLL CALL**

Chair Addison Thompson, Vice-Chair John P. Campanella, Commissioners Jay D. Higgins, Mike Jordan, Sheila Lodge, June Pujo, and Deborah L. Schwartz.

#### **STAFF PRESENT:**

Renee Brooke, AICP, City Planner  
N. Scott Vincent, Assistant City Attorney  
Allison De Busk, Project Planner  
Julie Rodriguez, Planning Commission Secretary

#### **II. PRELIMINARY MATTERS:**

A. Nominations and election of Chair and Vice-Chair.

##### **MOTION: Schwartz/Higgins**

Nomination of John Campanella as Chair and June Pujo as Vice-Chair for 2016.

This motion carried by the following vote:

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

Incoming Chair Campanella thanked Commissioner Thompson for his guidance and inspiration as Chair.

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

None.

C. Announcements and appeals.

Ms. Brooke made the following announcements:

1. Suzanne Riegle, Associate Planner, will be leaving the City and moving to Virginia.

2. Dan Gullett, Project Planner, has been promoted to Supervising Transportation Planner in the Public Works Department.
- D. Review, consideration and action on the following draft Planning Commission Minutes and Resolutions:
1. December 3, 2015
  2. PC Resolution No. 019-15  
Recommendation to City Council – Cannabis Cultivation Amendment

**MOTION: Thompson/Jordon**

Approve the minutes and resolution as corrected, pending confirmation of Commissioner Schwartz' inquiry.

Commissioner Schwartz questioned the minutes and resolution as to whether item one was included in the actual motion during the meeting. Her recollection was that the City Attorney had advised against the inclusion. Staff will review the hearing video and make appropriate correction, if necessary.

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: As noted. Absent: 0

- B. Comments from members of the public pertaining to items not on this agenda.
- Chair Thompson opened the public hearing at 1:06 P.M. and, with no one wishing to speak, closed the hearing.

**III. NEW ITEM:**

**ACTUAL TIME: 1:06 P.M.**

**APPLICATION OF THE PARKER FAMILY FOR 433 EAST CABRILLO BOULEVARD (WATERFRONT HOTEL), APN 017-680-009, ZONING DESIGNATION: HOTEL AND RELATED COMMERCE/PARK PLAZA SPECIFIC PLAN/ COASTAL ZONE OVERLAY (HRC-2/SP-1/SD-3), GENERAL PLAN DESIGNATION: OCEAN-RELATED COMMERCIAL/ MEDIUM HIGH RESIDENTIAL, LOCAL COASTAL PLAN DESIGNATION: HOTEL AND RELATED COMMERCE; AND 103 SOUTH CALLE CESAR CHAVEZ (HOTEL PARKING LOT), APN 017-113-020, ZONING DESIGNATION: OCEAN-ORIENTED LIGHT MANUFACTURING/ COASTAL ZONE OVERLAY (OM-1/SD-3), GENERAL PLAN DESIGNATION: OCEAN-RELATED INDUSTRIAL, LOCAL COASTAL PLAN DESIGNATION: OCEAN ORIENTED INDUSTRIAL (MST2013-00371)**

On August 15, 1995, City Council adopted Ordinance 4920, which included a Development Agreement (DA) and associated conditions of approval for development of the Chase Palm Park expansion, the Waterfront Hotel (433 East Cabrillo Boulevard), and a youth hostel. The DA allowed the Chase Palm Park expansion project to commence immediately and provided

the property owner, American Tradition, 12 years to construct the hotel and hostel. In 2007, the City issued building permits for both the 150-room Waterfront Hotel and associated parking lot, and the youth hostel. While the hostel (12 E. Montecito St.) has since been completed, the hotel project has stalled. In order to maintain the existing development rights for the approved hotel and establish the potential and associated process for a revised project, a new DA is being considered. As such, the proposed DA includes the following major components:

- Establishment of a new ten-year term for the DA.
- Acknowledgment of the approved status of the 150-room hotel project, including parking lot, which could continue to be constructed without further discretionary review.
- A provision that all current Building and Public Works permits for the hotel project would expire upon the effective date of the DA, and new ministerial permits (consistent with current codes) for the approved project must be issued within five years of the effective date of the DA.
- A provision that if the approved 150-room hotel project is abandoned and a revised hotel project is pursued at any time during the term of the DA, the project would be subject to policies, ordinances, resolutions, codes, rules, regulations and official policies governing development of the site(s) in effect as of the effective date of the DA.
- If a revised hotel project is approved during the term of the DA and it results in less than the currently approved 150 hotel rooms, the Applicant has the ability to propose the transfer of excess rooms or square footage to the Fess Parker DoubleTree Hotel site (633 E. Cabrillo Blvd.) or another parcel, consistent with applicable City ordinance provisions and processes for doing so.

**Note: A Development Agreement and Ordinance Amendment require City Council approval at a subsequent public hearing to be scheduled. The purpose of this January 7<sup>th</sup> hearing was for the Planning Commission to consider the proposed request and environmental document prepared for the project and provide a recommendation to City Council on the following:**

1. A Development Agreement to allow an additional ten (10) years to construct the approved 150-room hotel and parking lot or a revised project within this time period (Council Resolution 89-120); and
2. A Zoning Ordinance Amendment (SBMC Chapter 28.95 - Transfer of Existing Development Rights) to defer to the Waterfront Hotel Development Agreement for provisions allowing the applicant to propose the transfer of excess (approved but undeveloped) hotel rooms from the Waterfront Hotel site.

An Addendum to the 1993 Final Environmental Impact Report (EIR) has been prepared in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15164 to address minor changes to the project and EIR analysis. The Planning Commission will consider the Addendum together with the previously certified Final EIR,

and consider a recommendation to City Council regarding the adequacy of the environmental review pursuant to CEQA Guidelines Section 15090.

Contact: Allison DeBusk, Project Planner  
Email: ADeBusk@SantaBarbaraCA.gov

Phone: (805) 564-5470, ext. 4552

Allison DeBusk, Project Planner, gave the Staff presentation.

Eli Parker, Parker Family representative, made introductory comments and introduced his team of Mike Caccese, MAC Design Associates; Graham Lyons, Attorney, Mullen & Henzell; and Suzanne Elledge, Suzanne Elledge Planning and Permitting Services, Inc. who were all available to answer any of the Commission's questions.

Chair Campanella opened the public hearing at 1:18 P.M.

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

1. Tom Rejzek, Santa Barbara County Environmental Health, provided a presentation on mitigation of hazardous material issues for soil and ground water contamination on the project site.
2. Hillary Hauser, Executive Director, Heal the Ocean, submitted a letter with concerns and offered her support to resolution of contamination issues before the project is developed.
3. Kira Redmond, Santa Barbara Channel Keeper, expressed concern over pollution resulting from a future construction site and compliance with the storm water ordinance. The site is adjacent to East Beach, where runoff of sediment could impact a popular public beach and public health. Soil erosion and contamination remain a concern.

With no one else wishing to speak, the public hearing was closed at 2:10 P.M.

Commissioner Campanella called for a recess at 4:30 P.M. and reconvened the meeting at 4:45 P.M.

Commissioner's comments:

Commissioner Jordon:

- Use is consistent with the location and surroundings, consistent with the General Plan, the Local Coastal Plan, Specific Plan, and any zoning ordinances. Agrees with Staff's Addendum to the EIR that finds no significant changes.
- Part of the agreement contains a few pages that spell out all the resources and money that Parker family has given the City. It is clear that the City is way ahead in this relationship. City also has a unique role of being a 12% partner in the revenue stream, which goes into the General Fund which provides many services to the community.

- Can support the recommendations with changes to the Development Agreement that further clarify the storm water management plan details and further clarify the process for Substantial Conformance Determination that brings it back to the Planning Commission.
- Issues: 1) Management of storm water runoff: Appreciates that the Parker Family will be addressing storm water management at both sites; and 2) The perceived degradation on the mitigation concerning the youth hostel. What is in place there today is not what was talked about in the mid 1990's before the Planning Commission and the Coastal Commission. Recognizes that it was sold and the concept changed, and it is not the Parkers' problem.

Commissioner Higgins:

- In viewing the youth hostel situation, finds that this is a lesson for our city and other cities about exotic conditions in the market place.
- Supports the project with the conditions that Commissioner Jordan mentioned.
- Supports applying credits to mitigation fees. Hotel rooms can be tied back to trip counts that can be tied to mitigation fees.
- Noted that it is difficult to review a development agreement without the development proposal.

Commissioner Pujo:

- Supportive of the Development Agreement in concept, including the transfer of hotel rooms. But when it comes to a Development Agreement, it is really about the specific terms. This is not standard zoning.
- Needs to see a revised draft before she is comfortable with it. We will be living with this for ten years. In terms of revisions to be made, she would like to see:
  - Storm Water Management Plan clarification
  - Level 4 SCD review requirement
  - Discussion on vesting and building permit extensions – wants to know what this means when we reference building permits, and what does it do to the Development Agreement when they expire. Clarification is needed.
  - The terms 'luxury hotel' and 'low cost hostel' are in the documents but were not defined and may not be true. To support the project now or when revised, need to see those portions of the document modified to take the 'luxury' and 'low cost hostel' language out. The "Whereas" and "Therefore" statements should not perpetuate a myth. We did not get a low-cost hostel.
  - On Page 2, Item F, "Whereas the Parkers have constructed a public parking lot...in front of the Fess Parker Hotel" needs to be revised to include the reference to the 17 parking spaces, including the location that Suzanne Elledge described as to where they are physically.

Commissioner Lodge:

- Would like to see the smaller project proposal move ahead.
- Does not see the project entirely as a benefit. There will be a lot of low wage employees that will need affordable housing that is not available; additional traffic, etc.
- Noted on Page 3, section L, the statement “Whereas on May 28, 1998, Chase Palm Park opened as the City’s largest waterfront park” is not accurate and would like to see it corrected to read “Whereas on May 28, 1998, with the addition of the park area north of Cabrillo jointly developed by the City Redevelopment Agency and the Parker Family, Chase Palm Park became the City’s largest waterfront park”.
- Does not approve of the many references highlighting the Parker’s contributions when they were in response to mitigation measures and not voluntarily. Does not feel that we owe the Parker family anything.
- Does not see a need for a change to the zoning ordinance and the transfer of existing development rights. The Parker Family can transfer development rights as it is written now and if they want to put them where the existing hotel is, they can propose a project and it will be reviewed then. Does not want to give an additional sense of entitlement to the developers.
- Supports the rest of the Development Agreement.

Commissioner Schwartz

- Questioned whether the 10-year term is the appropriate timeframe, but will defer to staff and will support the 10 years for the Development Agreement. With the market turning around and lending being more favorable, she hopes that the Parker family can do something. Wants the project expedited.
- Include a “Whereas” statement in the Development Agreement clarifying what construction has already occurred on the property.
- Agrees with Commissioner Pujo on wanting to see a revised draft of the Development Agreement, due to its complexity and detail, before it goes to City Council.
- Would like to see Page 7, No. 5, Amendment to Agreement, include language that “any changes to the project will result in a Level 4 Substantial Conformance Determination review and automatically require Planning Commission review”.
- Referenced page 9, No. 8.3, Provision of Low-Cost Visitor Accommodations, stating that the Youth Hostel was a requirement of the California Coastal Commission with specific intentions. The Wayfarer may be a beautiful building, but in no way fulfills the intentions of the CCC and the mitigation that was required. This was a lesson learned for the city. She has ongoing concerns that we are fast losing the opportunity in the general waterfront and funk zone to provide visitor serving opportunities for moderate and low income accommodations. Coastal access for the general public, including lodging, is of critical importance to the City.
- Is concerned about being asked to provide any relief from the Storm Water Management Ordinance when this is the most important environmental decision that the Planning Commission can make, along with State and Federal Laws.

- Agrees with Commissioner Lodge on the issue of Transfer of Existing Development Rights and wonders why we would make an exception, and modify an ordinance for a single applicant. Did not hear an acceptable explanation to warrant such an amendment.
- Inclined to suggest that a transfer be limited to square footage only. Does not support the transfer of rooms, especially to the Fess Parker Hotel. Does not understand with the controversial legal issues/history, why the Parker family want to do this.

Commissioner Thompson:

- Wants to see the project moved along.
- There is room for adjustments to the draft proposed Development Agreement and agrees with seeing a revised draft. He will leave it to Staff to provide a revised draft that includes storm water management discussion, Substantial Conformance Determination process, and a review of what has been completed at the site to date.
- Remains skeptical about the need to include provisions for a room-for-room transfer in addition to the standard Transfer of Existing Development Rights process that the city already has.

Commissioner Campanella:

- Wants to see the project move forward.
- Likes the concept of a development agreement to ensure that both parties, the municipality and the applicant, know their rights going forward.
- Likes the flexibility in the transfer of square footage, although it is hard to find places to put it because unless someone has an approved project, you cannot place it. But doesn't think the room-for-room transfer is necessary.
- Would like to see the promotional "Whereas" statements removed from the Development Agreement and just stick to facts that relate to findings.
- Supports providing assurances to the developer but does not support the language on Page 13 of the Staff Report, relative to findings in the Development Agreement, B.3. that reads "...and delay of private improvements will provide for more orderly and timely mitigation of traffic and air quality impacts." He does not feel comfortable making a judgment to that effect and recommends removal of the language in the findings.
- Thinks there has been fairness on both sides over the years. This is not a standard document and he thanked Staff, the applicant, and the Planning Commission for going through all the documents, especially during the holidays.
- Supports a Level 4 Substantial Conformance Determination requirement and clarification regarding project level of Storm Water Management compliance.
- Recommends that the Commission review a redraft or move forward today.

**Straw Poll**

Review a redraft of the Development Agreement, with modifications made by Staff, before making a recommendation to City Council

Ayes: 5 Noes 2 (Jordan/Higgins)

**MOTION: Pujo/Thompson**

Continue the item to a future agenda for a revised draft with a discussion of how the revised draft meets the Commission's expectations, Transfer of Development Right questions on the transfer on number of beds, and also the findings.

Scott Vincent, Assistant City Attorney, asked for direction on what was being asked of Staff and summarized what he understood the request to be:

- Clarification of Section 10.1 on Page 11 of the Development Agreement, specifically how the three types of potential projects will be addressed with respect to the Storm Water Management Ordinance. The three project types are:
  - The 150-room approved hotel,
  - A Substantial Conformance Determination, or
  - A new project that does not qualify for Substantial Conformance Determination.

In all three cases, he has heard that the applicant will comply with the construction and best management practices of the SWMP. In all cases, the parking lot will comply with the SWMP. The hotel parcel will comply with the treatment provisions of the SWMP Ordinance, but cannot comply with the detention requirements of the SWMP. The Substantial Conformance Determination or a new project would comply completely with the Storm Water Management Ordinance.

- Inclusion of the request for Level 4 Substantial Conformance Determination. He would recommend that it be placed in the second paragraph of Section 10.1 on Page 11 and read "Any request by the Parker Family for an Substantial Conformance Determination (SCD) shall be processed by the City in conformance with the SCD guidelines as a Level 4 review and shall be considered in relationship to the September 2007 hotel plans."
- Inclusion of a "Whereas" statement that identifies the status of construction on the Hotel site as of today.

Graham Lyons, Attorney, Mullen & Henzell, asked to clarify exactly what changes the Commission was requesting, noted that the applicant was in agreement with the three changes identified by Mr. Vincent, and stated that he did not see a need to return to the Commission for a full discussion when the revisions to the Development Agreement were understood and did not meet resistance from the applicant, but that is ultimately up to the Commission. They still need direction on the TEDR portion of the Development Agreement.

As the motion maker, Commissioner Pujo, clarified that her motion was also looking to include points that she had brought up earlier that included the removal of promotional language and the removal of 'luxury hotel' and 'low cost hostel' language; inclusion of the

17 public parking spaces; and building permit and vesting clarification. She wanted more than just a few lines in the revised document and wanted more clarity in the document when it returns.

Mr Vincent and Mr. Lyons both expressed a need to hear specifically from the Commission what revisions were being requested.

Mr. Vincent stated that during the course of the meeting he did not hear that a paragraph by paragraph review was being asked. The discussion had been predominately about the Transfer of Existing Development Rights and Storm Water Management, all primarily related to two pages within the Development Agreement. He provided clarification that revisions on these two topics would be a few paragraphs, not a page by page review. Mr. Vincent agreed to add language on the 17 parking spaces to Page 2, paragraph F.

Commissioner Schwartz stated that returning on consent for review was not acceptable to her, but did not want to see this return for a long discussion. Suggested that it would be helpful for the revised draft to contain strikeout language so that the Commission could easily identify the changes made.

Commissioner Pujo further clarified that the intent of the motion was to have Staff highlight the sections of the draft agreement that refer to the TEDR and that a decision on TEDR be made at the continued hearing.

Commissioner Thompson withdrew his support to second the motion. There is no need to discuss this at another meeting. The Commission needs to make a decision and give Staff direction for bringing back a revised document that returns to the Commission. This motion then failed for lack of a second.

**MOTION: Pujo/Schwartz**

Continue the Development Agreement for Staff to incorporate comments made by the Commission and Mr. Vincent, which include:

1. All items previously listed by Mr. Vincent.
2. Clarification in Development Agreement defining 'new building permit' and when it is vested/when it is not, as well as what construction has taken place.
3. Removal of the terms 'luxury hotel' and 'low-cost hostel' from Sections M and N on Page 3 of the document.
4. Include a reference to the 17 existing public parking spaces.
5. Correction to the "Whereas" statement about Chase Palm Park, per Commissioner Lodge.
6. Review of the document to include consistency through document of any changes made.

Mr. Lyons stated that the term 'luxury' is consistent with the Specific Plan and needs to remain in the Development Agreement or they would not be in compliance with the Specific Plan.

Commissioner Pujo replied that if the terms ‘luxury’ and ‘low-cost’ were consistent with what is in the Specific Plan, then that is acceptable to her, otherwise the language is not acceptable to her in the document. The revised document should not contain embellishment and the terms in question should be recognizable as a quote from a prior document and not reflected as an opinion of the Planning Commission in the new document.

This motion carried by the following vote:

Ayes: 4 Noes: 3 (Lodge/Higgins/Jordan) Abstain: 0 Absent: 0

Commissioner Higgins cannot support the motion. We can’t change history with regard to the terms that were used previously. Statements of fact imbedded in the document should not be removed. References to vesting rights are also statements of fact that should not be removed from the agreement.

**MOTION: Lodge/Thompson**

Reject the recommendation of an amendment to the Zoning Ordinance, Chapter 28.95 related to the Transfer of Existing Development Rights (TEDR), and remove references to the TEDR from the Development Agreement, leaving conditions as they are under the existing Ordinance.

Commissioner Lodge amended her motion to read:

Recommend approval of an amendment to the Zoning Ordinance, Chapter 28.95 related to the Transfer of Existing Development Rights (TEDR), allowing the transfer of approved development in square footage form or in the form of room-for-room.

Commissioner Higgins seconded the amended motion.

Planning Commission Secretary Julie Rodriguez interjected that Commissioner Higgins could not second a motion because there was already a motion on record that was seconded by Commissioner Thompson and only being clarified with an amendment. Commissioner Higgins could only second if Commissioner Thompson withdrew his support.

Commissioner Thompson asked for clarification of the amended motion and withdrew his second based on removal of references to the transfer to the Fess Parker Hotel Parcel.

Commissioner Higgins withdrew his offer to second the motion for the same reason as Commissioner Thompson.

The motion died for lack of a second.

**MOTION: Higgins/Jordon**

Continue the item entirely for review of a revised draft Development Agreement, retaining the Transfer of Existing Development Rights section as stated in section 11.1., and with the majority of the Commission supporting the proposed Zoning Ordinance Amendment related to TEDR.

This motion carried by the following vote:

Ayes: 4 Noes: 3 (Thompson, Lodge, Schwartz) Abstain: 0 Absent: 0

City Planner Renee Brooke left at 7:13 P.M.

**IV. ADMINISTRATIVE AGENDA**

**ACTUAL TIME: 7:13 P.M.**

**A. Committee and Liaison Reports**

**1. Staff Hearing Officer Liaison Report**

Commissioner Jordan reported on the meeting of January 6, 2016.

**2. Other Committee and Liaison Reports**

a. Commissioner Thompson reported on the Single Family Design Board meeting of January 5, 2016.

b. Commissioner Campanella reported on the Architectural Board of Review meeting of January 4, 2016.

c. Commissioner Campanella announced that today is First Thursday and encouraged all to participate in planned events.

**B. Approval of 2016 Primary and Alternate Liaisons to City Boards and Commissions made in B.1. of this Agenda**

**Airport Commission**

Addison Thompson – Primary

Jay Higgins – Alternate

**Architectural Board of Review**

John Campanella – Primary

Sheila Lodge – Alternate

**Citywide Way-find Signage Program Committee**

Jay Higgins - Primary

Michael Jordan – Alternate

**Creeks Restoration & Water Quality Improvement**

**Program Citizen Advisory Committee**

Sheila Lodge – Primary

Mike Jordan – Alternate

**Downtown Parking Committee**

Jay Higgins – Primary  
June Pujo – Alternate

**Harbor Commission**

June Pujo - Primary  
Sheila Lodge – Alternate

**Highway 101 Improvements Design Subcommittee**

Deborah L. Schwartz- Primary  
Addison Thompson - Primary  
June Pujo – Alternate

**Historic Landmarks Commission**

Sheila Lodge – Primary  
Addison Thompson – Alternate

**Housing Subcommittee**

John Campanella  
Michael Jordan  
Deborah Schwartz

**Local Coastal Plan (LCP) Subcommittee**

June Pujo – Primary  
Deborah L. Schwartz- Primary  
Addison Thompson – Primary  
Sheila Lodge – Alternate

**Multi-Unit/Mixed-Use Design Guidelines Subcommittee**

John Campanella – Primary  
Deborah L. Schwartz – Primary  
Sheila Lodge – Alternate

**New Zoning Ordinance (NZO) Subcommittee**

John Campanella – Primary  
Michael Jordan – Primary  
Sheila Lodge – Primary  
June Pujo – Alternate

**Parks and Recreation Commission**

Jay Higgins – Primary  
Michael Jordan – Alternate

**Sign Ordinance Review Committee**

Sheila Lodge-Primary  
Deborah L. Schwarz - Alternate

**Single Family Design Board**

Addison Thompson – Primary  
Michael Jordan – Alternate

**Staff Hearing Officer/ Modification Liaison**

Michael Jordan - Primary

Jay Higgins – Alternate

**Sustainability Council Committee**

June Pujo – Primary

John Campanella – Alternate

**Transportation and Circulation Committee**

Michael Jordan – Primary

June Pujo – Alternate

**Water Commission**

Michael Jordon - Primary

Deborah L. Schwartz – Alternate

**MOTION: Thompson/Jordan**

Approved the 2016 Planning Commission Liaisons to Boards and Commissions

This motion carried by the following vote:

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

V. **ADJOURNMENT**

Chair Campanella adjourned the meeting at 7:18 P.M.

Submitted by,

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Julie Rodriguez, Planning Commission Secretary

