



City of Santa Barbara

Planning Division

PLANNING COMMISSION MINUTES

November 2, 2006

CALL TO ORDER:

Chair John Jostes called the meeting to order at 1:05 P.M.

ROLL CALL:

Present:

Chair John Jostes

Vice-Chair Charmaine Jacobs

Commissioners, Stella Larson, Bill Mahan, Addison S. Thompson and Harwood A. White, Jr.

Absent:

Commissioner George C. Myers

STAFF PRESENT:

Bettie Weiss, City Planner/Staff Hearing Officer

Jan Hubbell, Senior Planner

Chelsey Swanson, Assistant Planner

Roxanne Milazzo, Associate Planner

Kathleen Kennedy, Associate Planner

N. Scott Vincent, Assistant City Attorney

Kathleen L. Goo, Alternate Commission Secretary

I. PRELIMINARY MATTERS:

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

Project Planner announced the following changes to the agenda:

1. Staff announced a one week continuance of Agenda item III. A., 1617 & 1621 Anacapa Street, to the November 9, 2006 Planning Commission meeting.

- B. Announcements and appeals.

Ms. Hubbell made the following announcements:

1. 601 Micheltorena (St. Francis Hospital) has a pending appeal before the City Council on November 21, 2006, with appointment of Commissioners Myers and Mahan to be in attendance. Commissioner Mahan requested to take part in the presentation of that item.

2. 40 Pine Drive has a pending appeal before the City Council on December 5, 2006.
3. Veronica Meadows will return to City Council on December 12, 2006.
4. 210 Meigs Road, which had an appeal scheduled for December 12, 2006, will either be continued to another date before City Council or withdrawn.
5. The City Council will tour the Airport Creek Relocation and Wetland Restoration sites at 1:30 p.m. on Thursday, November 30, 2006. The Planning Commissioners will be sent an email reminder to confirm their attendance.

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

Chair Jostes opened the public hearing at 1:09 P.M.

Mr. Jim Kahan, 3709 Dixon Street, requested clarification on the specific reference to sections of the Municipal Code on the agenda under Section V. B.: "*Review of the decisions of the Staff Hearing Officer in accordance with SBMC §28.92.026,*" in order to research matters pertaining to his agenda item.

The public hearing was closed at 1:11 P.M.

II. STAFF HEARING OFFICER APPEALS:

ACTUAL TIME: 1:12 P.M.

A. APPEAL OF TISHA LEVY, AGENT FOR ALLEN LEVY, OF THE DECISION BY THE STAFF HEARING OFFICER, FOR 625 FLORA VISTA, APN 041-385-003, E-1 ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL 3 UNITS PER ACRE (MST2006-00176)

The 13,750 square foot project site is currently developed with a 1,339 square foot residence and 459 square foot attached garage. The proposed project involves the conversion of the existing garage to habitable space, 144 square feet of first floor addition, and the construction of a new two-car garage. The discretionary application required for this project are Modifications to permit new habitable space within the required front and interior yard setbacks (SBMC §28.15.060). On August 30, 2006 the Staff Hearing Officer reviewed the project and approved the project with the condition that the existing nine-foot (9') front yard encroachment be reduced to two feet (2'). This is an appeal of that action.

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15301 which allows for alterations of existing private structures with additions that do not result in an increase of more than 50% of the existing floor area or 2,500 square feet, whichever is less.

Case Planner: Roxanne Milazzo, Associate Planner

Email: rmilazzo@SantaBarbaraCA.gov

Commissioner Larson stepped down from this item due to proximity.

Roxanne Milazzo, Associate Planner, gave the staff presentation

Ms. Weiss clarified for the Commission the important considerations when she reviewed the proposed project were the pattern of development of the area and adherence to the E-1 Zoning standards. She stated that the Flora Vista neighborhood has been developed with a very uniform pattern of single-story, single-family dwellings; with some variations in parking design. Some homes have the proposed straight pull-in garage design and others have the side-loop garage entry design similar to what presently exists at the proposed project. She stated her main focus of concern was whether there were unique circumstances where the proposed project differed from other lots in the neighborhood. In an attempt to reach a compromise with the applicant, she reviewed the floor plan and other alternatives, and determined that a two foot encroachment into both the front and interior yard setbacks would allow the applicant to remodel and create appropriate additional living space.

Ms. Tisha Levy, Owner, made the appellant's presentation and commented that the two foot encroachment into the front yard setback would not work because, without the requested full length, they would not be able to maintain the existing structure within the building footprint by modifying the infrastructure, and would have to tear it down. She stated that they received ABR approval of the plans, and believes she is setting a good precedent by keeping to a single story, not going outside the existing structure, and by gaining neighborhood support.

Mr. Tom Oscher, Architect, commented that without building into the rear yard and in order to maintain the 30-foot building setback, they decided to reconfigure or recycle the existing garage.

Chair Jostes opened the public hearing at 1:25 P.M.

Mr. Jim Kahan strongly supported the proposed modification and believes the requirements should be waived in this case.

The public hearing was closed at 1:26 P.M.

Commissioners' comments and questions:

1. Recalled similarities to other modifications in which City Council advised the applicant not to do any modifications if the project could be done without one.
2. Commented that the applicant should consider other options for the increase in size of the existing structure or into the rear yard. Supported the side-facing garage that does not back straight out to the street, and the possibility of a second story structure.
3. Does not support tearing down a structure when you could do otherwise, and suggested putting up secondary structure to replace the garage.
4. Commented that there are ample alternative designs for the back yard and garage with an existing driveway that doesn't impact the traffic pattern. Maintenance of the streetscape should be a consideration.
5. Stated that the slope at the rear of the property is not so dramatic that it couldn't be retained and the flat open yard area expanded so there would be no need to approve a modification for a house addition.

6. Commented they do not support conversion of non-conforming non-habitable space to habitable space.
7. Consensus of the Commission to not support the appeal. Other options and alternatives have yet to be explored such as expansion into the rear yard.

Ms. Weiss requested Mr. Vincent to clarify the Commission's option of denial of the modification or denial of the appeal so that it is clear to the applicant.

Mr. Vincent clarified that the Commission should deny the appeal and deny the modification, which would also preclude the minor two foot front setback encroachment proposal by the Staff Hearing Officer's action. Then, the applicant's options would be to either explore other options consistent with the Zoning Ordinance, present another modification request, or appeal the decision to City Council.

MOTION: Mahan/Jacobs

Assigned Resolution No. 044-06

To deny the appeal of the decision made by the Staff Hearing Officer on August 30, 2006, and to deny the modification for encroachment into the front and side yards.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 0 Absent: 1 (Myers).

Commissioner Larson stepped down.

Chair Jostes announced the ten calendar day appeal period.

ACTUAL TIME: 1:42 P.M.

B. APPEAL BY JAMES KAHAN OF A STAFF HEARING OFFICER APPROVAL OF AN APPLICATION OF DAVID TABOR, AGENT FOR ROBERT D. AND DEBORAH D. HART, 3408 & 3412 STATE STREET, APN 053-322-009, C-2/SD-2: COMMERCIAL AND UPPER STATE STREET AREA OVERLAY ZONES, GENERAL PLAN DESIGNATION: GENERAL COMMERCE (MST2004-00704)

The project consists of a proposal to convert an existing two-story, mixed-use building into five condominium units. The existing building consists of 3,436 square feet (net) of office space on the first floor, four (4) two-bedroom apartments on the second floor and eighteen parking spaces. An exception to the physical standard requirements for condominium conversions, to allow only one parking space for each residential unit instead of two, is requested.

The discretionary applications required for this project are:

1. Modification to allow encroachments into the front yard setback along State Street (SBMC§28.45.008);
2. Tentative Subdivision Map for a one-lot subdivision for the conversion of four residential units and one commercial office space into five condominium units (SBMC§27.07); and

3. Condominium Conversion Permit to convert one commercial space and four residential apartments to five condominium units, including an exception to the parking requirements (SBMC§28.88).

On July 19, 2006, a public hearing was held and the Staff Hearing Officer made the required findings and approved the project. This is an appeal of that decision.

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

Case Planner: Kathleen Kennedy, Associate Planner
Email: kkennedy@SantaBarbaraCA.gov

Kathleen Kennedy, Associate Planner, gave the staff presentation, and presented additional documentation in support of the appeal.

Ms. Weiss, Staff hearing Officer (SHO), explained to the Commission the basis for her decision, including that the two-step process is legal and used, and that the SHO has the authority to make decisions on up to 4-unit residential condominium and condominium conversion projects and unlimited commercial condominium conversions. The “two-step” process involves a project going through an approval process limited to design and building permit review without a public hearing involving land use decisions, such as a condominium or modification, and then requesting a condominium conversion at a later time when the building is either still under construction or recently completed. Staff shares the appellant’s concern on whether the two-step process is a good planning process. Recently, the City Council requested that staff explore ways to change the two-step process; however, the Council did not take any immediate action that would send a message to the Commission or to staff to treat these projects differently from what the Code currently provides. Therefore, it is staff’s contention that the SHO review of the project was consistent with current Code. The only condition added during the condominium conversion process that was different from the ABR review was the dedication of additional right-of-way.

Commissioners’ comments and questions:

1. Asked for clarification of the two-step process and why the City is disregarding the standard five-year period of rental unit housing before accepting applications for condominium conversions.
2. Asked why the parking is described as an exception and not a modification, and to explain the difference between them.
3. Asked whether the S-D-2 overlay zone requires development plans as part of the process.
4. Asked about the number of parking spaces previously reviewed.
5. Asked Mr. Vincent about the 10-day appeal process.
6. Asked for clarification of the condominium conversion finding at the end of the last paragraph, Item C “...when the building is in compliance *in all respects* with the Zoning Ordinance”.

7. Stated that it appears that the residential square footage exceeds 50% of the total project square footage, in which case the parking reduction for the residential units in a mixed-use project would not apply.

Ms. Weiss responded that, since the five-year period was amended in 1992, as long as the units meet current condominium standards, staff can process a requested condominium conversion within the first five years following Certificates of Occupancy for the new units.

Ms. Hubbell explained that the condominium conversion process allows less parking by way of an exception, instead of a modification, and because the condo conversion ordinance requires two parking spaces per unit, without regarding to the mixed-use parking reduction, an exception is required.

Ms. Hubbell explained that, there is no development plan approval specific to the S-D-2 zone and, since there is no increase in commercial square footage, no development plan under Measure E is required.

Ms. Kennedy suggested that an earlier version of the plans may have included 21 parking spaces.

Mr. Vincent explained about the appeal process of 10 calendar days, with allowable acceptance of an appeal on an extended day, only if the 10th appeal day falls upon a weekend or holiday.

Mr. Vincent explained about requests for condominium conversion where frequently the application does not comply with strict zoning where you must approve the modification in order to make the findings. Ms. Hubbell clarified and concurred about possibilities of legally non-conforming condominium conversions.

Ms. Weiss stated that the parking should be brought up to Code, but that is not related to the 50% rule regarding making additions to non-conforming buildings. Applicants are allowed to make conforming additions no matter what the percentage to an existing non-conforming building, and as long as any new additional percentage is brought up to Code, than there is conformance.

Mr. Vincent clarified that, separate from the parking requirement, in order to approve the findings for the Tentative Subdivision Map; the project must be found in compliance with the Zoning Ordinance and is the reason for the modification request for the front yard setback in the S-D-2 Overlay Zone.

Ms. Weiss stated that, in order to meet the mixed-use development rule regarding reduced parking requirements, the applicant's options include reducing the size of the residential area or increasing the size of the commercial area, or the applicant may request a modification. The parking exception being requested is a separate issue.

Mr. Jim Kahan, 3709 Dixon Street, requested a break in Commission session.

MOTION: White/Jacobs

To suspend the agenda for discussion on the administrative items.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Myers)

Chair Jostes announced a suspension of the discussion at 2:15 P.M. The discussion resumed at 2:20 P.M.

Mr. Kahan made the appellant's presentation

Mr. David Tabor made the applicant's presentation.

Chair Jostes opened the public hearing at 2:54 PM.

The following members of the public expressed support of the appeal:

Ms. Mickey Flacks, 1603 Garden Street.

Ms. Michael Self, 2636 Tallant Road.

Ms. Naomi Kovacs, 916 Anacapa Street, Executive Director of the Citizen's Planning Association.

Mr. Paul Hernadi, 3720 Hitchcock Ranch Road.

Ms. Cheri Rae McKinney, 610 E. Victoria Street.

Mr. Gil Berry, Yankee Farm Road, supported the appeal, and questioned the noise study results, and purported higher than 62 decibels noise report, and stated he didn't believe there was enough room for a storage unit on the site and the didn't approve of the process of how the application received approval.

Mr. David Landecker, 2101 Mountain Avenue, President of Citizens Planning Committee, supported the appeal, did not support the two-step flip process of apartments to condominium conversion for the neighborhood and the City, and the neglect of appropriate application process and review.

The public hearing was closed at 3:15 P.M.

Additional Commissioners' comments and questions:

1. Asked whether storage has been provided and whether there is enough square footage to comply with the requirements for the condominium conversion. Asked whether the outdoor space needs to adhere to the 60 decibel noise requirement, and commented that this rental project was not an exception, but an overlooked requirement which escaped staff scrutiny.

3. Asked how Mr. Kahan claimed the project had a higher noise decibel than the reported 62.5 decibel level.
4. Asked if storage, to comply with the mixed use requirements, counts as square footage.
5. Asked about percentage of condominium units that are rentals, and requested that such information be available for future deliberation of the Commission.
6. Asked if it would be reasonable for the Commission to request the removal of the 480 square-feet of existing non-conforming construction within the 20 foot setback of the SD2 zone.

Mr. Tabor responded that the 300 cubic feet of storage has not yet been constructed but will be taken care of at the end of the application process along with other items like the paved-over front landscaping area, and that the storage will be located near the parking spaces for the units along the building behind the stairways.

Ms. Hubbell responded that residential development occurs through a variety of permitting processes, with some requiring design and discretionary environmental review, and sometimes additional levels of analysis for discretionary land-use review such as SHO and Planning Commission. The City uses a noise contour map to determine and measure both interior and exterior compliance with noise decibel restrictions. At 60-70 decibels, the ABR staff usually requests a noise study to be consistent with the General Plan.

Mr. Kahan stated that the project could have been designed to preserve the views and address the noise issues, and attempted to review the environmental review analysis of the noise levels, but the records were missing, so he did not have the information to substantiate his conjecture that the noise decibel levels are higher than stated in the Staff Report.

Mr. Kahan stated that he was not given the opportunity to review the Tentative Subdivision Map or environmental review records, requested that the Map state it does not comply with the Zoning, that the storage seems to use up square footage, and that the project should comply with all review requirements.

Ms. Hubbell confirmed that storage space does count as square footage if it extends down to the ground level as it does for the project, but that the staircase would count against square footage availability.

Ms. Hubbell responded that, although there has been an increase over time in the number of residential units built for ownership, including both single-family and condominium units, the actual percentage of renters has remained stable.

Mr. Vincent clarified that, under the City's non-conforming ordinance, the 480 foot existing non-conforming construction would be allowed to stay providing the new construction does not exacerbate existing non-conforming construction. New construction into the S-D-2 setback should never have been approved, but the City is now legally prevented from enforcing the setback requirement since the construction was allowed in conformance by building permits issued by the City in error. He clarified that staff is capable of addressing

the building inconsistencies submitted by Mr. Kahan, but they now should be addressed as code enforcement issues.

Ms. Weiss commented on the possibility of altering existing buildings or structures to be articulated further into the existing setback instead of complete removal of the existing structure as part of making findings for approval of new construction.

Mr. Vincent stated the development does not satisfy the 50% mixed-use parking requirement, and therefore cannot meet the design requirements, and any approval cannot be upheld.

Ms. Hubbell suggested either upholding the appeal and deny the application or deny the appeal and uphold the SHO determination to approve the application.

Commissioners' comments and questions:

1. Requested that the square footage be accurately included in the Staff Report.
2. Stated that there are three possible options; the Commission can uphold the appeal, deny the appeal or tinker with the project. Commented that it would be wrong to deny the appeal and thus reward condo conversions that do not closely follow the City's policies and procedures.
3. Stated that the storage should be shown; that the design is not pedestrian friendly and the applicant should study the possibility of one curb cut instead of two, the pedestrian connection to the street should be improved, and the building should be back 10 feet; there should be no modifications; and the plat height of the first floor is high and something should be done to reduce the apparent height.
4. Commented that could not make the findings that the proposed project is consistent with zoning for S-D-2 and will therefore uphold the appeal.
5. Commented believes that this was passed through under the two-step process and that all issues of such noise, storage, and building plans should be resolved, and would support and uphold the appeal.
6. Stated support for the appeal, but defended the "two-step" process due to the cost of condominium construction insurance, especially for small projects and small-time developers. However, it needs to be a transparent process, where it is clear from the beginning that the units will become condos, which was not the case for this project. Noted that many condos are rented and they pay good taxes. Asked, given the cost of construction, if building rentals makes any sense?
7. Commented understands the difficulties of the proposed project with legal non-conforming into the SD2 setback, but project lacks adequate landscaping and pedestrian amenities, does not work as a condominium conversion to provide enough parking or safe storage, the noise issue is not addressed, the stairs and elevators were not allotted enough space so the rooms violate 50% mixed-use rule, and the emerging vision of S-D-2 uptown development has not been honored, therefore, cannot support a continuance and supports the appeal.
8. Commented cannot make the finding for general plan consistency to satisfy noise level requirements, lacks a pedestrian-friendly feel from the street, and therefore supports the appeal.

9. Requested a delineation of two motions to provide clarity with one motion to deny the setback modification and the reasons the Commission cannot make the findings due to the explanation given for SD2 overlay and illegal construction within that zone, and then make a second motion regarding the condominium conversion.

Mr. Vincent requested that decisions by the Commission reflect the link between the discussion and the findings regarding the modification and the separate reasons the Commission cannot make the findings for the condominium conversion and subdivision map.

Mr. Tabor commented that he believed there was a disservice done in the presentation of last minute information as if it were factual without giving him the opportunity to respond to this information to the Commission.

MOTION: Jacobs/Thompson

To uphold the appeal, deny the project and deny the request for modification with the Commission unable to make the findings in support of the condominium conversion as the provisions of the Condominium Conversion Ordinance have not been met.

AMENDED MOTION: Jacobs/Thompson

Assigned Resolution No. 045-06

To uphold the appeal and deny the front yard setback modification as the findings cannot be made in relation to the vision of the S-D-2 zone and the broader vision for an uptown design standard and that the Commission cannot make the finding that it is necessary to secure an appropriate improvement on the lot, promote uniformity of improvement or prevent unreasonable hardship.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Myers)

Chair Jostes announced the ten calendar day appeal period.

MOTION 2: Jacobs/Mahan

Assigned Resolution No. 045-06

To uphold the appeal and deny the Tentative Subdivision Map And Condominium Conversion Permit with the Commission unable to find that all provisions of the Condominium Conversion Ordinance have been met per SBMC§28.88.120, and unable to find consistency with the Noise Element of the City's General Plan, with inadequate parking and storage safety issues still to be addressed, the 50% mixed-use development rule is not being met as it relates to parking, the square footages of the stairs and elevator areas are not accounted for in the plans, and the unresolved noise issue on the State Street balconies continue to be a concern.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Myers)

Chair Jostes announced the ten calendar day appeal period.

Chair Jostes announced a break at 4:07 P.M. The meeting reconvened at 4:27 P.M.

III. NEW ITEMS:

A. THE FOLLOWING ITEM HAS BEEN CONTINUED TO THE NOVEMBER 9, 2006 MEETING.

APPLICATION OF KEVIN DUMAIN OF DESIGNARC, ARCHITECT FOR MARCELA CACERES, 1617 & 1621 ANACAPA STREET, APN 027-182-008 & -009, R-3/R-O, LIMITED MULTIPLE FAMILY RESIDENCE AND RESTRICTED OFFICE ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL, TWELVE UNITS/ACRE (MST2005-00409) CONTINUED TO NOVEMBER 9, 2006

The project consists of a proposal to merge two existing lots and expand the existing 1,334 square foot Bright Start day care center currently located at 1617 Anacapa St. Enrollment would increase from 27 to 60 children. The existing 1,245 square foot apartment located on the first floor of 1621 Anacapa Street would be remodeled to accommodate the expanded day care center and the two second floor apartments would remain. The two required residential parking spaces would be provided onsite. Seven of the eleven parking spaces required for the day care center would be provided through an off-site parking agreement with First Church of Christ, Scientist. Four on street parking spaces along the frontage of the site would be green striped to provide for the loading and unloading of passengers. A new six foot high acoustical sound fence is proposed along the perimeter of the site.

The discretionary applications required for this project are:

4. Modification to allow encroachments into the required setbacks (SBMC§28.21.085);
5. Modification to allow a parking space to encroach into the required front yard setback (SBMC§28.90.001.9);
6. Modification to allow less than the required number of commercial parking spaces (SBMC§28.90.100.J.18.a);
7. Conditional Use Permit to allow the expansion of the existing day care center (SBMC§28.94.030.G); and
8. Development Plan Approval for 1,245 square feet (net) of new nonresidential square footage (SBMC§28.87.300).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15303 (conversion of small structures).

Case Planner: Kathleen Kennedy, Associate Planner

Email: kkennedy@SantaBarbaraCA.gov

ACTUAL TIME: 4:27 P.M.

B. APPLICATION OF MARK EDWARDS, PROPERTY OWNER, 124 LOS AGUAJES AVENUE, APN 041-343-010, R-4 HOTEL-MOTEL MULTIPLE RESIDENCE AND SD-3 COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: HOTEL AND RESIDENTIAL (MST2004-00725)

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

The discretionary applications required for this project are:

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

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

Case Planner: Chelsey Swanson, Assistant Planner
Email: cswanson@SantaBarbaraCA.gov

Chelsey Swanson, Assistant Planner, gave the staff presentation, and mentioned that she received two letters in support of the project from Thomaso Falzone, and Rich Untermann, and one letter from Marylou and Susan Sherwin who expressed some concerns regarding the interior yard setback encroachment effects on their property.

Mr. Peter Ehlen gave a presentation with additional information for the Commission on the proposed project.

Mr. Lawrence Hunt, Biological Consultant, commented on the observations and conclusions regarding any project-related biological impacts.

Commissioners' comments and questions:

1. Requested clarification on Page 5 of the Staff Report regarding the setback modification, and that the third-floor requirement measured as half or less of the total square area of the first-floor requirements. Asked how the third floor setback is established.
2. Asked about the height of the highest structure.

Ms. Hubbell responded that the ordinance stipulates comparison to the first floor instead of the third floor.

Ms. Swanson clarified that the third floor setbacks depend on the floor area of the third floor in comparison to the first floor; however, the Zoning Ordinance will likely be amended to use the building footprint instead of the first floor area. Ms. Hubbell clarified that the project has requested modifications for the encroachments.

Mr. Ehlen responded that the proposed building will be 31.5 feet at its highest point.

Chair Jostes opened the public hearing at 5:03 P.M.

Mr. Robert Maxim, 123 W. Yanonali, expressed concern regarding the project's size and bulk, the third-story height visibility, the type of materials used on the project, the setback encroachment on all four sides of the property, the noise levels, and the compatibility of the structure to the neighborhood.

Mr. Terry Nunn, 205 Los Aguajes, commented on the incompatibility of the proposed design with regard to the setback and neighborhood, and that the project would set a precedent to allow a boxy building on a street with unique small Spanish style homes.

Mr. Merced Villegas, 119 Los Aguajes #B, commented on the overused and impacted parking situation of the neighborhood, and that the building would not belong in the neighborhood.

Ms. Marlene Bulfone, 119 Los Aguajes, commented on the size of the proposed structure as being too big, tall, and not compatible with the neighborhood.

The public hearing was closed at 5:13 P.M.

Commissioners' comments and questions:

1. Stated support for something similar to what exists and has difficulty with the setbacks as presented, and had difficulty supporting the modifications and creek setback encroachment.
2. Approves of the contemporary design and style of the architecture working well with the beach area, but the noise and creek setback requirement present problems. The creek setback is a burden to the property; however, the Commission has not previously allowed buildings to encroach into the creek setback. It may be possible to relax setback requirements on other points of the project as long as the creek

- setback is protected. The height of the project is too high and pushing the envelope at 31 feet and the garage should come down two feet with a one-foot reduction in ceiling height.
3. Approves of the style of architecture and didn't have a problem with the encroachment into the creek setback, but couldn't support the front yard modification as proposed, and had noise, health, and safety concerns.
 4. Requested staff comments on the noise study.
 5. Supports the 60 decibel noise level being honored, found difficulty with the encroachment into creek setback, and found difficulty in seeing a positive pedestrian experience with the size and scale.
 6. Found the design acceptable as an alternative to a Spanish design, but thought the building too inflated in bulk and scale, that the street façade presents a back-side and blank appearance, and the rear 25 foot creek setback encroachment is not supportable and would support a continuance.
 7. Stated the number of requested modifications is unsupportable; the project is incompatible with the General Plan and the LCP policies; cannot make the tentative map findings; the bulk and mass are too large, and would prefer a possible softening of the project to a smaller design with two units instead of three units, and wants to see a visual buffer and visual connections to other parcels along the creek.
 8. Asked for feedback from the applicant on a decision by the Commission.
 9. Asked for clarification from staff whether the applicant complied with the noise ordinance requirement or not.
 10. Commented that the contention seems to be the application of inconsistent decibel requirements in required and not required outdoor areas.
 11. Found the noise requirement acceptable as presented, suggested green materials be used, and asks for more compatible street façade design for the neighborhood.
 12. Agreed that required and not required outdoor areas should comply with the same noise standards.
 13. Would support the design, more concerned with setback, and should adhere to setback as much as possible adjacent to the creek, and concerned more with modification issue.
 14. Asked about elements of the project that the ABR still wanted to see addressed.

Ms. Hubbell explained the noise decibel requirement issue.

Mr. Ehlen commented on the constraints of the site and recognized that the request for the creek setback is visually based and not biologically based; he would also comply with requirement to adjustment of the height of the structure down to 8.6 foot ceilings; and he needs clear direction to comply with the noise ordinance and including input from the Commission on possibility of decks; and the rear yard setback can be adjusted.

Ms. Hubbell responded that the required outdoor living areas meet the 60 decibels with the incorporation of glass walls, but that the additional outdoor areas are easily utilized yet problematic as they exceed 70 decibels; therefore, it is difficult to make General Plan consistency findings.

Mr. Vincent commented that the Noise Element language has set standards for unacceptable levels and clarified that if the project does not have acceptable levels, the Commission reviews the entire project to determine if it is consistent with Noise Element requirements.

Ms. Hubbell requested direction from the Commission on the creek setback issue.

MOTION: Mahan/White

Continued indefinitely for restudy of design, to respect the 25 foot creek setback; reduce ceilings heights by 1 foot; lower the building 3 feet as discussed; reconsider other setback requests; and the proposed project shall soften the street façade and return with green building techniques, and meet the General Plan noise requirements.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Myers)

Chair Jostes announced the ten calendar day appeal period.

IV. ADMINISTRATIVE AGENDA

A. Committee and Liaison Reports.

Commissioner Mahan reported that the Airport Terminal Design Subcommittee reviewed a proposal to move the historic existing terminal building to a more compatible location, and design a new Spanish approach with more discussion pending on the rotunda. The pavilion was introduced, and there will be discussion on the greening of the building with glazing of windows, etc., change of orientation of the terminal building, and discussion of the constrained building in the TSA safety zone, parking issues, the roundabout entrance, and other limitations that the project faces.

B. Review of the decisions of the Staff Hearing Officer in accordance with SBMC §28.92.080.

Commissioner Thompson questioned staff regarding the City's policy and requirements on project records retention and destruction. Ms. Hubbell stated that once the building and project has been constructed through design review, environmental reviews, etc., records can be destroyed unless otherwise requested, and unfortunately the one mentioned record retention request to keep the project records was somehow missed.

C. Action on the review and consideration of the following Draft Minutes and Resolutions:

1. Draft Minutes of October 5, 2006
2. Resolution 040-06
Airline Terminal Improvement Project – Recommendation to City Council.

MOTION: White/Jacobs

Approved the minutes and resolutions as corrected.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Myers)

V. ADJOURNMENT

MOTION: Mahan/Jacobs

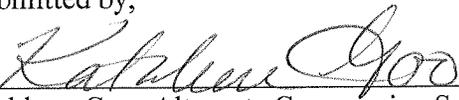
Adjourn the meeting.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Myers)

Chair Jostes adjourned the meeting at 6:07 P.M.

Submitted by,



Kathleen Goo, Alternate Commission Secretary