



City of Santa Barbara
Planning Division

Memorandum

DATE: April 12, 2007

TO: Planning Commission

FROM: Jan Hubbell, AICP, Senior Planner
Jo Anne La Conte, Assistant Planner *JAL*

SUBJECT: 128-138 E. Canon Perdido Street & 825-833 Santa Barbara Street (MST2003-00243)

BACKGROUND:

On December 14, 2006, the applicant submitted a letter to the City appealing the denial of the Staff Hearing Officer of the modification of the parking requirements to allow no parking for the existing residences and no parking for the proposed conversion of the garages to new nonresidential storage areas, residential storage and a laundry room.

This project was heard before the Planning Commission on February 15, 2007 and was continued to April 19, 2007, with direction that the applicant and staff consider providing some type of monetary contribution to address the elimination of all the required parking (15 residential and 3 commercial parking spaces) at the site or to provide some other off-site parking. At the Planning Commission meeting, staff was asked what the cost would be to provide parking in one of the City's nearby parking structures. Transportation staff advised that the cost for a parking space in one of the City's parking garages would be approximately \$125.00 per month.

Staff met with the applicant to discuss the question of monetary compensation and to discuss other parking scenarios that the applicant had explored to try to provide some of the parking on-site.

MONETARY COMPENSATION ISSUES:

Staff has the following concerns and questions if a monetary contribution is provided in lieu of the parking:

1. From a legal perspective, it would set a precedent and open the flood gates for other applicants and other compensation for modifications.
2. What exactly would the applicant be paying for? Would it be to obtain a parking space in a City parking lot or for something else and if so, what would that be?
3. How much money would the applicant actually have to pay? Would the money be paid on a monthly basis or would it be a lump sum fee?

During the applicant's meeting with staff, monetary compensation was discussed and the applicant seemed amenable to providing a one-time lump sum fee of \$64,286.00 to the Metropolitan Transit District (MTD) to

offset the parking impacts. This could offset the commercial parking modification for three spaces. It would provide, at a standard investment interest rate, funds to offset \$375/month for those spaces that would otherwise be provided in public parking lots. This lump sum would contribute to improving transit service in the Downtown.

ON- AND OFF-SITE PARKING ALTERNATIVES:

The applicant advised staff that they had explored different alternatives to provide some parking on-site, including removal of the one-story garage structure at the back of the property. By removing the one-story garage structure, the distance from the property line to the two-story garage structure would be approximately 45 feet in width and 54 feet in length. However, that scenario would only provide a limited amount of parking spaces (no more than five spaces since the spaces would need to be wide enough to allow a turn in a narrow drive aisle) and would not eliminate the circulation and visibility issues at both exits from the site. Even with the relocation of the trash enclosure, there would not be enough room to meet current parking turn-around radius requirements and there would still be a sight visibility issue at either Canon Perdido or Santa Barbara Street driveways to enter and exit the property. Santa Barbara Municipal Code (SBMC) Section 28.90.001.11 states that each entrance and exit to a parking lot shall be constructed and maintained so that a pedestrian within 10 feet of the driveway is visible to the driver when the vehicle is stopped at the property line. Transportation staff confirmed that they would not support a modification request to eliminate the 10-foot visibility requirement. The other alternative would then be to remove a portion of the potentially historic building, which is also unacceptable.

There was also a discussion of whether it would be possible to negotiate a reciprocal parking agreement at any of the private parking lots in the area. The lot immediately south of the project site is owned by the Santa Barbara Trust for Historic Preservation (Trust). This lot is not available for parking because of the agreement with the prior owner of the parcel which requires that the Trust lease the parking back to the prior owner until such time as the Trust reconstructs a portion of the Presidio on the parcel. At that time, the Trust is obligated to replace that parking for the prior owner elsewhere. The Trust also owns property across Santa Barbara Street that is presently in use as parking, leased by the Trust to anyone who wishes to lease parking spaces. Again, this parking will only remain until the Trust is ready to reconstruct another portion of the Presidio. Reciprocal parking agreements are required to be in perpetuity in order to assure that the required parking is provided for the life of the project that needs the parking. Neither of the Trust-owned sites would meet this requirement. There are other private parking lots in the area, such as the News-Press parking lot on the easterly side of Anacapa Street, but they do not appear to be available for a reciprocal parking agreement.

STAFF RECOMMENDATION:

Staff does not recommend providing a monetary contribution in lieu of providing parking on site for the reasons listed above. However, if a monetary contribution is requested, staff recommends that the applicant provide a one-time lump sum fee of \$64,286.00 to MTD.

Staff recommends that the Planning Commission uphold the appeal of the Staff Hearing Officer's denial of the project, thus approving the project, making the findings outlined in the attached Staff Report and subject to the conditions of approval contained in Exhibit A of that staff report.

Exhibits:

- A. Staff Report for 128-138 E. Canon Perdido St. dated February 15, 2007
- B. Planning Commission Minutes, dated February 15, 2007



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: February 8, 2007
AGENDA DATE: February 15, 2007
PROJECT ADDRESS: 128-138 East Canon Perdido Street and 825-833 Santa Barbara Street
(MST2003-00243)
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
Jan Hubbell, AICP, Senior Planner
Jo Anne La Conte, Assistant Planner

I. PROJECT DESCRIPTION

On December 6, 2006, the Staff Hearing Officer (SHO) approved a Lot Area Modification to restore the property back to its non-conforming residential density of 15 units and denied the following requests:

1. A modification of the residential parking requirements to allow no parking spaces instead of the required number of parking spaces for the existing and proposed residences and of the nonresidential parking requirements to allow no parking spaces instead of the required number of parking spaces for the conversion of the residential garages to nonresidential storage spaces and a laundry room at an existing mixed-use development.
2. A modification of floor area regulations to allow the two new residential units to have less than 400 square feet of usable floor area
3. A modification of private outdoor living space regulations to allow one of the new residential units to have no private outdoor living space instead of the required 72 square feet of private outdoor living space
4. A modification of private outdoor living space regulations to allow one of the residential units to have private outdoor living space that does not meet the required six foot minimum dimension; and
5. Development Plan approval for 1,434 square feet of new non-residential floor area, converted from existing residential garage space.

On December 14, 2006, the appellant submitted a letter (see Exhibit B) to the City appealing the denial of the modification request of the parking requirements to allow no parking for the existing residences and no parking for the proposed conversion of the garages to new nonresidential storage areas, residential storage and a laundry room. However, the applicant is no longer pursuing the request to

EXHIBIT A

legalize the two "as-built" residential units and therefore the modification requests outlined above in numbers 2, 3, and 4 are no longer required.

On January 23, 2007, revised plans were submitted by the applicant that include converting approximately 85 square feet of an existing residential garage to moped/motorcycle parking and the construction of a new wall and gate to eliminate vehicle access to the site from Santa Barbara Street. Development Plan approval is required for 1,434 square feet of new non-residential floor area converted from the existing residential garage spaces and a lot area modification is required to allow a new laundry room and new residential storage for a property that is non-conforming to residential density. The appeal letter states that the parking modification should be supported to allow this site to provide no parking, as the parking lot has not been used for access or parking for over 30 years and that utilizing the antiquated parking/access on this property would constitute a risk to public health and safety given the limited space in the parking area.

II. RECOMMENDATION

That the Planning Commission uphold the appeal of Pueblo Viejo Properties, and overturn the Staff Hearing Officer's denial of the Modification to allow no parking spaces and to allow Development Plan Approval for 1,434 square feet of new non-residential floor area converted from the existing residential garages. In addition, staff recommends approval of a Lot Area Modification to convert a portion of a residential garage area to a residential laundry room and for new residential storages areas at the property, as it is legal non-conforming to residential density.

III. BACKGROUND:

A. PROJECT HISTORY

The site is currently developed with a mixed-use project consisting of three two-story buildings and a one-story building, on a 19,425 square foot parcel located in the C-2, Commercial zoning district. Building A consists of five businesses on the first floor with six residences above. Building B consists of three businesses below with four residences above. Building C consists of seven residential parking garages and two residential storage areas below with five residences above. Building D consists of eight residential parking garages. The property is legal non-conforming to density with 15 residential dwelling units.

This proposal is in response to enforcement action to abate zoning violations for the conversion of the existing residential parking garages to commercial storage for the businesses on-site. During the Planning review process, it was discovered that two "as-built" residential units had been established within the existing building footprint of Building A and that one of the residential parking garages had been converted to commercial storage space and a laundry room.

The original application included a request for two "as-built" residential units (Building A) which required a floor area modification and private outdoor living space modifications. On December 19, 2006, the property owners applied for a building permit to remove the two "as-built" residential units and return the property to its legal nonconforming status with 15 residential dwelling units. Therefore, the applicant will not be pursuing the request for the two "as-built" residential units and the associated modifications. In addition, the removal of the

two "as-built" units from the project changes the required number of parking spaces to 15 parking spaces for the 15 residential units and 3 parking spaces for the proposed new non-residential square footage for a total of 18 required parking spaces (covered or uncovered). Due to the revised proposal, the original Conditions of Approval have been changed (see Exhibit A).

B. DESIGN REVIEW

Historic Landmarks Commission (HLC) review and approval is required for the exterior changes to the garage doors and for the new proposal to construct a new wall and gate at the property line between the two buildings with frontage along Santa Barbara Street. The project was reviewed by the Historic Landmarks Commission (HLC) on one occasion for the exterior changes to the garage doors only (meeting minutes are attached as Exhibit D). On February 8, 2006, the HLC stated that the garage doors with windows are unacceptable as proposed. The project must return to the HLC for review and approval of any exterior changes to property.

C. CORRESPONDENCE FROM THE PUBLIC

A letter to the Staff Hearing Officer, dated December 6, 2006, from Sheila Lodge, Chair of the Citizens Planning Association South Coast Land Use Committee (see Exhibit F), expressed concerns regarding the modification to eliminate all of the existing residential parking and states that they believe that at least two of the 15 one-car garages should be retained for use by the residents of the residential units for parking bicycles, mopeds, motorcycles, etc. or any other kind of innovative small transportation vehicles that may come along in the future.

The applicant has submitted revised plans that include converting approximately 85 square feet of an existing residential garage space to moped/motorcycle parking.

Also, Jarrell Jackman, Executive Director of the Santa Barbara Trust for Historic Preservation spoke at the hearing and expressed concern as to the relief being provided for the required parking (see Exhibit D).

A. STAFF HEARING OFFICER HEARING AND DECISION

The SHO expressed concern with the complete elimination of the parking at the property. At the SHO meeting, the applicant confirmed that some residential tenants at the property do own vehicles and park those vehicles on the surrounding streets, using Residential Parking Program permits. Staff has included a condition of approval for the project that will not allow future residents to obtain parking permits for street parking from the City.

In addition, the SHO asked several questions of the applicant regarding different parking lot layouts, such as demolishing the stand alone garage structure in favor of maneuvering space or providing uncovered parking so that some parking could be provided. The applicant informed the SHO that they had considered other options but that none of the designs worked. The SHO indicated some level of support for the parking modification but could not support the project as proposed.

IV. ISSUES

B. PUBLIC HEALTH AND SAFETY

The appeal letter submitted by the applicant states that using the antiquated parking and access on this property would constitute a risk to public health and safety given the limited space in the parking area. Staff has reviewed the site plan for the property to address these concerns and has provided information outlined below regarding access to and from the site and measurements to quantify the parking area provided for vehicular and pedestrian circulation.

There are two driveways that provide access to the property; one at the Canon Perdido Street frontage, and one at the Santa Barbara Street frontage. The driveway access along Canon Perdido Street is approximately 11 feet wide and runs along the side of the building to the trash enclosure area. The area between the trash enclosure and the above-ground gas meters is approximately 6 ½ feet wide. The 6 ½ foot wide dimension between the trash enclosure and the gas meters does not leave enough room to navigate a four-wheel vehicle to access the parking garages. This makes the Canon Perdido Street driveway virtually unusable for vehicles to enter or exit the residential parking garages. That leaves the Santa Barbara Street frontage as the only entrance and exit to the 15 residential parking garages.

The driveway access along Santa Barbara Street is approximately 19 feet 7 inches wide for the first 20 feet of driveway length, then it narrows to approximately 16 feet in width, then at 30 feet in from the street it narrows to approximately 11 ½ feet in width. At 42 feet from the street, the driveway narrows to approximately 8 1/2 feet in width and at 52 feet from the street, it narrows to approximately 8 feet in width, and varies between 8 feet 11 inches in width to 11 feet 1 inch in width from there to the area between the parking garages. In order to access the parking garages, vehicles would need to navigate these varying widths of driveway between the buildings before turning left to access the parking garages.

The area between the parking garages (Buildings C and D) is approximately 26 ½ feet in width when measured from building wall to building wall and the distance from the northerly end of the garage structures to the southerly property line is approximately 76 feet 10 inches in length. Existing garage door openings for Buildings C and D are approximately 8 feet in width.

Santa Barbara Municipal Code (SBMC) Section 28.90.001.7.a requires that when such a parking area contains less than 25 parking spaces, driveway access shall be not less than ten feet in width plus a minimum of three feet in width of planting strip abutting any main building on the same lot or served by such driveway. In addition, SBMC Section 28.90.045 (see Exhibit F) requires that all turnaround movements shall be accomplished in one maneuver. One maneuver is considered to be one back up and one forward movement.

Transportation staff is primarily concerned with vehicles accessing the garages via the narrow driveway from Santa Barbara Street. The driveway does not provide the standard sight distances at the sidewalk and will likely create an unsafe pedestrian/motorist conflict. Therefore, staff believes that using the parking garages on this property would constitute a risk to public health and safety, given the narrowness of the access driveway at Santa Barbara Street. The current driveway is sometimes used by small trucks for loading and unloading,

making access to the parking infeasible. Additionally, these trucks often stick out into the public sidewalk, blocking pedestrian use of the sidewalk. This condition is also undesirable. Closing this driveway altogether would result in improved safety over the current situation.

B. LOT AREA MODIFICATION (SBMC §28.21.080)

The property is legal non-conforming to residential density. SBMC Section 28.87.030.E.1 (Properties with Nonconforming Residential Density) does not allow for improvements or alterations that increase floor area (including all accessory buildings except for garages and carports), or that increase the amount of habitable space. Therefore, a lot area modification is required to allow the "as-built" laundry area to remain and to convert some of the residential garages to residential storage.

C. PARKING MODIFICATION (SBMC §28.90)

If the garages were returned to their allowed use, the property would be legally non-conforming to current parking regulations with 15 one-car residential garages and no parking for the nonresidential uses on site. The property is located within the Central Business District (CBD), which has a non-residential parking requirement of one space per 500 square feet of floor area. The residential parking requirement for a mixed-use development in the CBD is one uncovered space per residential unit, with no guest parking requirement. Thus, the Zoning Ordinance requires three parking spaces for the conversion of the residential garages to 1,434 square feet of commercial storage ($1434/500 = 2.8$ spaces, rounded = 3 spaces) and 15 spaces for the existing 15 residential units for a total of 18 uncovered parking spaces.

The applicant is requesting a modification to not provide any parking instead of the required 18 parking spaces. The applicant's letter dated December 14, 2006 (see Exhibit B) states that the parking garages on the site have not been used for parking for over thirty years. Their justification for allowing a full parking modification is that the site has been functioning well for thirty years with the elimination of the required parking as each residential unit receives a parking permit from the City for street parking and that the commercial businesses mainly cater to pedestrian business. Also, the letter states that the vehicular access to the garages is not safe as vehicles need to back out of the driveway and into on-coming traffic on Santa Barbara Street to exit the driveway, that there is no turning radius ability between the two parking garage structures, that the garages are too small for most cars to use, that a modification of the structures on site to allow larger garages is not possible and that it would worsen the current vehicular circulation at the property. Although the garages are legal non-conforming to size and do not meet the current minimum size requirement of 10 feet x 20 feet and the access is difficult, they are still capable of being functioning garages for smaller vehicles.

The City's Transportation Planner has indicated support for the parking modification, based on the following:

1. The long term practice of not providing any on-site parking for the residents or the businesses.

2. The impacts of the modification have already been experienced by the public and the Transportation Division has not received any complaints from the tenants or other parties regarding problems with inaccessible on-site parking.
3. The functions of the property and retail business on the street have operated well for a long period of time with the current situation.
4. Requiring the re-establishment of the parking on the site would result in compromised pedestrian circulation because of increased vehicles access to and from the site.
5. The proposed fill-in curb cut will remove the driveway access on Santa Barbara Street and will subsequently eliminate the delivery vehicles servicing the business from entering the driveway and backing out onto Santa Barbara Street, making the current situation safer for pedestrian and vehicular traffic.

Staff has also included a condition of approval that prohibits future tenants from receiving a Residential Parking Permit to park on the street. The intent of this condition is to encourage future residents who move in to either forgo vehicle ownership (preferable) or have an off-street parking space Downtown in which to park their vehicle. Existing tenants will be able to maintain their permits until they move out of the property.

D. DEVELOPMENT PLAN APPROVAL:

SBMC Section 28.87.300 requires Development plan approval for new nonresidential square footage. The project includes the conversion of approximately 1,434 square feet of residential garages to commercial storage. Pursuant to the provisions of the SBMC, the project would be allocated a total of 1,434 square feet of Measure E nonresidential square footage from the Minor Addition category.

V. ENVIRONMENTAL REVIEW

Historic Evaluation: The building is located within El Pueblo Viejo Landmark District and the Demolition Review Study Area and the structure is greater than 50 years of age. Any significant alteration to the exterior facades fronting Santa Barbara and East Canon Perdido Streets requires that a Historic Structures Report be prepared in accordance with the City's Master Environmental Assessment. Originally, the applicant stated that the only exterior alterations would be to the garage doors located in the interior courtyard. However, the applicant is now proposing the construction of a new wall and gate on the Santa Barbara Street frontage side of the property. The City Urban Historian has indicated that, given the nature of the added wall, which can be removed at any time in the future, there would be no significant historic impact.

Staff has determined that the project qualifies for an exemption from further environmental review under Section 15301 (existing facilities) of the California Environmental Quality Act (CEQA), as long as the proposed wall and gate are compatible in material and design to the existing buildings at the property and if it is a reversible change (e.g. it can be removed)

VI. FINDINGS:

A. MODIFICATION OF PARKING REGULATIONS (SBMC §28.92.110)

The parking modification is necessary to secure appropriate improvements on the lot and is consistent with the purposes and intent of the Zoning Ordinance. The modification is required to allow for the continued operations of the established businesses on the site and to eliminate unsafe driving conditions within the complex and on the adjacent streets. With the inclusion of a condition that prohibits future residential tenants from receiving a Residential Parking Program permit, the project will not result in increased impacts on on-street parking in the area.

B. LOT AREA MODIFICATION (SBMC §28.92.110)

The lot area modification is necessary to secure appropriate improvements on the lot and is consistent with the purposes and intent of the Zoning Ordinance. The modification is required to allow the continued use of the laundry area for the residents and to provide storage areas and moped/motorcycle parking for the residences.

C. DEVELOPMENT PLAN APPROVAL (SBMC Section 28.87.300)

1. The proposed development complies with all provisions of this Title because a modification of the required parking requirements has been approved and the proposed development complies with all of the provisions of this Title due to the approval of the parking modification request.
2. The proposed development is consistent with the principles of sound community planning because the mixed-use development is existing, and is compatible with the surrounding mixture of residential and commercial development.
3. The proposed development will not have a significant adverse impact upon the neighborhood's aesthetics/character in that the size bulk and scale is not proposed to change and it is compatible with the neighborhood;
4. The proposed development will not have a significant unmitigated adverse impact upon City and South Coast affordable housing stock since the proposal is not eliminating any legally existing residential units.
5. The proposed development will not have a significant unmitigated adverse impact on the City's water resources because the use of the area for commercial and residential storage would not create a significant water demand impact on the City's water supply.
6. The proposed development will not have a significant unmitigated adverse impact on the City's traffic because the elimination of the required parking has existed for over 30 years and continuing the practice will not increase the traffic in the area;
7. Traffic improvements will not be necessary for the proposed project.

Planning Commission Staff Report

128-138 E. Canon Perdido St. & 825-833 Santa Barbara St. (MST2003-00234)

February 1, 2007

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Exhibits:

- A. Revised Conditions of Approval
- B. Appeal Letter dated December 14, 2006
- C. Staff Hearing Officer Staff Report dated November 30, 2006
- D. Staff Hearing Officer Hearing Final Resolution and Minutes
- E. Historic Landmarks Commission (HLC) Minutes
- F. Letter to Staff Hearing Officer dated December 6, 2006
- G. SBMC Section 28.90.045

PLANNING COMMISSION CONDITIONS OF APPROVAL

128-138 E. CANON PERDIDO STREET & 825-833 SANTA BARBARA STREET
PARKING MODIFICATION AND DEVELOPMENT PLAN APPROVAL
FEBRUARY 15, 2007

In consideration of the project approval granted by the Planning Commission and for the benefit of the owners and occupants of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession and enjoyment of the Real Property:

- A. **Recorded Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the following conditions shall be imposed on the use, possession and enjoyment of the Real Property, shall be executed by the Owner in a written instrument which shall be reviewed and approved as to form and content by the City Attorney and recorded by the City. Said agreement(s) shall be recorded in the Office of the County Recorder:
1. **Public Improvement Agreement [Not a Subdivision].** "Agreement for Land Development Improvements", and associated Securities for performance and maintenance improvements to the public right of way.
 2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate. The Owner is responsible for the adequacy of any project related drainage facilities and for the continued maintenance thereof in a manner which will preclude any hazard of life, health or damage to the Real Property or any adjoining property.
 3. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats or trailers shall be stored on the Real Property.
 4. **Approved Development.** The development of the Real Property approved by the Planning Commission on February 15, 2007 is limited to 1,434 square feet of new nonresidential square footage, 15 dwelling units and the improvements shown on the Development Plan signed by the Planning Commission on said date and on file at the City of Santa Barbara.
 5. **Commercial Storage for Food Establishments.** The conversion of any of the garages to commercial storage for food establishments at the property shall comply with all County Environmental Health regulations. Permits and written approval shall be obtained from County Health Environmental Health Services prior to utilizing these areas for such storage.
 6. **Commercial Storage for On-site Businesses Only.** The conversion of the residential garages to commercial storage shall be limited to use by the occupants of the commercial businesses at the property and the commercial storage shall not be allowed for businesses that are located off-site.

EXHIBIT A

7. **Residential Storage for On-site Residents Only.** The conversion of the residential garages to residential storage shall be limited to use by the residents of the residential units on site.
 8. **Laundry Facility for On-site Residents Only.** The conversion of a portion of a garage to a laundry area shall be limited to use by the residential units on site and shall not be used for commercial purposes.
 9. **No Residential Parking Permits Allowed for Future Residents.** Future residents, who are not tenants at the time of project approval, are not eligible to obtain residential parking permits for on-street parking from the City.
 10. **Residential Moped/Motorcycle Parking for On-site Residents Only.** The conversion of a portion of an existing residential garage area to moped/motorcycle parking shall be limited to use by the residents of the residential units on site.
- B. **Prior to Building Permit** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property:
1. **Water Rights Assignment:** "Agreement Assigning Water Extraction Rights". Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property. This assignment of rights does not include a right of surface entry on or from the Real Property.
 2. **Public Improvement Securities.** The Owner shall provide an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the "Agreement to Construct and Install Improvements (Not a Subdivision)".
 3. **Drainage Call-Outs.** Plans shall reflect grades graphically with callouts, so drainage patterns to the right-of-way can be established.
 4. **Violations Corrected.** All outstanding violations shall be corrected as part of the building permit and shall be included in the scope of work for the project.
- C. **Design Review.** The following is subject to the review and approval of the Historic Landmarks Commission (HLC):
1. **Exterior Changes.** Any exterior changes to the property are subject to the review and approval by the HLC:
 2. **Restoration to Original Appearance.** All exterior changes made to accommodate the creation of the two "as-built" residential units shall be restored to their original approval and shall match the original construction plans.
 3. **Proposed Gate.** If the proposed gate is approved by the HLC, the gate shall open inward and shall not obstruct the public right-of-way.
- D. **Public Works Submittal prior to Permits.** The Owner shall submit the following or evidence of completion of the following to the Public Works Department prior to the recordation of the Parcel Map and prior to the issuance of a Building permit or Public Works permit.

1. **Street Improvement Plans.** The Owner shall submit building plans for construction of improvements along the subject property road frontage on Canon Perdido and Santa Barbara Streets. As determined by the Public Works Department, the improvements shall include new, and/or remove and replace to City standards: sidewalk where damaged, backflow device, driveway apron modified to meet Title 24 requirements, relocate any utilities necessary for driveway improvements, install on-site pollution prevention interceptor device, install street trees grates, and provide adequate positive drainage from site. Building plans shall be prepared by a registered civil engineer or licensed architect and reviewed and signed by the City Engineer.
2. **Storm Water Pollution Control Systems Maintenance.** The Owner(s) shall maintain drainage system, storm drain water interceptor and other storm water pollution control devices in accordance with the Operations and Maintenance Procedure Plan approved by the City Engineer.
3. **Construction Best Management Practices.** Construction Best Management Practices Required. Construction activities shall address water quality through the use of best management practices (BMP's) as approved by the City Building Official.
4. **Check Valve/Anti-Backflow Device.** Provide an approved check valve or anti-backflow device placed on the private property side of consumer's service pursuant to Municipal Code Section 14.20.120 and Public Works Construction Standard Detail 5-009.0. The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
5. **Trash Enclosure Provision:** A trash enclosure area for trash and recycling containers shall be provided on the Real Property and screened from view from surrounding properties and the street. Such structure shall be located at least five (5) feet from any building unless protected with fire sprinklers, with final location approved by the HLC, and runoff from the area shall be pre-treated prior to entering the public right-of-way.
6. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) shall be obtained for the construction of improvements (including any required appurtenances) within their rights of way (easement).
7. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Exterior lighting shall be shielded and directed toward the ground.
8. **Conditions on Plans/Signatures.** The final Planning Commission Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner		Date
Contractor	Date	License No.
Architect	Date	License No.
Engineer	Date	License No.

E. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field for the duration of the project construction.

- Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container for collection of demolition/construction materials.
- Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below:

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

3. **Construction Parking/Storage.** Construction parking and storage shall be provided as follows:
 - a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director.
 - b. Storage or staging of construction materials and equipment within the public right-of-way is prohibited.
4. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
5. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.
6. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and an archaeologist from the most current City Qualified Archaeologists List shall be retained by the applicant. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

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

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

F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, etc.) subject to the review and approval of the Public Works Department. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
2. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility undergrounding and installation of street trees.

NOTICE OF APPROVAL TIME LIMITS:

The Planning Commission's action approving the Modification shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. A Building Permit for the use authorized by the approval is issued within twenty-four (24) months of granting the approval. An extension may be granted by the Community Development Director, if the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
2. **Because this project is an enforcement case, the Owners are required to submit plans revised to incorporate changes required by the Conditions of Approval to Historic Landmarks Commission within 30 days of project approval. Building permit applications for said changes shall be submitted within 90 days of project approval.**

S U Z A N N E  E L L E D G E
P L A N N I N G & P E R M I T T I N G S E R V I C E S , I N C .

14 December 2006

RECEIVED

City of Santa Barbara
Planning Commission
c/o City Clerk's Office
735 Anacapa Street
Santa Barbara, CA 93101

DEC 14 2006
3:52 pm JC
CITY CLERK'S OFFICE
SANTA BARBARA, CA

Re: Appeal of Subdivision Hearing Officer Decision
128-138 E. Canon Perdido Street - APN: 031-011-004, MST#2003-00243

Dear Planning Commission:

On behalf of Pueblo Viejo Properties, property owner of the subject property, we are submitting this formal appeal of the Subdivision Hearing Officer (SHO) decision on December 6, 2006, whereas the applicant requested approval of five (5) Modifications and a Development Plan.

The applicant is satisfied with the recommendation for denial of the residential modifications requested. However, we disagree with the SHO denial of the modifications to the parking on site. Denial of the recommendation to continue no parking on the site is the purpose of appeal filing. The applicant concurs with the staff recommendation (both Planning staff and the Transportation Department staff) that the parking modification should be supported to allow this site to provide no parking. We disagree strongly with the SHO recommendation to deny the modifications. This parking lot has not been used for access or parking for over 30 years. Utilizing the antiquated parking/access on this property would constitute a risk to public health and safety, given the limited space in the parking area. We are therefore requesting that the Planning Commission overturn the SHO recommendation of denial of the parking modification and support the staff recommendation for approval of the parking modification on this property.

If you have any questions or require additional information, please contact our office at 966-2758.

Sincerely,
SUZANNE ELLEDGE
PLANNING & PERMITTING SERVICES, INC.

Heidi Jones for:
Tiffany Campbell
Senior Planner

cc: Trey Pinner, Pueblo Viejo Properties
Rex Ruskauff, AIA



City of Santa Barbara California

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: November 30, 2006
AGENDA DATE: December 6, 2006
PROJECT ADDRESS: 128-138 East Canon Perdido Street & 825-833 Santa Barbara Street
(MST2003-00243)
TO: Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
Jan Hubbell, AICP, Senior Planner
Jo Anne La Conte, Assistant Planner

I. PROJECT DESCRIPTION

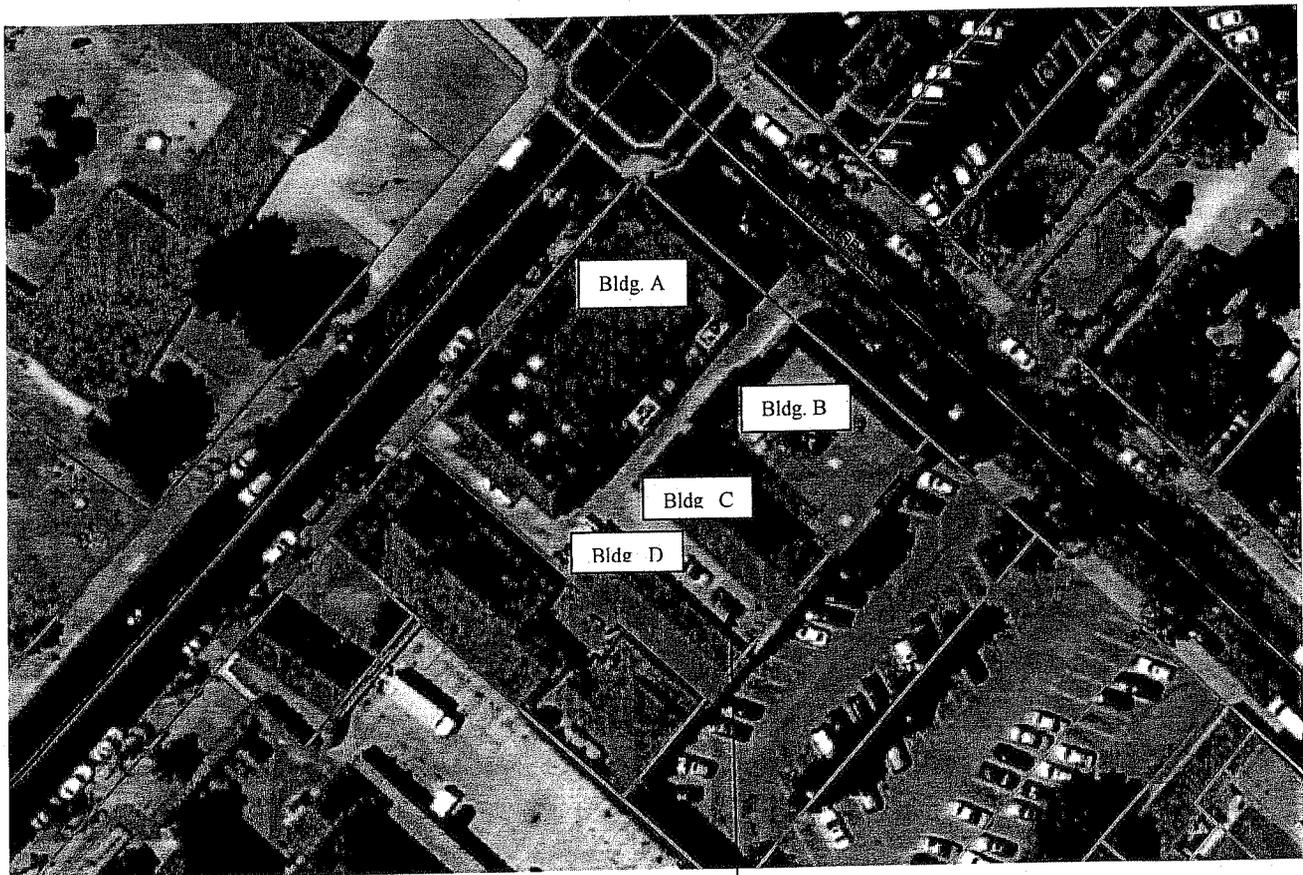
The project consists of alterations to an existing mixed-use complex consisting of one and two-story buildings for "as-built" changes including two new residential units which would include alterations to the balconies, converting the existing 15 residential garages to a laundry room, residential storage and commercial square footage which will include alterations to the existing garage doors, and Development Plan approval to allow 1,434 square feet of new non-residential floor area for the conversion of the garages. Modifications are requested to eliminate the existing residential parking and to provide no additional parking for the converted commercial square footage, to allow bonus density for the two "as-built" residential units, a floor area modification to allow the "as-built" residential units to be less than 400 square feet, a modification of private outdoor living space to allow one of the new residential units to have no outdoor living space and a modification of private outdoor living space to allow one of the new residential units to have private outdoor living space that does not meet the required six foot minimum dimension.

II. REQUIRED APPLICATIONS

The discretionary applications required for this project are:

1. A lot area Modification for bonus density to allow two "as-built" residential units for a total of 17 residential units, on a lot in the C-2 Zone (SBMC §28.21.080 & 28.87.400);
2. A Modification of floor area regulations to allow the two "as-built" residential units to have less than 400 square feet of useable floor area. (SBMC §28.87.150 & 28.92.110);
3. A Modification of private outdoor living space regulations to allow one of the "as-built" residential units to have no private outdoor living space instead of the required 72 square feet of private outdoor living space (SBMC §28.21.081);

4. A Modification of private outdoor living space regulations to allow one of the residential units to have private outdoor living space that does not meet the required six foot minimum dimension (SBMC §28.21.081);
5. A Modification of the residential parking requirements to allow no parking spaces instead of the 17 required parking spaces for the existing and proposed residences and of the nonresidential parking requirements to provide no parking spaces instead of the 3 required parking spaces for the conversion of the residential garages to nonresidential storage space (SBMC §28.90); and
6. Development Plan Approval for 1,434 square feet of new non-residential floor area from the Minor and Small Additions categories, converted from existing residential garages (SBMC §28.87.300).



Project Site

APPLICATION DEEMED COMPLETE:
DATE ACTION REQUIRED:

September 27, 2006
December 26, 2006

III. BACKGROUND

The site is currently developed with a mixed-use project consisting of three two-story buildings and a one-story building, on a 19,425 square foot parcel located in the C-2, Commercial, zoning district. The buildings on the site were constructed between 1927 and 1950. There is a total of 10,160 square feet of commercial space on the first floors of Buildings A and B, which face the street frontages of East Canon Perdido Street and Santa Barbara Street. There are a total of 15 residential units legally existing on the property totaling 9,248 square feet; 6 units on the second floor of Building A, 4 units on the second-floor of Building B, and 5 units on the second floor of Building C. There are 7 residential one-car garages and 2 residential storage areas for a total of 1,153 square feet on the first floor of Building C and 8 residential one car garages totaling 1,434 square feet in Building D. The total parking provided for the project as constructed is 15 one-car residential garages. The project is legal non-conforming to density and parking requirements.

This property is currently under enforcement for "as-built" conversion from 15 residential one-car garages to 15 commercial storage areas at the property. During the planning review process, it was discovered that 14 of the garages were converted to commercial storage areas and that one of the garages had been converted to a commercial storage area and a laundry room. In addition, there are two "as-built" apartments in Building A that were the result of interior changes to existing units and exteriors changes to the balconies were also made. The current proposal is to convert 8 of the residential one-car garages to commercial storage areas in Building D, to convert 7 of the residential one-car garages to 6 residential storage areas and a laundry room for the residential tenants in Building C, and to legalize the two-as built units which were the result of interior alterations to two existing units and balcony alterations to the second-story of Building A. No new buildings are proposed and the footprints of the existing buildings are to remain the same.

IV. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION -

Applicant:	Tiffany Campbell for Suzanne Elledge Planning & Permitting Services, Inc.	Property Owner:	Pueblo Viejo Properties LTD
Parcel Number:	031-011-004	Lot Area:	19,425 square feet
General Plan:	Offices and Major Public and Institutional	Zoning:	C-2, Commercial Zone
Existing Use:	Mixed-Use	Topography:	1% slope
Adjacent Land Uses:			
	North - Commercial(Presidio)		East - Commercial (Panini & Residential)
	South - Commercial(Parking Lot)		West - Commercial(Former Jimmy's Oriental Gardens & Residential)

B. PROJECT STATISTICS – (* = AREAS OF PROPOSED CHANGES)

BUILDING# & FLOOR	EXISTING USE	EXISTING SQ.FT. (NET)	PROPOSED USE
Bldg. A/1 st flr.	Commercial	6,445 sq.ft.	No Proposed Changes
*Bldg. A/2 nd flr.	6 Residential Apts	4,900 sq.ft.	*Changes include 2 new residential units (no new sq.ft.) & reconfigure private outdoor living space
Bldg. B/1 st flr.	Commercial	3,715 sq.ft.	No Proposed Changes
Bldg. B/2 nd flr.	4 Residential Apts.	3,021 sq ft.	No Proposed Changes
*Bldg. C/1 st flr.	7 Res Garages & 2 Res. Storage Areas	1,153 sq. ft.	*No new square footage. 996 sq.ft. to 6 Res. Storage Areas 85 sq. ft. to Laundry Room for residents
Bldg. C/1 st flr.	2 Res.Storage Areas	72 sq.ft.	72 sq.ft.; No Proposed Changes
Bldg. C/2 nd flr.	5 Residential Apts.	1,327 sq.ft.	No Proposed Changes
*Bldg. D	8 Res. Garages	1,434 sq.ft.	*1,434 sq.ft. to 8 Comm. Storage Areas

**Table 1
EXISTING LEGAL RESIDENTIAL UNITS STATISTICS**

No.	BUILDING	ADDRESS	SQUARE FEET (NET)	UNIT TYPE	PRIVATE OUTDOOR LIVING AREA
1.	Bldg. A	128 ½ E. Canon Perdido St.	1,349 sq.ft.	3 bedroom	135 sq.ft. (5' x 27')
2.	Bldg. A	130 ½ E. Canon Perdido St..	564 sq.ft.	1 bedroom	136 (7'9"x17'6 ¼")
3.	Bldg. A	132 ½ E. Canon Perdido St.	602 sq.ft.	1 bedroom	136 (7'9"x17'7 ¾")
4.	Bldg. A	134 ½ E. Canon Perdido St.	602 sq.ft.	2 bedroom	138 (7'9"x 17'10 ¾")
5.	Bldg. A	136 ½ E. Canon Perdido St.	602 sq.ft.	1 bedroom	136 (7'9" x 17'6¾")
6.	Bldg. A	138 ½ E. Canon Perdido St. (aka 833 Santa Barbara St.)	1,057 sq.ft.	3 bedroom	None

STAFF HEARING OFFICER STAFF REPORT

128-138 E.CANON PERDIDO ST. & 825-833 SANTA BARBARA ST. (MST2003-00243)

NOVEMBER 30, 2006

PAGE 5

No.	BUILDING	ADDRESS	SQUARE FEET (NET)	UNIT TYPE	PRIVATE OUTDOOR LIVING AREA
7.	Bldg. B	825 ½ Santa Barbara St.	771 sq.ft.	2 bedroom	Apx.70 sq.ft.
8.	Bldg. B	827 ½ Santa Barbara St.	688 sq.ft.	1 bedroom	Apx. 153 sq.ft.
9.	Bldg. B	829 ½ Santa Barbara St.	688 sq.ft.	1 bedroom	Apx.153 sq.ft.
10.	Bldg. B	831 ½ Santa Barbara St.	800 sq.ft.	2 bedroom	Apx. 221 sq.ft.
11.	Bldg. C	831 A Santa Barbara St.	225 sq.ft.	studio	None
12.	Bldg. C	831 B Santa Barbara St.	207 sq.ft.	studio	None
13.	Bldg. C	831 C Santa Barbara St.	207 sq.ft.	studio	None
14.	Bldg. C	831 D Santa Barbara St.	207 sq.ft.	studio	None
15.	Bldg. C	831 E Santa Barbara St.	422 sq.ft.	2 bedroom	None

Summary: 15 units - Two 3 bedrooms, four 2 bedrooms, five 1 bedrooms and four studios legally exist on the property.

Table 2
PROPOSED RESIDENTIAL UNITS & CHANGES TO BLD A. - 2ND FLOOR

NO.	BUILDING/ADDRESS	SQUARE FEET (NET)	UNIT TYPE	REQUIRED PRIVATE OUTDOOR LIVING AREA	PROPOSED PRIVATE OUTDOOR LIVING AREA
1-A	Bldg. A - 128 ½ A E. Canon Perdido St.	914 sq.ft.	2 bedroom	84 sq.ft. Min. 6' dim.	135sq.ft. (5' x 27')
1-B	Bldg. A - 128 ½ B E. Canon Perdido St.	435 sq.ft.	1 bedroom	72 sq.ft. Min. 6' dim.	None Proposed
2-A	Bldg. A. - 130 ½ A E. Canon Perdido St.	292 sq.ft.	Studio	60 sq.ft. Min. 6' dim.	67 sq.ft. 7'9"x 8'8"
2-B	Bldg. A -130 ½ B. E. Canon Perdido St.	272 sq.ft.	Studio	60 sq.ft. Min.6' dim.	69 sq.ft. 7'9" x 8'11"
3	Bldg. A - 132 ½ E. Canon Perdido St.	No Change 602 sq.ft.	No Change 1 Bedroom	72 sq.ft. Min. 6' dim.	138 sq.ft. 7'9" x 17'10 ¾"
5	Blg. A - 136 ½ E. Canon Perdido St.	No Change 602 sq.ft.	No Change 1 Bedroom	72 sq.ft. Min. 6' dim.	136 sq.ft. 7'9" x 17' ¾"

Table Two Summary: 128 ½ E. Canon Perdido was split to create 128 ½ A & B. 130 ½ E. Canon Perdido was split to create 130 ½ A & B. The Private Outdoor Living Areas were also altered. The total number of "as-built" apartments is 2 for a total of 8 units in Building A. The

four apartments in Building B and the five apartments in Building C are proposed to remain the same. The total number of apartments on the property are 17 which includes the two “as-built” units; one 3 bedroom unit, five 2 bedroom units, five 1 bedroom units and 6 studio units.

Table 3
CHANGES TO REQUIRED RESIDENTIAL PARKING & STORAGE AREAS

BUILDING NO./FLR.	EXISTING USE	EXISTING NET SQ.FT.	PROPOSED USE	PROPOSED NET SQ.FT.
Bldg.C 1 st Floor	7 Residential Garages	1,081 sq.ft.	Residential Storage Areas Laundry Room for Res. Tenants	996 sq.ft. 85 sq.ft.
Bldg. C 1 st Floor	2 Residential Storage Areas	72 sq.ft.,	No Changes	72 sq.ft.
Bldg. D One-story bldg.	8 Residential Garages	1,434 sq.ft.	8 commercial storage areas	1,434 sq.ft.

Table 3 Summary: Increases the commercial square footage by 1,434 square feet, but does not change the total square footage for the structures on site. Also, it eliminates all of the required parking and does not provide for any new parking on site to meet the parking requirement of three additional parking spaces for the additional commercial square footage.

V. ZONING ORDINANCE CONSISTENCY

Standard	Requirement/ Allowance	Existing	Proposed
Setbacks			
-Front	0	0	0
-Interior	0	0	0
-Rear	0	0	0
Parking	20 covered or uncovered	15 covered	0
		<u>Legal Non-Conforming</u>	
	Studio – 1,600 sq.ft.	4 x 1,600 = 6,400 sq.ft.	6 x 1,600 = 9,600 sq.ft.
Lot Area Required for Each Unit (Variable Density)	1 bedroom – 1,840 sq.ft.	5 x 1,840 = 9,200 sq.ft.	5 x 1,840 = 9,200 sq.ft.
	2 bedroom – 2,320 sq.ft.	4 x 2,230 = 9,280 sq.ft.	5 x 2,230 = 11,150sq.ft.
	3 + bedrooms – 2,800 sq.ft.	2 x 2,800 = 5,600 sq.ft.	1 x 2,800 = 2,800 sq.ft.
		TOTAL = 30,480 sq.ft.	TOTAL = 33,200 sq.ft.

Standard	Requirement/ Allowance	Existing		Proposed	
Open Yard	0	0		0	
10% Open Space	Apx. 720 sq.ft.	Apx. 720 sq.ft.		Apx. 720 sq.ft.	
Lot Coverage					
-Building	N/A	13,954	71.8%	13,954	71.8%
-Paving/Driveway	N/A	5,207	26.8%	5,207	26.8%
-Landscaping	N/A	264	1.4%	264	1.4%

The proposed project would meet the requirements of the C-2 Zone, with the exception of the parking requirements, the lot size/bonus density requirements, the floor area requirements and the private outdoor living space requirements.

VI. ENVIRONMENTAL REVIEW:

Historic Evaluation: The building is located within El Pueblo Landmark District and the Demolition Review Study Area and the structure is greater than 50 years of age. Any significant alterations to the exterior facades fronting Santa Barbara and East Canon Perdido Streets shall require that a Historic Structures Report be prepared in accordance with the City's Master Environmental Assessment. Originally, the applicant advised that the only exterior alterations would be to the garage doors located in the interior courtyard. However, it appears that some exterior alterations have taken place on the East Canon Perdido Street façade relating to the balconies that are listed as proposed, but are actually "as-built" conditions. If the balconies are returned to their original configuration, there will be no effects on the historic integrity of the building and no historic structures report will be required.

Staff has determined that the project qualifies for an exemption from further environmental review under Section 15301 (existing facilities) of the California Environmental Quality Act (CEQA) as long as the balconies are returned to their approved configuration.

VII. ISSUES:

A. DESIGN REVIEW

This project was reviewed by the Historic Landmarks Commission (HLC) on one occasion (meeting minutes are attached as Exhibit D). On February 8, 2006, the HLC stated that the garage doors with windows are unacceptable as proposed. The project must return to the HLC for approval of any exterior changes, including changes to the balconies, at the property.

B. RESIDENTIAL UNIT FLOOR AREA MODIFICATION:

The Santa Barbara Municipal Code (SBMC) states that every dwelling unit hereafter created shall contain not less than four hundred square feet of usable floor area (see Exhibit E, SBMC Section 28.87.150.2). The SBMC does make an exception for affordable efficiency dwelling

units, but that exception is only for projects constructed or operated by a nonprofit or governmental agency at an "Affording House Cost" to Lower Income Households (see Exhibit E, SBMC Section 28.87.150.3); therefore, this project would not be eligible for that exception. It should be noted that there are four existing legal studio units that are less than 400 square feet located in Building C. However, those units are legal non-conforming and existed prior to the 400 square foot floor area requirement.

SBMC Section 28.87.030.E. (Properties with Nonconforming Residential Density) does not allow for improvements or alterations that increase residential density, which is defined as a combination of the number of dwelling units and the number of bedrooms per unit on a property.

The two "as-built" units in Building A are less than 400 square feet and do not meet current floor area requirements; one unit is 292 square feet and the other is 272 square feet. Prior to the "as-built" alterations, all of the units in Building A were in compliance with the floor area requirements. Given the small size of these units and the lack of private outdoor living space for one of them (see below), staff does not support the modification request of the minimum floor area requirement because it is not consistent with the Zoning Ordinance requirements.

C. PRIVATE OUTDOOR LIVING SPACE MODIFICATIONS:

SBMC Chapter 28.21 requires private outdoor living space on second floor units and above to have a minimum 6 foot dimension in any direction. Also, the minimum size for the private outdoor living space is 60 square feet for a studio unit, 72 square feet for a one bedroom unit, 84 square feet for a two-bedroom unit and 96 square feet for a three bedroom unit.

The applicant is proposing two "as-built" units, which were created by dividing two of the existing units. Unit 128 ½ E. Canon Perdido Street was split to create units 128 ½ A and 128 ½ B E. Canon Perdido Street. The private outdoor living space for the proposed two-bedroom Unit at 128 ½ A E. Canon Perdido Street does not meet the minimum 6 foot dimension requirement but does meet the 84 square foot size requirement. Although the private outdoor living area for 128 ½ A. E. Canon Perdido Street was not altered, it is legal non-conforming to the six foot dimension. However, once the unit was divided, it lost its non-conforming status and is required to come into compliance with current regulations. Also, the "as-built: one bedroom unit at 128 ½ B E. Canon Perdido Street requires 72 square feet of private outdoor living space which, is not being provided.

Unit 130 ½ E. Canon Perdido Street was split to create units 130 ½ A and 130 ½ B E. Canon Perdido Street. The minimum private outdoor living space of 60 feet with a minimum six foot dimension is being provided for each unit.

Two modifications of private outdoor living space are being requested; one for not meeting the minimum required six foot dimension and the other for not providing the required 72 square feet of outdoor living area. Given that these units are also very small, staff does not support the modification requests of the private outdoor living space requirements as they are not consistent with the Zoning Ordinance requirements.

D. BONUS DENSITY MODIFICATION:

Per SBMC Section 28.21.080.E for lots of fourteen thousand square feet or more, there shall be provided a lot area of 3,500 square feet or more for each dwelling unit herein erected. However, SBMC Section 28.21.080.G (Variable Density) allows for more units than outlined in Section 28.21.080.E if the number of bedrooms in the dwelling units is limited (see Section V above for Zoning Consistency).

The existing 15 residential units are non-conforming to density as they were legally constructed. However, today they would require a lot size of 30,480 square feet. The total lot size of the parcel is 19,425 square feet, which if constructed today would require an additional 11,055 square feet of lot area to meet current requirements for the 15 residential units. The City's Non-Conforming Ordinance does not allow for improvements or alterations to a residential structure that increase the number of dwelling units or the number of bedrooms per unit if the property is already nonconforming to residential density (see SBMC Section 28.87.030.E).

The City's Bonus Density Ordinance (see Exhibit E, SBMC Section 28.87.400) refers to criteria set forth in State Density Bonus Law for qualifying household developments as defined in Government Code Section 65915. State Density Bonus Law is applicable when a developer of housing proposes a project that includes a specified percentage of Affordable housing units. However, the applicant is not proposing to provide the units. Therefore, the project would not comply with State Density Bonus Law.

The project would not comply with the City's Density Bonus Program for two reasons; 1. The applicant has not agreed to record long-term affordability controls on the units; and 2. The units do not meet the minimum unit sizes that would be required, even if the applicant agreed to such rent restrictions.

To qualify as "affordable" housing units, an applicant must submit an application to the Redevelopment Agency for consideration in order to confirm that the units are "affordable" The principle common to the City's affordability requirements is that households should not be required to pay more than 30% of their gross monthly income on rent and utilities and that the unit should remain affordable to subsequent residents throughout the term of the affordability control. The general requirement under the City's Density Bonus Program is that all density bonus units must be rented to low income households at affordable rents for at least 60 years.

The City's Affordable Housing Policies and Procedures require minimum allowable unit sizes for affordable units and the smallest size allowed is 400 square feet, which is for a studio unit. An exception to the minimum unit sizes for Affordable Units may be made if the Community Development Director determines that the smaller sizes of the units are appropriate subject to the criteria contained therein, including that the size is appropriate for the targeted residency or that there are offsetting design features, such as large private outdoor living space, high ceilings, larger windows, expansive common open space areas or combinations of these elements. However, in this case, that determination cannot be made as the units do not comply with the criteria.

The proposal is to legalize two "as-built" residential units for a total of 17 residential units. The lot size required to meet current standards for the 17 residential units is 33,200 square feet which would require an additional 13,775 square feet of lot area to meet current density requirements. The property is already legal non-conforming to density and increasing the number of units at the property would intensify that non-conformity. Also, the units do not meet the minimum allowable unit size requirements outlined in Zoning Ordinance and the City's Affordable Housing Policies and Procedures. Therefore, staff does not support the modification request for bonus density requirements as it is not consistent with the Zoning Ordinance or City Policies.

It should be noted that, if the "as-built" units are denied and demolition permits for their removal are not applied for by December 21, 2006, the owner will be subject to the provisions of the recently adopted Tenant Displacement Assistance Ordinance for any renters who may be living in the affected units. This will include tenant notification at least 60 days prior to demolition and payment of moving expenses, as outlined in the ordinance.

D. PARKING MODIFICATION:

The property is legally non-conforming to current parking regulations with 15 one-car residential garages and no parking for the nonresidential uses on site. The property is located within the Central Business District (CBD), which has a non-residential parking requirement of one space per 500 square feet of floor area. The residential parking requirement for a mixed-use development in the CBD is one uncovered space per residential unit, with no guest parking requirement. Thus, the Zoning Ordinance requires three parking spaces for the conversion of the residential garages to 1,434 square feet of commercial storage ($1434/500 = 2.8$ spaces, rounded = 3 spaces), 15 spaces for the existing 15 residential units and 2 spaces for the two "as-built" residential units for a total of 20 uncovered parking spaces.

The applicant is requesting a modification to not provide any parking instead of the required 20 parking spaces. The applicant's letter, dated June 12, 2006 (see attached Exhibit C) states that the parking garages on the site have not been used for parking for over thirty years. Their justification for allowing a full parking modification is that the site has been functioning well for thirty years with the elimination of the required parking as each residential unit receives a parking permit from the City for street parking and that the commercial businesses mainly cater to pedestrian business. Also, the letter states that the vehicular access to the garages is not safe as vehicles need to back out of the driveway and into on-coming traffic on Santa Barbara Street to exit the driveway, that there is no turning radius ability between the two parking garage structures, that the garages are too small for most cars to utilize, that a modification of the structures on site to allow larger garages is not possible and that it would worsen the current vehicular circulation at the property. Although the garages are legal non-conforming to size and do not meet the current minimum size requirement of 10 feet x 20 feet and the access is difficult, they are still functioning garages.

The City's Principal Transportation Planner has indicated support for the parking modification based on the following:

1. The long term practice of not providing any on-site parking for the residents or the businesses.
2. The impacts of the modification have already been experienced by the public and the Transportation Division has not received any complaints from the tenants or other parties regarding problems with inaccessible on-site parking.
3. The function of the property and retail business on the street has operated well for a long period of time with the current situation.
4. Requiring the re-establishment of the parking on the site would result in compromised pedestrian circulation because of increased vehicles access to and from the site.
5. The proposal to fill-in the existing curb cut on Santa Barbara Street will remove the driveway access and will eliminate the delivery vehicles servicing the businesses from entering the driveway and backing out onto Santa Barbara Street, making the current situation safer for pedestrian and vehicular traffic.

Based on the above discussion, staff can support the proposed parking modification.

F. DEVELOPMENT PLAN APPROVAL:

SBMC Section 28.87.300 requires Development Plan approval for new nonresidential square footage. The project includes the conversion of approximately 1,434 square feet of residential garages to commercial storage. Pursuant to the provisions of the SBMC, the project would be allocated a total of 1,000 square feet of Measure E nonresidential square footage from the Minor Addition category and 434 square feet from the Small Addition category. In order to approve the Development Plan, the Staff Hearing Officer must find that the proposal complies with Zoning Ordinance, is consistent with the principles of sound community planning and various other findings outlined below.

G. COMPLIANCE WITH THE GENERAL PLAN:

The subject site has a General Plan designation of Offices and Major Public and Institutional. The residential portion of the mixed-use development would be subject to the density requirements of the R-3/R-4 Multiple Family Residential Zones, which allow twelve dwelling units to the acre. The General Plan and the Housing Elements recognize, however, that in zones where variable density standards apply, development may exceed the limit of twelve units per acre without causing an inappropriate increase in the intensity of activities. The proposed project would result in a density of approximately 38.1 units per acre, which, based on the above discussion, would not be consistent with the Land Use and Housing Elements of the General Plan.

VIII. RECOMMENDATION

Staff recommends that the Staff Hearing Officer approve the request to convert the residential garages to storage and a laundry room and to approve the modification request to allow no parking instead of the 15 required parking spaces for the permitted residential uses and the 3 required parking spaces for

the new commercial square footage making the findings outlined below and subject to the Conditions of Approval included in Exhibit A.

Staff recommends that the Staff Hearing Officer deny the requests for the floor area modification, the two private outdoor living space modifications and the bonus density modification, making the findings that they are not appropriate improvements nor do they meet the purpose and intent of the ordinance. The property is therefore to be restored to its original approved configurations by eliminating the two "as-built" residential units and restoring the units and balconies to their approved configuration.

If the Staff hearing Officer approves the other modification requests to allow the two additional residential units, the following additional conditions are recommended to be included:

1. An approved backflow device is required for the proposed mixed use commercial residential sites and a cross connection inspection is required with the above items. Include the backflow device on the plans.
2. Show on the plans the location of the required separate water meters for each individual dwelling unit and meter manifolds for the multiple units from the services per SBMC Chapter 14.20.

IX. FINDINGS:

A. MODIFICATION OF PARKING REGULATIONS (SBMC 28.92.110)

The parking modification is necessary to secure appropriate improvements on the lot and is consistent with the purposes and intent of the Zoning Ordinance. The modification is required to allow the continued operations of the established businesses on the site and to eliminate unsafe driving conditions within the complex and on the adjacent streets.

B. DEVELOPMENT PLAN APPROVAL (SBMC Section 28.87.300)

1. The proposed development complies with all provisions of this Title because a modification of the required parking requirements has been approved and the proposed development complies with all of the provisions of this Title due to the approval of the parking modification request.
2. The proposed development is consistent with the principles of sound community planning because the mixed-use development is existing, and is compatible with the surrounding mixture of residential and commercial development.
3. The proposed development will not have a significant adverse impact upon the neighborhood's aesthetics/character in that the size bulk and scale is not proposed to change and it is compatible with the neighborhood;
4. The proposed development will not have a significant unmitigated adverse impact upon City and South Coast affordable housing stock since the proposal is not eliminating any legally existing residential units.

STAFF HEARING OFFICER STAFF REPORT

128-138 E.CANON PERDIDO ST. & 825-833 SANTA BARBARA ST. (MST2003-00243)

NOVEMBER 30, 2006

PAGE 13

5. The proposed development will not have a significant unmitigated adverse impact on the City's water resources because the use of the area for commercial and residential storage would not create a significant water demand impact on the City's water supply.
6. The proposed development will not have a significant unmitigated adverse impact on the City's traffic because the elimination of the required parking has existed for over 30 years and continuing the practice will not increase the traffic in the area;
7. Traffic improvements will not be necessary for the proposed project.

Exhibits:

- A. Conditions of Approval
- B. Site Plan
- C. Applicant's letter, dated June 12, 2006
- D. HLC Minutes dated February 8, 2006
- E. SBMC Chapter 28.21 & Sections 28.87.030, 28.87.150, 28.87.300 & 28.87.400.

STAFF HEARING OFFICER CONDITIONS OF APPROVAL

128-138 E. CANON PERDIDO STREET & 825-833 SANTA BARBARA STREET
PARKING MODIFICATION AND DEVELOPMENT PLAN APPROVAL
DECEMBER 6, 2006

In consideration of the project approval granted by the Staff Hearing Officer and for the benefit of the owners and occupants of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession and enjoyment of the Real Property:

- A. **Recorded Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the following conditions shall be imposed on the use, possession and enjoyment of the Real Property, shall be executed by the Owner in a written instrument which shall be reviewed and approved as to form and content by the City Attorney and recorded by the City. Said agreement(s) shall be recorded in the Office of the County Recorder:
1. **Public Improvement Agreement [Not a Subdivision].** "Agreement for Land Development Improvements", and associated Securities for performance and maintenance improvements to the public right of way.
 2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate. The Owner is responsible for the adequacy of any project related drainage facilities and for the continued maintenance thereof in a manner which will preclude any hazard of life, health or damage to the Real Property or any adjoining property.
 3. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats or trailers shall be stored on the Real Property.
 4. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on December 6, 2006 is limited to 1,434 square feet of new nonresidential square footage, 15 dwelling units and the improvements shown on the Development Plan signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
 5. **Commercial Storage for Food Establishments.** The conversion of any of the garages to commercial storage for food establishments at the property shall comply with all County Environmental Health regulations. Permits and written approval shall be obtained from County Health Environmental Health Services prior to utilizing these areas for such storage.
 6. **Commercial Storage for On-site Businesses Only.** The conversion of the residential garages to commercial storage shall be limited to use by the occupants of the commercial businesses at the property and the commercial storage shall not be allowed for businesses that are located off-site.

EXHIBIT A

7. **Residential Storage for On-site Residents Only.** The conversion of the residential garages to residential storage shall be limited to use by the residents of the residential units on site.
 8. **Laundry Facility for On-site Residents Only.** The conversion of a portion of a garage to a laundry area shall be limited to use by the residential units on site and shall not be used for commercial purposes.
 9. **No Residential Parking Permits Allowed for Future Residents.** Future residents, who are not tenants at the time of project approval, are not eligible to obtain residential parking permits for on-street parking from the City.
- B. **Prior to Building Permit** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property:
1. **Water Rights Assignment:** "Agreement Assigning Water Extraction Rights". Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property. This assignment of rights does not include a right of surface entry on or from the Real Property.
 2. **Public Improvement Securities.** The Owner shall provide an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the "Agreement to Construct and Install Improvements (Not a Subdivision)".
 3. **Drainage Call-Outs.** Plans shall reflect grades graphically with callouts, so drainage patterns to the right-of-way can be established.
 4. **Violations Corrected.** All outstanding violations shall be corrected as part of the building permit and shall be included in the scope of work for the project.
 5. **Tenant Displacement Assistance.** If the Building Permit to remove the "as-built" residential units has not been applied for by December 20, 2006, the Tenant Displacement Assistance Ordinance provisions shall apply to those tenants who are displaced by removal of the affected units.
- C. **Design Review.** The following is subject to the review and approval of the Historic Landmarks Commission (HLC):
1. **Exterior Changes.** Any exterior changes to the property are subject to the review and approval by the HLC:
 2. **Restoration to Original Appearance.** All exterior changes made to accommodate the creation of the two "as-built" residential units shall be restored to their original approval and shall match the original construction plans.
- D. **Public Works Submittal prior to Permits.** The Owner shall submit the following or evidence of completion of the following to the Public Works Department prior to the recordation of the Parcel Map and prior to the issuance of a Building permit or Public Works permit.

1. **Street Improvement Plans.** The Owner shall submit building plans for construction of improvements along the subject property road frontage on Canon Perdido and Santa Barbara Streets. As determined by the Public Works Department, the improvements shall include new, and/or remove and replace to City standards: sidewalk where damaged, backflow device, driveway apron modified to meet Title 24 requirements, relocate any utilities necessary for driveway improvements, install on-site pollution prevention interceptor device, install street trees grates, and provide adequate positive drainage from site. Building plans shall be prepared by a registered civil engineer or licensed architect and reviewed and signed by the City Engineer.
2. **Storm Water Pollution Control Systems Maintenance.** The Owner(s) shall maintain drainage system, storm drain water interceptor and other storm water pollution control devices in accordance with the Operations and Maintenance Procedure Plan approved by the City Engineer.
3. **Construction Best Management Practices.** Construction Best Management Practices Required. Construction activities shall address water quality through the use of best management practices (BMP's) as approved by the City Building Official.
4. **Check Valve/Anti-Backflow Device.** Provide an approved check valve or anti-backflow device placed on the private property side of consumer's service pursuant to Municipal Code Section 14.20.120 and Public Works Construction Standard Detail 5-009.0. The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
5. **Trash Enclosure Provision:** A trash enclosure area for trash and recycling containers shall be provided on the Real Property and screened from view from surrounding properties and the street. Such structure shall be located at least five (5) feet from any building unless protected with fire sprinklers, with final location approved by the HLC, and runoff from the area shall be pre-treated prior to entering the public right-of-way.
6. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way (easement).
7. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Exterior lighting shall be shielded and directed toward the ground.
8. **Conditions on Plans/Signatures.** The final Staff Hearing Officer Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner		Date
Contractor	Date	License No.
Architect	Date	License No.
Engineer	Date	License No.

E. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field for the duration of the project construction.

1. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container for collection of demolition/construction materials.
2. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below:

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

3. **Construction Parking/Storage.** Construction parking and storage shall be provided as follows:
 - a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director.
 - b. Storage or staging of construction materials and equipment within the public right-of-way is prohibited.
4. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
5. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.
6. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and an archaeologist from the most current City Qualified Archaeologists List shall be retained by the applicant. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

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

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

- F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, etc.) subject to the review and approval of the Public Works Department. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility undergrounding and installation of street trees.

NOTICE OF APPROVAL TIME LIMITS:

The Staff Hearing Officer's action approving the Modification shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. A Building Permit for the use authorized by the approval is issued within twenty-four (24) months of granting the approval. An extension may be granted by the Community Development Director, if the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
2. **Because this project is an enforcement case, the Owners are required to submit plans revised to incorporate changes required by the Conditions of Approval to Historic Landmarks Commission within 30 days of project approval. Building permit applications for said changes shall be submitted within 90 days of project approval.**

COMM = PROPOSED COMMERCIAL STORAGE UNIT
RES = PROPOSED RESIDENTIAL STORAGE UNIT

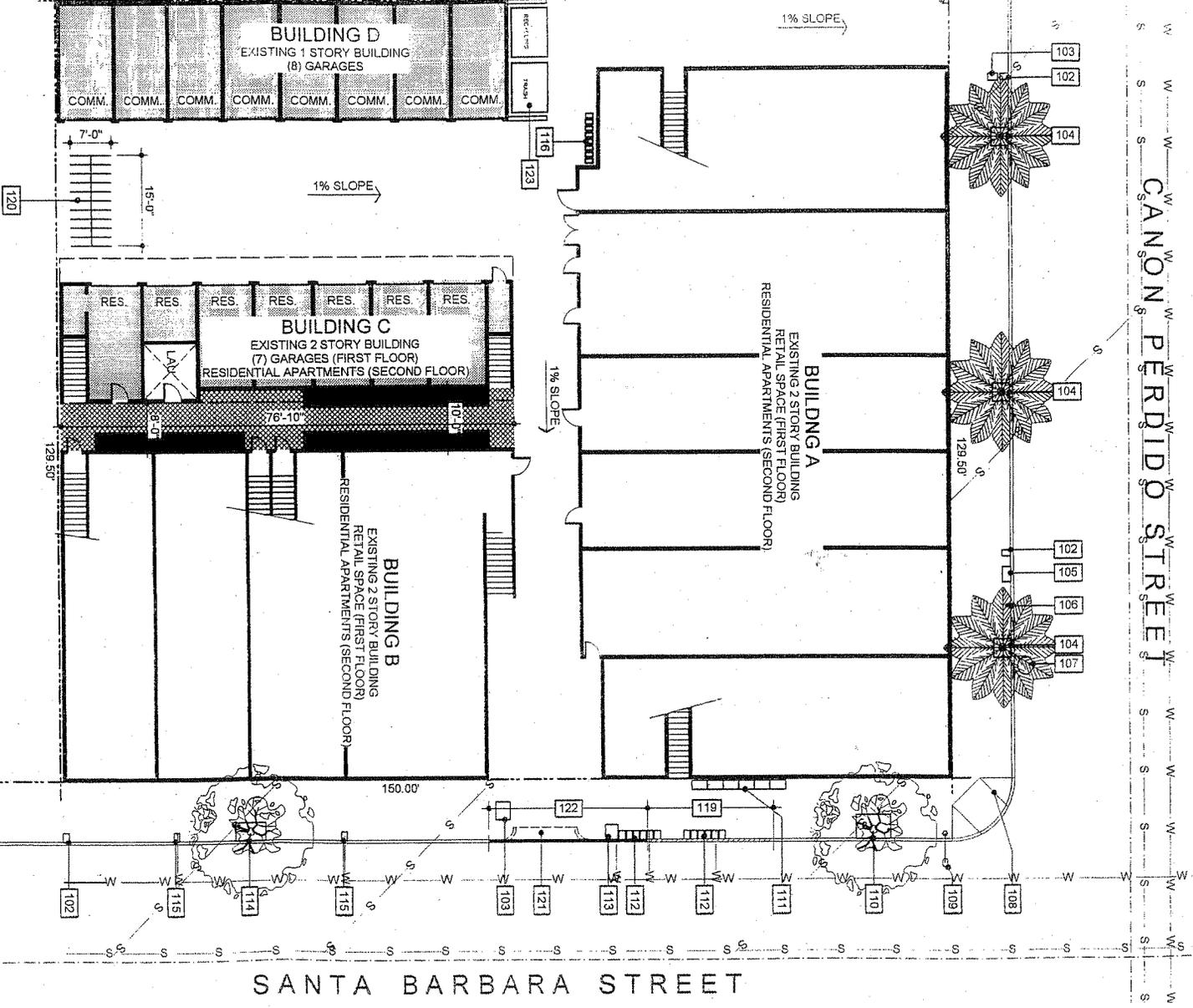


EXHIBIT B

12 June 2006

RECEIVED

JUN 13 2006

**CITY OF SANTA BARBARA
PLANNING DIVISION**

City of Santa Barbara
Staff Hearing Officer and
Community Development Department
Attn: Jo Anne La Conte, Case Planner
630 Garden Street
Santa Barbara, CA 93101

**RE: DART submittal (128-138 East Canon Perdido and 825-833 Santa
Barbara Street, APN 31-011-04) MST #2003-00243**

Dear Jo Anne:

On behalf of Pueblo Viejo Properties, property owner of the subject property, we are submitting this letter to the City as required for a complete Development Application Review Team (DART) application. We respond below directly to the DART "incomplete" comment letter dated May 2, 2006.

Project Description/Scope of Work: The project continues to propose no change to the current configuration and historic use of Canon Perdido/Santa Barbara Street properties. As outlined in the DART comment letter from the City and in previous correspondence between the City and applicant, the project description which we would like to take to the Staff Hearing Officer for approval includes the seven discretionary applications listed below, which would allow the property to remain functioning as it has for several years. We are requesting the following applications:

1. A parking Modification to allow no change to the site with regard to parking; there has been no parking provided for the commercial or residential use for over 30 years and we are proposing no change to the existing condition.
2. A Modification to allow density bonus on the parcel to allow the two added residential units for a total of seventeen (17) units on the property. This will also require approval of "as-built" permits for these two units.
3. A floor area Modification to allow two of the units to be less than 400 square feet.
4. A Modification of private outdoor living space regulations to allow one of the residential units to provide no outdoor living space instead of the required 72 square feet of outdoor living space.

EXHIBIT C

5. A Modification of private outdoor living space regulations to allow one of the residential units to have a reduced private outdoor living space.
6. Approval of a Development Plan to allow 2,718 square feet of non-residential, floor area (conversion of the garages to storage). This will also necessitate approval of an "as-built" permit to allow the conversion and an "as-built" permit to allow the laundry facility, which serves the residents, to continuing existing in one of the garages. The garages will continue to be used for both residential and commercial storage.
7. HLC approval to alter the garage doors. Follow up building permits for the retrofit of the doors will also be necessary.

We understand that the Staff Hearing Officer (SHO) will be taking action on the above discretionary applications. A brief justification as to why believe that each of the above application requests should be supported is provided below.

1. Parking Modification: The parking garages that are on this property have not been used for parking for over thirty years. The justification for allowing a full parking modification on this site is that this practice has been functioning well for thirty years; each residential unit receives a parking permit for street parking and the commercial businesses mainly cater to pedestrian business. There is no need to now provide parking for this site. Further, it has been well established by both the City and the property owners that the use of the historic parking garages as parking and the vehicular access to get to these parking spaces is not safe. The parking garages have been used for storage for the restaurants and residents of the property for many years. In fact, the City's Traffic Division (personal communication, Rob Dayton) would like to see the vehicular access/driveway blocked from any vehicular entry to the property. Currently, the driveway that fronts on Santa Barbara Street is used for delivery vehicles servicing the restaurants. This is an unsafe practice, as vehicles need to back out the driveway and in to on-coming traffic on Santa Barbara Street to exit the driveway. The owners are willing to block this driveway and repave the driveway apron to end this practice of deliveries and make the current situation safer. Also, as has been mentioned in several letters to the City and as witnessed at the many site visits we have had with City staff, there is no turning radius ability between the two parking garage structures and the parking garage sizes are too small for most cars to utilize. Modification of the historic structures to allow larger garages is not possible and would worsen the ability for vehicular movement between the garages. For these reasons, we request that a modification to allow no new parking be granted.

2. Modification for Density Bonus: The original plans show that fifteen (15) residential units existed above the commercial/retail space on this property. Sometime over the past twenty years, two additional units have been added illegally resulting on a total of seventeen (17) units today. The owners believe that this occurred around 1970.

These units now function as needed affordable housing units in the community and we request that these units be legalized and allowed to remain. Eliminating the units would be a hardship on the current tenants. In addition to the Density Bonus modification, we request approval of "as-built" permits to allow these affordable residential units to remain and be legalized. We realize that portions of these structures may have to be modified in order to meet current UBC standards.

3. Modification to Floor Area: The two illegal units are below the City's allowable size limit for residential units (400 square feet). It should be pointed out that there are several of the residential units that are legally non-conforming on this property, as well as many other examples in the City, that fall below the required minimum size of 400 square feet. The size of each unit is provided on the attached plans. Again, we request that a floor area modification be granted due to the fact that these units provide a valuable niche of affordable residential units in the City. Residents have been living in these units for many years and eliminating this needed rental housing would result in a hardship for the current tenant/residents.

4&5. Modifications to Private Outdoor Living Space for two units: The two illegal units have been in existence since 1970 without the benefit of meeting the full outdoor living space requirement. However, we believe that the provision of these units as affordable residences outweighs the lack of outdoor living space available to them and that these modifications should be allowed and the residences allowed to remain in their present configuration as they have been for 26 years.

6. Development Plan Approval: The official legalization and conversion of the garage units to storage units requires application for new non-residential floor area pursuant to Measure E and follow up "as-built" permits to legalize the use and the structures themselves as storages. The rationale for granting the Development Plan approval and allowing these garages to continue to function as storage units as they have for several years is that the restaurant businesses on the site depend on these as storage units to allow the continuation of their businesses. Further, the garage/storage units cannot be reverted back to parking garages for the several reasons discussed above (i.e., unsafe access/egress, they are too small in size and no turning radius exists between the structures). We understand that in order to meet the building department standards, the storages may need to be brought up to UBC code and the refrigeration needs to be removed from the units. The City's Building Department issued electrical, plumbing and mechanical building permits (in January of 2006) to bring the structures in to compliance and remove the refrigeration. We will be effectuating these permits and completing the permitted upgrades once we have reached resolution to the requested DART applications from the Planning Department.

7. Historic Landmarks Approval (HLC): We will be requesting that the HLC approve of the retrofit/change out of the garage doors once we have had some action taken on the above applications.

III. Required Additional Information:

A. Planning Division:

1. The applications being sought through this DART application are described in detail above.
2. Please see the revised plans.
3. This comment has been addressed and the parking calculations are provided; we are providing no parking for the residential or commercial uses on the site, as has been the historic practice.
4. The Project Statistics have been reproduced on the plans. See the attached plans.
5. See the attached plans which identify the recycling containers for the property.
6. See the attached plans; the two areas next to the stairways are labeled.
7. See the revised set of plans indicating the location of all existing windows, doors, closets and fixtures in each dwelling.
8. See attached revised plans for net and gross calculation.
9. See the attached revised plans for open yard calculations.
10. The project scope has been added to the cover sheet.
11. See above justification for the private outdoor open space.

B. Engineering Division

- a. See the revised plans with call outs.
- b. See revised plans.

IV. Advisory Comments:

We understand that this property has complex issues and that approval of modifications and several as-built permits will be required to allow the property to function as is has historically. However, we believe that we have provided clear rationale for why approving these modifications and allowing this property and the businesses to continue as they have been for several years is justified and necessary.

As you are aware, the businesses located on this property are well established, valued local businesses. The Sojourner Café has been at this location for over twenty years and Our Daily Bread Bakery has been in operation since 1985. In order to continue

operating, these businesses need to continue utilizing the historic parking garages for storage space. Further, the small residential apartments on this site provide needed affordable rental housing which the community desperately needs. We believe that the important community businesses and the residents at this property should be offered flexibility in continuing to live and operate as they have been for several years.

Finally, the mix of land uses and the way in which this property functions is representative of the ideal "mixed use village", promoting a pedestrian friendly, New Urbanism model of development that is being encouraged locally in the City of Santa Barbara, regionally and statewide. To quote a City Planning Commissioner at the brown bag lunch meeting we attended: "Why fix it if it is not broken?"

We look forward to getting this project before the Staff Hearing Officer for a decision on the issues facing the property. It is critical to the businesses and the residents on this site that we resolve these issues in the near future. We look forward to resolving this in a timely fashion and please call me at 966-2758 should you require any additional information.

Sincerely,

SUZANNE ELLEDGE

PLANNING AND PERMITTING SERVICES



Tiffany Campbell
Senior Planner

cc: Jan Hubbell, City Planning
Danny Kato, City Planning
Brian Gronnebeck, City Building Department
Pueblo Viejo Properties, Trey Pinner
Rex Ruskauff, AIA

CONCEPT REVIEW - NEW

- 2. **128 E CANON PERDIDO ST** C-2 Zone
 - Assessor's Parcel Number: 031-011-004
 - Application Number: MST2003-00243
 - Architect: Rex Ruskauff
 - Owner: Pueblo Viejo Properties Ltd
 - Agent: Suzanne Elledge Permit Processing

(Proposal to legalize "as-built" changes including two new residential units, converting the existing 15 residential garages to a laundry room and commercial square footage which will include alterations to the existing garage doors, and Development Plan approval to allow 2,718 square feet of new non-residential floor area for the conversion of the garages. Modifications are requested to eliminate the existing residential parking and to not provide new parking for the converted commercial square footage, to allow density bonus for the two "as-built" residential units, and a floor area modification to allow the "as-built" residential units to be less than 400 square feet.)

(PROJECT REQUIRES ENVIRONMENTAL ASSESSMENT, STAFF HEARING OFFICER APPROVAL OF MODIFICATIONS, AND DEVELOPMENT PLAN APPROVAL FINDINGS.)

(1:46)

Rex Ruskauff, architect; Trey Penner, representative for the owner; and Jo Anne La Conte, Assistant Planner for the City of Santa Barbara, present.

Public comment opened at 1:57 p.m.

Mr. Kellam De Forest expressed concern over where people would park if they didn't have access to the garage since off street parking is already impacted during business hours. He also inquired about the long range plans for absorbing the area into the Presidio restoration. Commissioner Boucher responded that she believes that this particular property was removed from the Presidio restoration by City Council.

Public comment closed at 1:59 p.m.

Motion: Continued indefinitely and referred to the Planning Commission with the following comments: 1) The Commission felt that conversion of the parking spaces should be reviewed by the Planning Commission. 2) The garage doors with windows are unacceptable as proposed.

Action: Boucher/La Voie, 7/0/0.

EXHIBIT D



City of Santa Barbara

R-3 AND R-4 ZONES (EXCERPT)

CHAPTER 28.21

R-3 LIMITED MULTIPLE-FAMILY RESIDENCE ZONE AND R-4 HOTEL-MOTEL-MULTIPLE RESIDENCE ZONE*

Sections:

28.21.001	In General.	28.21.080	Lot Area and Frontage Requirements.
28.21.005	General Description and Legislative Intent.	28.21.081	Outdoor Living Space.
28.21.030	Uses Permitted.	28.21.085	Regulations for Non-Residential Buildings, Structures and Uses.
28.21.035	Uses Permitted Upon the Issuance of a Conditional Use Permit or Performance Standard Permit.	28.21.090	Other Requirements.
28.21.050	Building Height.	28.21.100	Off-street Parking.
28.21.060	Yards.	28.21.110	Signs.
28.21.065	Reduction of Yard Requirements.	28.21.120	Public Street Requirements.
28.21.070	Distance Between Buildings on the Same Lot.	28.21.130	Development Plan Approval.
		28.21.131	Development Potential.

28.21.001 In General.

The following regulations shall apply to both the R-3 Limited Multiple-Family Residence Zone and the R-4 Hotel-Motel-Multiple-Residence Zone unless otherwise provided in this ordinance. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.005 General Description and Legislative Intent.

1. R-3 ZONE.

This is a restricted residential district of high density in which the principal use of land is for multiple-family dwellings, together with recreational, religious and educational facilities required to serve the community. The regulations for this district are designed and intended to establish, maintain and protect the essential characteristics of the district, to develop and sustain a suitable environment for family life and to prohibit activities of a commercial nature and those which would tend to be inharmonious with or injurious to the preservation of a residential environment.

2. R-4 ZONE.

This is a hotel-motel multiple residence district in which the principal use of land is intended to be for multiple housing, together with recreational, religious and educational facilities required to serve the community. The provisions of this ordinance are intended to provide a pleasant and healthful environment by establishing provisions for usable open spaces.

It is the intent of this district to allow hotels and similar establishments, including related recreational, conference center and other auxiliary uses primarily for use by hotel guests, while protecting the existing housing stock, and to preserve the residential character of those neighborhoods which are still primarily residential. In addition, the preservation of buildings of architectural and/or historical significance shall be encouraged. A conversion permit will be required in order to convert existing dwelling units for the purpose of providing hotel or similar uses.

Regulations for this district are designed to control activities of a retail commercial nature and those which would tend to be inharmonious with housing. Restaurants intended to serve the visitors using the established hotels and motels in the immediate vicinity are permitted subject to approval of a conditional use permit. (Ord. 4199, 1983; Ord. 4018 §1, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.030 Uses Permitted.

A. R-3 ZONE.

1. Any use permitted in the R-2 Zone and subject to the restrictions and limitations contained therein, except that any use specifically mentioned hereafter shall be subject to the restrictions of the R-3 Zone.

2. One-, two-, and multiple-family dwellings.

3. Community care facilities, residential care facilities for the elderly and hospices serving 7 to 12 individuals subject to the provisions in Chapter 28.93.

B. R-4 ZONE.

1. Any use permitted in the R-3 Zone and subject to the restrictions and limitations contained therein, except that any such use specifically mentioned hereafter shall be subject to the restrictions of the R-4 Zone.

2. Hotels and related recreational, conference center and other auxiliary uses primarily for use by hotel guests. Any hotels, when units are designed or constructed with cooking facilities shall, as to such units, be subject to the lot area per unit requirements of the R-4 Zone and to the parking requirements for multiple family units required in Subsection 28.90.100.G.3 of this Code. Such hotels when designed, constructed or used for either twenty-four (24) or more dwelling units, or fifty (50) guest rooms or more may include a business, except a restaurant, conducted therein for the convenience of the occupants and their guests; provided entrance to such places of business be from the inside of such buildings; that the floor area used for all the businesses in the facility shall not exceed thirty percent (30%) of the total ground floor area of all the buildings comprising the hotel which are on a single lot or contiguous lots; and provided further that no street frontage of any such building shall be used for such business. Any hotel, regardless of the number of units or rooms therein, may include a restaurant for use by the hotel occupants and their guests only, provided that such facility conforms to all other requirements imposed on any "business" by this paragraph. A restaurant not conforming to all other requirements imposed on any "business" by this paragraph or not for use solely by hotel occupants and their guests may be established only if a conditional use permit is obtained for operation of a restaurant under Chapter 28.94 of this Code. (Ord. 4858, 1994; Ord. 4199, 1983; Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.035 Uses Permitted Upon the Issuance of a Conditional Use Permit or Performance Standard Permit.

As provided in Chapters 28.93 and 28.94 of this ordinance. (Ord. 5380, 2005; Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.050 Building Height.

Three (3) stories, which three (3) stories combined shall not exceed (i) forty-five feet (45') nor (ii) exceed the height limitations imposed for the protection and enhancement of solar access by Chapter 28.11 of this Code. (Ord. 4426, 1986; Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.060 Yards.

1. FRONT YARD. There shall be a front yard of not less than ten feet (10') for one- and two-story buildings and fifteen feet (15') for three-story buildings provided, however, that if one-half (1/2) or less of the ground floor area of a proposed building is three (3) stories and said third story is constructed no

closer to a front yard than one-third (1/3) the ground floor building dimension measured perpendicularly to that front yard, the setback conditions for a two-story building for the front yard shall apply.

2. **INTERIOR YARDS.** There shall be interior yards of not less than six feet (6') for one- and two-story buildings, and ten feet (10') for three-story buildings; provided, however, that if one-half (1/2) or less of the ground floor area of a proposed building is three (3) stories, the ten foot (10') setback shall apply only to said three-story portion of the building.

3. **REAR YARDS.** There shall be rear yards of not less than six feet (6') for one-story buildings or the first floor of a building which is more than one-story and ten feet (10') for the second story and above for floors above the first floor.

For purposes of this section, a rear yard shall be that yard area at the property line opposite the front lot line. In the event of two or more front lot lines, the rear yard area shall be opposite either of the front lot lines. (Ord. 4018 §2, 1979; Ord. 3710, 1974; Ord. 3587, 1973; Ord. 3332, 1969.)

28.21.065 Reduction of Yard Requirements.

It is hereby declared that under the following conditions a physical hardship exists on all R-3 and R-4 Zone lots, and that the listed modifications are hereby granted where the stated conditions exist.

Other provisions of this title notwithstanding a conforming addition may be made to an existing nonconforming dwelling where such nonconformance is due to inadequate front or interior yard setbacks, providing said dwelling complied with the yard setbacks required by ordinance at the time of construction. (Ord. 3710, 1974; Ord. 3587, 1973.)

28.21.070 Distance Between Buildings on the Same Lot.

No main building shall be closer than fifteen feet (15') to any other main building on the same lot, except that a one-story building shall be no closer than ten feet (10') to another one-story building. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.080 Lot Area and Frontage Requirements.

A. **Minimum Lot Size and Frontage for New Lots.** Every lot hereafter created in an R-3 and R-4 Zone shall contain at least fourteen thousand (14,000) square feet and sixty feet (60') of frontage on a public street.

B. **Existing Lots Between 5,000 and 7,000 Square Feet.** For existing lots having between five thousand (5,000) and seven thousand (7,000) square feet of lot area, such lot may be used as a building site for two (2) dwelling units, provided that all other regulations of the zone prescribed by this title are observed.

C. **Lots Less Than 5,000 Square Feet.** For existing lots of less than five thousand (5,000) square feet of area, such lot may be used as a building site for a one-family dwelling, provided that all other regulations of the zone prescribed by this title are observed.

D. **Lots Greater Than 7,000 and Less Than 14,000 Square Feet.** For existing lots having between seven thousand (7,000) and fourteen thousand (14,000) square feet of lot area, such lot may be used as a building site for three (3) units, provided that all other regulations of the zone prescribed by this title are observed.

E. **Lots Greater Than 14,000 Square Feet.** For lots of fourteen thousand (14,000) square feet or more, there shall be provided a lot area of three thousand five hundred (3,500) square feet or more for each dwelling unit hereafter erected.

F. **Additional Open Space.** In addition to all required yards, there shall be an open space area of not less than ten percent (10%) of the total lot area. The open space may consist of walks, patios, planted areas, lawns, swimming pool areas and other landscaped area; excluding, however, for open space credit

garages, carports, balconies, porches, roof areas, driveways, parking and turn-around areas. Landscaped areas which are located seven feet (7') or more below eaves, balconies and other architectural and building projections may be included in the open space required herein.

G. Variable Density in Certain Zones. Lots in the R-3, R-4, C-1, C-2, C-M and R-O Zones, as well as lots in the HRC-2 and OC Zones where residential uses are allowed by the Local Coastal Plan, may be used as a building site for more units than permitted in paragraphs B, C, D and E above if the number of bedrooms in the dwelling unit is limited in accord with the following:

- a. Studio unit - one (1) unit per 1,600 square feet of lot area;
- b. 1 bedroom unit - one (1) unit per 1,840 square feet of lot area;
- c. 2 bedroom unit - one (1) unit per 2,320 square feet of lot area;
- d. 3 or more bedroom unit - one (1) unit per 2,800 square feet of lot area.

Existing lots with less than 5,000 square feet of lot area size, shall not be used as a building site under this sub-paragraph for more than two (2) dwelling units. This sub-paragraph shall be applicable in the R-3, R-4, C-1, C-2, C-M, R-O, HRC-2 and OC Zones and not in any other zone. (Ord. 5343, 2005; Ord. 4772, 1992; Ord. 3950 §1, 1978; Ord. 3753, 1975.)

28.21.081 Outdoor Living Space.

Outdoor living space shall be provided in either of the following methods:

- a. Private outdoor living space as follows:

(1) Private outdoor living space shall be provided for each dwelling unit as follows:

A. Ground Floor Units:

- (1) Studio unit-100 square feet
- (2) 1 bedroom unit-120 square feet
- (3) 2 bedroom unit-140 square feet
- (4) 3 bedroom unit-160 square feet

B. Second Floor Units and above:

- (1) Studio unit-60 square feet
- (2) 1 bedroom unit-72 square feet
- (3) 2 bedroom unit-84 square feet
- (4) 3 bedroom unit-96 square feet

(2) Private outdoor living space areas shall have a minimum dimension in any direction as follows:

A. Ground floor units-10 feet

B. Second floor units and above-6 feet

(3) Private outdoor living space may include planter areas of less than fifty (50) square feet, patio areas, balconies, and decks, and shall not include stairs, entrance decks, and/or landings.

(4) Private outdoor living space may encroach into required yards as follows:

A. Uncovered balconies may encroach 2 feet as specified in section 28.87.062.1 and 2.

B. Private outdoor living space on the ground floor may encroach into required side and rear yard up to the property line, provided there is no overhead structure of any type.

C. Private outdoor living space may encroach in the front yard up to 10 feet from the front property line but shall not include more than fifty (50) percent of the front yard area, excluding driveways, and subject to the following conditions:

(1) Said private outdoor living space shall be enclosed with a solid fence and landscaping having a minimum height of five (5) feet and a maximum height of six (6) feet. If there are substantial views from the respective unit and/or where the area does not abut a street, this condition may be waived by 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.

(5) Private outdoor living space shall be contiguous to and accessible from the unit served.

b. Common open yard area subject to the following conditions:

(1) Ten percent (10%) open space as stated in section 28.21.080.6 is waived when using this option.

(2) Open yard areas shall consist of at least fifteen percent (15%) of the total lot area.

(3) At least one open yard area shall have a minimum dimension of twenty feet (20') in any direction.

(4) Open yard areas may include required side and rear yard setback areas, but not required front yard areas. (Ord. 4851, 1994; Ord. 4018 §3, 1979.)

28.21.085 Regulations for Non-residential Buildings, Structures and Uses.

1. YARDS. Yards for all buildings and structures used for non-residential purposes shall be double the yard requirements for a dwelling as required for the zone in which such building or structure is located. Conversions or remodels of existing residential structures to non-residential uses specifically allowed in Paragraph 28.21.030.B.2 shall be exempt from the double yard requirement.

2. LOT COVERAGE. Not more than twenty-five percent (25%) of the area of a lot may be covered by buildings used for non-residential purposes. Conversions of existing residential structures to non-residential uses specifically allowed in Paragraph 28.21.030.B.2 shall be exempt from the 25% coverage requirement.

3. ARCHITECTURAL APPROVAL. All buildings used for non-residential purposes shall be subject to the approval of 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. (Ord. 4946, 1996; Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.090 Other Requirements.

The City Council may impose other requirements as may be deemed necessary to preserve the residential character of the neighborhood including the mailing of notices to property owners and the holding of a public hearing. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.100 Off-street Parking.

Off-street parking shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.110 Signs.

Signs shall be permitted in these zones only as prescribed in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.120 Public Street Requirements.

1. When any person proposes to construct one (1) or more multiple-family dwellings, wherein the number of dwelling units is controlled by Section 28.21.080.4, on a lot or combination of lots, the size, shape, dimensions or topography of which, in relation to existing abutting public streets, require that there

be an adequate access or internal circulation roadway for vehicular traffic including but not limited to emergency vehicles and equipment traffic, the Chief of Building and Zoning may, prior and as a condition to the issuance of a building permit for such dwelling or dwellings, require the submission by the owner or applicant of a plot plan of such lot or combination of lots showing the location of all existing buildings and all buildings proposed to be constructed thereon and showing the location, width, and extent of improvements of an adequate access or internal circulation roadway thereon designed to connect with the abutting public street or streets.

The term adequate access or internal circulation roadway shall mean a dedicated public street established and improved to City standards and so located as to provide convenient and orderly traffic movement, ingress and egress and circulation upon, through and within the lot or combination of lots in relation to abutting streets, the multiple-family dwelling or dwellings, and the off-street parking areas required in connection with such dwelling or dwellings.

The plot plan and adequate access or internal circulation roadway shall be required by the Chief of Building and Zoning where:

- a. The lot or combination of lots which is the site of the proposed construction exceeds five (5) acres; or
- b. The maximum possible number of dwelling units which could be constructed on such lot or combination of lots, pursuant to Section 28.21.080.4 exceeds one hundred (100); or
- c. Any portion of a multiple-family dwelling proposed to be constructed on the lot or combination of lots will be more than two hundred and fifty feet (250') from the right-of-way line of an abutting street.

When none of the three (3) foregoing categories are applicable to the lot or combination of lots, the adequate access or internal circulation roadway as defined herein shall not be required where the lot or combination of lots abut on a previously dedicated street or streets and where the private driveway access from the nearest entry to the required off-street parking area to the point of connection with such street or streets does not exceed one hundred and fifty (150) lineal feet.

2. When the plot plan required by the Chief of Building and Zoning is filed, the building official shall forthwith submit the same to the Division of Land Use Controls and the Public Works Department for investigation, report and recommendation. Such reports and recommendations shall be submitted to the Planning Commission for hearing at its earliest convenience, and such Planning Commission shall, following such hearing, approve, modify or reject such proposed adequate access or internal circulation roadway in respect to location and connection with existing abutting street or streets.

3. The owner or applicant may appeal any decision of the Planning Commission to the City Council in the manner provided by Chapter 28.92 of this ordinance.

4. Following approval by the Planning Commission or the City Council, as the case may be, of the proposed adequate access or internal circulation roadway shown on the plot plan, the owner or applicant shall:

- a. By formal instrument offer to dedicate said proposed roadway as a public street; and
- b. Either complete the required improvement of such public street to the satisfaction of the City Engineer or agree to complete such improvement within a period of one (1) year, such agreement to be secured by a good and sufficient surety bond in a principal sum equivalent to the estimated cost of such public street on the basis of estimates to be provided by the Department of Public Works, and conditioned on final completion of the construction of said street.

5. Upon completion of such public street improvement to the satisfaction of the City Engineer, or the execution and acceptance of an agreement to complete, secured by bond, a building permit shall then be issued if the requirements of other applicable ordinances have been met. The offer of dedication shall

continue until and shall not be accepted until the required improvements have been completed to the satisfaction of the City Engineer. (Ord. 3710, 1974; Ord. 3119, 1966; Ord. 3118, 1966.)

28.21.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Section 28.87.300 of this Code. (Ord. 4140, 1982.)

28.21.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in General Provisions, Development Plan Approval, Section 28.87.300. (Ord. 4670, 1991.)

**Note: This is an excerpt from the Zoning Ordinance. Please refer to the Zoning Ordinance for additional information.*

Chapter 28.87

GENERAL PROVISIONS

Sections:

28.87.001	In General.	28.87.210	Substandard Lots Created by Action of Public Agency.
28.87.005	Conflicting Regulations.	28.87.220	Zoning Information Report.
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28.87.036	Nonconforming Uses Resulting from Amendments.	28.87.240	Drive-through Facility.
28.87.038	Reconstruction of Damaged Nonconforming Structures.	28.87.250	Development Along Creeks.
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28.87.060	Swimming Pool Requirements.	28.87.270	Emergency Service Antennas.
28.87.062	Yard Encroachments.	28.87.280	Automated Teller Machines.
28.87.080	Location of Building.	28.87.300	Development Plan Review and Approval.
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28.87.170	Fences, Screens, Walls and Hedges.	28.87.380	Notice of Hearing.
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28.87.190	Storage.	28.87.500	Denial of Affordable Housing Projects.
28.87.200	Landscape or Planting Plan Approvals - Standards.		
28.87.205	Automobile Service Stations - Site Development Regulations.		

28.87.001 In General.

The regulations specified in this chapter shall be subject to the following interpretations and exceptions. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.87.005 Conflicting Regulations.

Where any provision of this chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this chapter shall govern. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.87.030 Uses Permitted.

A. LESS RESTRICTIVE USES PROHIBITED. The express enumeration and authorization in this title of a particular class of building, structure, premises or use in a designated zone shall be deemed a prohibition of such building, structure, premises or use in all zones of more restrictive classification, except as otherwise specified.

B. ADDITIONAL PERMITTED USES. Uses other than those specifically mentioned in this title as uses permitted in each of the zones may be permitted therein provided such uses are similar to those mentioned and are in the opinion of the City Council no more obnoxious or detrimental to the welfare of the community than the permitted uses in the respective zones. The City Council may approve such uses by ordinance amendment after a recommendation has been received from the Planning Commission.

C. EXCLUSION OF PERMITTED USES. The City Council after a recommendation has been received from the Planning Commission may by ordinance amendment, exclude any permitted use from any zone if in the opinion of the City Council it is obnoxious or detrimental to the welfare of the community.

D. NONCONFORMING BUILDINGS. The following provisions shall apply to all nonconforming buildings and structures or parts thereof legally existing at the effective date of this title.

1. Any nonconforming building or structure may be maintained, improved, or altered only as follows:

a. Improvements that do not change the use or the basic, exterior characteristics or appearance of the building or structure are allowed. Such improvements include but are not limited to the following:

(1) Interior alterations or upgrades to any portion of the nonconforming building or structure, including portions that exceed the current height limitation, such as:

- (a) The replacement of wall coverings;
- (b) The replacement of existing utilities, or the installation of new utilities;
- (c) The replacement of existing interior walls, or the construction of interior walls;
- (d) The replacement of existing insulation, or the installation of new insulation; or
- (e) The replacement of existing floor coverings, or the installation of new floor

coverings;

- (2) The replacement of structural members, such as studs, rafters, joists, beams, or other structural members, except where it will result in an increase in roof pitch;
- (3) The replacement or installation of new foundations and slabs under the existing building footprint;

(4) Seismic safety retrofit improvements;

(5) The demolition and replacement of the nonconforming building or structure, provided that the following conditions are met:

- (a) The basic, exterior characteristics of the replacement building or structure is not changed, except as allowed in this Section;
- (b) The new structure complies with all applicable height and building story limitations; and
- (c) The demolition and replacement of the nonconforming building or structure does not continue or perpetuate a nonconforming use.

(6) Additions that conform to the current Zoning standards for the zone.

b. Minor improvements that change the exterior characteristics are allowed. Such minor improvements are limited to the following:

- (1) The replacement of exterior wall coverings with the same or different materials;
- (2) The replacement of roofing materials with the same or different materials, except those that require an increase in roof pitch;
- (3) Reduction in the number or size of window or door openings;
- (4) Replacement of existing windows or doors where there is no increase in opening size, or changes in the location of the windows or doors.

2. Nothing in the above provisions shall be construed to prohibit any additions or alterations to a nonconforming structure as may be reasonably necessary to comply with any lawful order of any public authority, such as seismic safety requirements, the Americans with Disabilities Act, or a Notice and Order of the Building Official, made in the interest of the public health, welfare, or safety, provided that modification approvals pursuant to Chapter 28.92 of this Title may be required for such additions or alterations.

E. **NONCONFORMING USES.** Any nonconforming use of a conforming or nonconforming building may be maintained and continued, provided there is no increase or enlargement of the floor area of the buildings or structures on site which are occupied or devoted to such nonconforming use except as provided in this Subsection, and further provided there is no increase in the intensity of such nonconforming use except as otherwise provided in this title. When a building containing a nonconforming use is demolished, the nonconforming use shall be deemed discontinued, and such nonconforming use shall not be continued or perpetuated in any replacement building, except as provided in this Subsection. For the purposes of this section, an increase in intensity of use shall include but not be limited to the following: An increase in the number of required parking spaces for the use, or increase in the amount of traffic, noise, odors, vibration, air pollution including dust and other particulate matter, hazardous materials or other detrimental effects on the surrounding community that are generated by the use.

1. **Properties with Nonconforming Residential Density.** Improvements or alterations to a residential structure that do not increase residential density, do not increase floor area (including all accessory buildings except garages and carports), or do not increase the amount of habitable space shall be allowed on lots with nonconforming residential density. For the purpose of this paragraph, residential density shall be defined as the number of dwelling units on a property, except in the R-3, R-4, R-O, C-1, C-2, and C-M Zones, where residential density shall be defined as a combination of the number of dwelling units and the number of bedrooms per unit on a property. The following improvements are allowed, provided that any portion of a building or structure that is nonconforming as to physical standards of the zone shall only be improved consistent with the provisions in SBMC §28.87.030.D.:

- a. New fences;
- b. New windows;
- c. New doors;
- d. Replace windows with doors;
- e. New ground floor decks;
- f. New utilities;
- g. Re-roof, including changes in pitch up to 4 in 12;
- h. New interior or exterior wall coverings;
- i. New insulation;
- j. New foundations;
- k. Structural upgrades;
- l. Seismic Safety retrofit improvements;

- m. New exterior water heater enclosures;
- n. Interior floor plan changes that do not increase the residential density on site or do not increase the amount of habitable space on site, including converting existing habitable space to bathrooms;
- o. New covered or uncovered parking spaces, up to the minimum number required by this Title for the existing dwelling units;
- p. Demolition and replacement, pursuant to the conditions in Section 28.87.038.B of this Title; or
- q. Other improvements which neither increase the residential density on site, add floor area, nor increase the amount of habitable space.

2. **Residential Uses in the M-1 Zone.** Buildings or structures containing residential uses in the M-1 Zone may be improved and upgraded as allowed in Paragraph 28.87.030.E.1., above, provided the following conditions are met:

- a. There is no increase in floor area, including accessory buildings;
- b. There is no increase in residential density;
- c. If a proposal to upgrade or improve a residential property in the M-1 zone requires discretionary review by the City, notice of such discretionary review shall be given as required by SBMC Sections 22.22.132, 22.68.065, or 28.92.060, depending on the reviewing body.

3. **Neighborhood Markets in Residential Zones.** Nonconforming neighborhood markets in residential zones that are properly permitted as of September 1, 1998 may be improved and upgraded as allowed in Paragraph 28.87.030.E.1. above, subject to the following additional conditions:

- a. There is no increase in floor area;
- b. If a proposal to upgrade or improve a neighborhood market in a residential zone requires discretionary review by the City, notice of such discretionary review shall be given as required by SBMC Sections 22.22.132, 22.68.065, or 28.92.060, depending on the reviewing body.

For the purpose of this Section, a neighborhood market shall be defined as a small-scale market that may sell a full range of food and convenience products, including meat, dairy, vegetables, fruits, dry goods, beverages, and prepared food for off-site consumption.

4. Any part of a building, structure or land occupied by such a nonconforming use which is changed to or replaced by a use conforming to the provisions of this title shall not thereafter be used or occupied by a nonconforming use.

5. Any part of a building, structure or land occupied by such a nonconforming use, which use is discontinued or ceases for a period of one (1) year or more, shall not again be used or occupied except by a use allowed by the applicable zoning. This time limit shall not apply to a nonconforming use in a building or structure or on land located in an area which the City Council has, by resolution, found to be impacted by governmental action provided (i) the nonconforming use is resumed within one year of the completion of the governmental action and (ii) the nonconforming use is not more intense than the use which existed prior to the governmental action.

6. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restrictive classification. In areas found by the City Council to be impacted by governmental action, any interim use not conforming to the zoning designation but found appropriate by the Planning Commission may be established upon issuance of a conditional use permit.

7. The foregoing provisions of this section shall also apply to buildings, structures, land or uses which hereafter become nonconforming due to any reclassification of zones under this title or any subsequent change in the regulations of this title.

8. The provisions of this Chapter 28.87 concerning the physical change, abandonment, structural alteration, removal, discontinuance, reconstruction, repairing or rebuilding of nonconforming buildings, structures and uses shall not apply to public utility buildings, structures and uses. Nothing in this part shall be construed or applied so as to prevent the expansion, modernization or replacement of public utility buildings, structures, equipment and facilities where there is no change of use or increase in area of the property so used.

9. An existing educational institution may use, for all educational purposes, buildings existing on the date that this subsection is adopted. (Ord. 5380, 2005; Ord. 5072, 1998; Ord. 4896, 1994; Ord. 4582, 1989; Ord. 4181, 1982; Ord. 3710, 1976; Ord. 3679, 1974; Ord. 2628, 1957; Ord. 2585, 1957.)

28.87.036 Nonconforming Uses Resulting from Amendments.

The provisions of this chapter shall apply to uses which become nonconforming by reason of any amendment to this title, as of the effective date of such amendment. (Ord. 3710, 1974; Ord. 2585, 1957.)

g. The parking demands of the replacement project (when contrasted with the demands of the demolished project) do not create a new and significant adverse impact on the parking resources located in the area of the project. If the replacement project results in a new and significant adverse impact on parking resources, the applicant shall make reasonable efforts to mitigate the impact. In such cases, the Planning Commission, or City Council on appeal, shall consider the parking impacts and proposed mitigation measures and may override the impacts if the benefits of the project outweigh the impact. (Ord. 5380, 2005; Ord. 4984, 1996.)

28.87.060 Swimming Pool Requirements.

In any zone that has required setbacks, a swimming pool shall not be located closer than 15 feet to a front lot line or closer than five feet (5') to an interior lot line unless the zone in which the pool is to be constructed has a smaller setback; then, the pool shall observe this lesser setback. The setback shall be measured from the front and interior lot lines to the closest water area of the pool. (Ord. 3804, 1975; Ord. 2585, 1957.)

28.87.062 Yard Encroachments.

Where yards are required in this title, they shall be not less in depth or width than the minimum dimensions specified for any part, and they shall be at every point unobstructed by structures from the ground upward, except as follows:

1. Uncovered balconies, cornices, canopies, chimneys, eaves or other similar architectural features not providing additional floor space within the building may extend into a required yard not to exceed two feet (2').
2. Porches, terraces and outside stairways, unroofed, unenclosed above and below floor or steps, and not extending above the level of the first floor, may project not more than three feet (3') into any required interior yard. (Ord. 2585, 1957.)

28.87.080 Location of Building.

Except where otherwise provided for in this title, every main building shall face or have frontage upon a public street or permanent means of access to a street. (Ord. 2585, 1957.)

28.87.140 Buildings Under Construction.

Any building or structure for which a building permit has been issued, and actual construction has begun, prior to the effective date of this title, may be completed and used in accordance with the plans, specifications and permits on which said building permit was granted, if construction is diligently prosecuted to completion, and provided further that such building or structure shall be completed within two (2) years from the effective date of this chapter. (Ord. 2585, 1957.)

28.87.150 Dwelling and Other Occupancies.

1. **INTERIOR YARDS FOR DWELLING UNITS IN NON-SINGLE FAMILY ZONES.** Where a dwelling is located, placed or erected above another type of use in zones other than A, E, or R zones, the interior yards for the floors occupied for dwelling purposes shall comply with the provisions of the R-4 Zone.
2. **DWELLING UNIT AREA REQUIREMENTS.** Every dwelling unit hereafter created shall contain not less than four hundred (400) square feet of usable floor area. Such usable floor area shall be exclusive of open porches, garages, basements, cellars and unfinished attics.
3. **EXCEPTION FOR AFFORDABLE EFFICIENCY DWELLING UNITS.** For projects constructed or operated by a nonprofit or governmental agency providing housing as an "Affordable Housing Cost" to "Lower Income Households" (as those terms are defined in sections 50052.5 and 50079.5 of the state Health and Safety Code), the City may permit efficiency dwelling units (as defined in Section 310.7 of the California Building Code as adopted and amended by this Code) for occupancy by no more than two persons who qualify as either very low or low income households at the time of their initial occupancy under circumstances where the unit will have a minimum useable floor area (excluding floor area in the kitchen, bathroom and closet) of not less than 150 square feet. In all other respects, such efficiency dwelling units shall conform to the minimum standards specified in the California Building Code (2001 Edition) and other applicable provisions of this Code. (Ord. 5336, 2004; Ord. 4912, 1995; Ord. 4225, 1983; Ord. 4152, 1982; Ord. 3680, 1974.)

28.87.160 Accessory Buildings.

The following regulations shall apply to the size and location of accessory buildings unless otherwise provided in this title.

1. No detached accessory buildings in the A-1, A-2, E-1, E-2, E-3, R-1, R-2, R-3 or R-4 Zones may exceed two (2) stories or thirty feet (30') in height.

28.87.270 Emergency Service Antennas.

Emergency Service antennas shall be a permitted use in all zones. (Ord. 4891, 1994.)

28.87.280 Automated Teller Machines.

A. PROHIBITION ADJACENT TO RESIDENTIAL ZONES. Except as provided in Subsection B. of this Section, Automated Teller Machines (ATMs) shall not be installed, operated or maintained under the following circumstances:

1. Where the ATM is located on a parcel that is immediately adjacent to a parcel zoned for residential purposes, and
2. Where the ATM is less than one hundred feet from the lot line of the adjacent residentially zoned lot, and
3. Where the ATM is either:
 - a. Located on an exterior wall of a structure, which wall is visible from the adjacent residential lot, or
 - b. Accessible through a door installed in such an outside wall which is open other than during normal hours of the business which otherwise is conducted in said building.

B. NONCONFORMING ATMs; AMORTIZATION PERIOD. Any Automated Teller Machine existing on the effective date of the ordinance first enacting this Section 28.87.280 and which is located as described in Subsection A hereof shall be either removed, or moved to a location that conforms to the provisions of Subsection A hereof within six years of the date of its original installation. During such six (6) year period, such ATM must also comply with the following conditions:

1. Such ATM shall not be replaced, improved or upgraded during said period, and
2. Such ATM and associated security lighting shall not be operated between the hours of 10:00 p.m. and 7:00 a.m. daily.
3. An illuminated sign stating the hours of operation of the ATM shall be placed in a location visible to potential users of the ATM, subject to Chapter 22.70 (Sign Ordinance) of this Title. (Ord. 5072, 1998.)

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 E.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. 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 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.

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. (Ord. 5380, 2005; Ord. 5378, 2005; Ord. 4995, 1996; Ord. 4945, 1996; Ord. 4918, 1995; Ord. 4858, 1994; Ord. 4851, 1994; Ord. 4790, 1992; Ord. 4761, 1992; Ord. 4696, 1991; Ord. 4670, 1991; Ord. 4557, 1988; Ord. 4535, 19858; Ord. 4530, 1988; Ord. 4529, 1988; Ord. 4492, 1988; Ord. 4361, 1986; Ord. 4140, 1982.)

28.87.350 Development Plan Time Limits.

A. TIME LIMIT. A development plan approved pursuant to any provision of this Title shall expire four (4) years from the date of its approval, except as otherwise provided herein. No building or grading permit for any work authorized by a development plan shall be issued following expiration of that plan.

B. CONDITIONS. Any condition imposed on a development plan may, in the discretion of the body approving the development plan, also constitute (i) a condition to the issuance of and continued validity of any building or grading permit issued to implement that development plan, (ii) a condition to the issuance of the certificate of occupancy with respect to any improvements authorized by the development plan and (iii) if recorded with the County Recorder, to the continued validity of the certificate of occupancy. Violation of any such condition shall be grounds for suspension or revocation of any building or grading permit or certificate of occupancy issued with respect to the development plan.

C. EXTENSION OF TIME PERIOD. Upon application of the developer filed prior to the expiration of the development plan, the time at which the development plan expires may be extended by the Community Development Director for one (1) year.

An extension of the expiration date of a development plan shall be granted if it is found that there has been due diligence to implement and complete the proposed project as substantiated by competent evidence in the record.

D. SUSPENSION OF TIME DURING MORATORIUM. The period of time specified in Subsection A, including any extension thereof granted pursuant to Subsection C, shall not include any period of time during which a moratorium, imposed after approval of the development plan, is in existence, provided however, that the length of the moratorium does not exceed five (5) years. For purposes of this Subsection, a development moratorium shall include (i) a water or sewer moratorium, (ii) a water and sewer moratorium, and (iii) a building or grading permit moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land other than the City, which thereafter prevents, prohibits, or delays the completion of the development.

Once a moratorium is terminated, the development plan shall be valid for the same period of time as was left to run on the development plan at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the development plan shall be valid for 120 days following the termination of the moratorium.

E. SUSPENSION OF TIME DURING LITIGATION. The period of time specified in Subsection A, including any extension thereof granted pursuant to Subsection C, shall not include the period of time during which a lawsuit involving the approval of the development plan or related approvals is or was pending in a court of competent jurisdiction, if the stay of time period is approved by the Planning Commission or City Council pursuant to this Section. After service of the initial petition or complaint in the lawsuit upon the City, the developer may apply to the City for a stay pursuant to the City's adopted procedures. Within forty (40) days after receiving the application, the City shall either stay the time period for up to five years or deny the requested stay. The City Council may, by resolution, establish procedures for reviewing a request for a stay, including, but not limited to, notice and hearing requirements, appeal procedures and other administrative requirements.

2. The identity of the hearing body or officer;
3. A general explanation of the matter to be considered; and
4. A general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing.

D. **REQUEST FOR NOTICE.** When a provision of this Code requires notice of a public hearing to be given pursuant to this Section, the notice shall also be mailed at least 10 days prior to the hearing to any person who has filed a written request for notice with either the City Clerk or with any other person designated to receive such requests. The City may charge a fee for providing this service as set by resolution of the City Council. Any request to receive such notice shall be renewed annually. The members of the Planning Commission shall receive notice of all public hearings scheduled before the Staff Hearing Officer.

E. **CONTINUANCES.** Any public hearing noticed pursuant to this Section may be continued to a time certain without further notice. (Ord. 5380, 2005.)

28.87.400 Density Bonus and Development Incentives.

A. **INTENT.** The intent of this section is to provide incentives for the development of housing affordable to very-low income, low income, senior and other qualifying households. State law mandates the provision of density bonuses to senior, very-low, and low income households under certain circumstances. The City of Santa Barbara has created a separate density bonus program for certain other households. Both the State mandated and City created density bonus programs use terms defined in this section.

B. **DEFINITIONS.** The following words and phrases have the meaning indicated unless the context or usage clearly requires a different meaning:

1. **Density.** The number of residential units allowed on a parcel based on the lot area requirements specified in the zone and General Plan.
2. **Density Bonus.** A density increase over the otherwise maximum allowable residential density under the applicable Zoning Ordinance and Land Use Element of the General Plan as of the date of application by the developer to the City.

C. **PROJECTS WHICH MEET THE CRITERIA SET FORTH IN STATE DENSITY BONUS LAW.**

1. Qualifying housing developments as defined in Government Code Section 65915. When a developer of housing agrees or proposes to construct at least:

- a. 20% of the total units of a housing development for low income households; or
- b. 10% of the total units of a housing development for very low income households; or
- c. 50 percent of the total dwelling units of a housing development for senior citizens;

The applicant must submit the project for review by the Community Development Director or his/her designee to determine whether the project meets the criteria set forth in State density bonus law. If the Director determines that the project meets the criteria of State law, the project may be granted a density bonus and at least one other incentive as required by State law, and processed as required by State law unless otherwise requested by the applicant. The incentives and processing provisions required by State law are described in Government Code Section 65915.

2. Procedure for review of projects submitted under State density bonus law. A project which meets all the requirements of State law shall be processed according to the usual discretionary review procedure, subject to the following exceptions:

a. **LOT AREA MODIFICATION.** Notwithstanding any other section in this Code, when a proposed project complies with all of the requirements of State density bonus law, and the density bonus requested is no more than the density bonus mandated by State law, the Community Development Director or his/her designee shall deem the project's density consistent with the Zoning Ordinance, and exempt from the requirement for a lot area modification as set forth in Section 28.92.110.

b. **NOTICE OF DESIGN REVIEW BOARD HEARING.** When the Community Development Director determines that a proposed project meets all the requirements of State law and the requirements of the residential zoning category in which the project is proposed, and does not cause any unavoidable, significant, environmental impacts, and requires design review as its only City discretionary approval, the appropriate Design Review Board (Historic Landmarks Commission or Architectural Board of Review) will review the project. Notice of the meeting at which the project is considered by the Design Review Board will be provided in accordance with the requirements for noticing of public hearings in Municipal Code Section 28.92.060.

D. **PROJECTS WHICH DO NOT MEET THE CRITERIA SET FORTH IN STATE DENSITY BONUS LAW.**

1. Qualifying housing developments. When a developer proposes a development which does not meet the criteria listed above and requests a density bonus, the Community Development Director or his/her designee will review the project for consistency with the criteria of the City's density bonus program, described in the City of Santa Barbara Affordable Housing Policies and Procedures Manual. If the proposed project is determined to be consistent with the criteria of the City's density bonus program, it will be approved or disapproved under the provisions of that program.

2. Procedures for approval of projects which are consistent with the City density bonus program. A project which does not meet all the requirements of State law, but does meet the standards of the City density bonus program will be processed according to the discretionary review procedures in effect and applicable to the project. (Ord. 5380, 2005; Ord. 4912, 1995.)



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 087-06
128-138 EAST CANON PERDIDO
PARKING MODIFICATION AND DEVELOPMENT PLAN APPROVAL
DECEMBER 6, 2006

APPLICATION OF SUZANNE ELLEDGE PERMIT PROCESSING, TIFFANY CAMPBELL, AGENT FOR PUEBLO VIEJO PROPERTIES, 128-138 EAST CANON PERDIDO STREET AND 825-833 SANTA BARBARA STREET, APN: 031-011-004, C-2 COMMERCIAL ZONE, GENERAL PLAN DESIGNATION: OFFICES AND MAJOR PUBLIC AND INSTITUTIONAL (MST2003-00243)

The project consists of alterations to an existing mixed-use complex, consisting of one and two-story buildings, for "as-built" changes including conversion of two existing residential units into four units, converting the existing 15 residential garages to a laundry room, residential storage and commercial square footage which will include alterations to the existing garage doors, and Development Plan approval to allow 1,434 square feet of new non-residential floor area for the conversion of the garages. Modifications are requested to eliminate the existing residential parking and to provide no additional parking for the converted commercial square footage, to allow bonus density for the two "as-built" residential units, a floor area modification to allow the "as-built" residential units to be less than 400 square feet, a modification of private outdoor living space to allow one of the new residential units to have no outdoor living space and a modification of private outdoor living space to allow one of the new residential units to have private outdoor living space that does not meet the required six foot minimum dimension .

The discretionary applications required for this project are:

1. A Modification of the residential parking requirements to allow no parking spaces instead of the required number of parking spaces for the existing and proposed residences and of the nonresidential parking requirements to allow no parking spaces instead of the required number of parking spaces for the conversion of the residential garages to nonresidential storage space (SBMC §28.90);
2. A lot area Modification for bonus density to allow two additional residential units for a total of 17 residential units, on a lot in the C-2 Zone (SBMC §28.21.080 & 28.87.400);
3. A Modification of floor area regulations to allow the two new residential units to have less than 400 square feet of useable floor area (SBMC §28.87.150 & 28.92.026);
4. A Modification of private outdoor living space regulations to allow one of the new residential units to have no private outdoor living space instead of the required 72 square feet of private outdoor living space (SBMC §28.21.081);
5. A Modification of private outdoor living space regulations to allow one of the residential units to have private outdoor living space that does not meet the required six foot minimum dimension (SBMC §28.21.081); and

EXHIBIT D

6. Development Plan Approval for 1,434 square feet of new non-residential floor area, converted from existing residential garage space (SBMC §28.87.300).

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

WHEREAS, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, one person appeared to speak with concerns, and the following exhibits were presented for the record:

2. Staff Report with Attachments, December 6, 2006.
3. Site Plans
4. Correspondence received with concerns about the project:
Shelia Lodge, Citizen's Planning Association

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer:

- I. Approval of the lot area Modification of the purposes of restoring the original residential density of 15 units making the finding that it is consistent with the purpose and intent of the Zoning Ordinance and necessary to secure appropriate improvements.

Denial of the remainder of the application with the comment that although the Staff Hearing Officer supports the parking Modifications in concept, she cannot make the findings for the project as currently proposed.

- II. Said approval is subject to the following conditions:

- A. **Recorded Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the following conditions shall be imposed on the use, possession and enjoyment of the Real Property, shall be executed by the Owner in a written instrument which shall be reviewed and approved as to form and content by the City Attorney and recorded by the City. Said agreement(s) shall be recorded in the Office of the County Recorder:

1. **Public Improvement Agreement [Not a Subdivision].** "Agreement for Land Development Improvements", and associated Securities for performance and maintenance improvements to the public right of way.
2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate. The Owner is responsible for the adequacy of any project related drainage facilities and for the continued maintenance thereof in a manner which will preclude any hazard of life, health or damage to the Real Property or any adjoining property.

3. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats or trailers shall be stored on the Real Property.
 4. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on December 6, 2006 is limited to 1,434 square feet of new nonresidential square footage, 15 dwelling units and the improvements shown on the Development Plan signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
 5. **Commercial Storage for Food Establishments.** The conversion of any of the garages to commercial storage for food establishments at the property shall comply with all County Environmental Health regulations. Permits and written approval shall be obtained from County Health Environmental Health Services prior to utilizing these areas for such storage.
 6. **Commercial Storage for On-site Businesses Only.** The conversion of the residential garages to commercial storage shall be limited to use by the occupants of the commercial businesses at the property and the commercial storage shall not be allowed for businesses that are located off-site.
 7. **Residential Storage for On-site Residents Only.** The conversion of the residential garages to residential storage shall be limited to use by the residents of the residential units on site.
 8. **Laundry Facility for On-site Residents Only.** The conversion of a portion of a garage to a laundry area shall be limited to use by the residential units on site and shall not be used for commercial purposes.
 9. **No Residential Parking Permits Allowed for Future Residents.** Future residents, who are not tenants at the time of project approval, are not eligible to obtain residential parking permits for on-street parking from the City.
- B. **Prior to Building Permit** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property:
1. **Water Rights Assignment:** "Agreement Assigning Water Extraction Rights". Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property. This assignment of rights does not include a right of surface entry on or from the Real Property.
 2. **Public Improvement Securities.** The Owner shall provide an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the "Agreement to Construct and Install Improvements (Not a Subdivision)".
 3. **Drainage Call-Outs.** Plans shall reflect grades graphically with callouts, so drainage patterns to the right-of-way can be established.
 4. **Violations Corrected.** All outstanding violations shall be corrected as part of the building permit and shall be included in the scope of work for the project.

5. **Tenant Displacement Assistance.** If the Building Permit to remove the “as-built” residential units has not been applied for by December 20, 2006, the Tenant Displacement Assistance Ordinance provisions shall apply to those tenants who are displaced by removal of the affected units.
- C. **Design Review.** The following is subject to the review and approval of the Historic Landmarks Commission (HLC):
1. **Exterior Changes.** Any exterior changes to the property are subject to the review and approval by the HLC:
 2. **Restoration to Original Appearance.** All exterior changes made to accommodate the creation of the two “as-built” residential units shall be restored to their original approval and shall match the original construction plans.
- D. **Public Works Submittal prior to Permits.** The Owner shall submit the following or evidence of completion of the following to the Public Works Department prior to the recordation of the Parcel Map and prior to the issuance of a Building permit or Public Works permit.
1. **Street Improvement Plans.** The Owner shall submit building plans for construction of improvements along the subject property road frontage on Canon Perdido and Santa Barbara Streets. As determined by the Public Works Department, the improvements shall include new, and/or remove and replace to City standards: sidewalk where damaged, backflow device, driveway apron modified to meet Title 24 requirements, relocate any utilities necessary for driveway improvements, install on-site pollution prevention interceptor device, install street trees grates, and provide adequate positive drainage from site. Building plans shall be prepared by a registered civil engineer or licensed architect and reviewed and signed by the City Engineer.
 2. **Storm Water Pollution Control Systems Maintenance.** The Owner(s) shall maintain drainage system, storm drain water interceptor and other storm water pollution control devices in accordance with the Operations and Maintenance Procedure Plan approved by the City Engineer.
 3. **Construction Best Management Practices.** Construction Best Management Practices Required. Construction activities shall address water quality through the use of best management practices (BMP's) as approved by the City Building Official.
 4. **Check Valve/Anti-Backflow Device.** Provide an approved check valve or anti-backflow device placed on the private property side of consumer's service pursuant to Municipal Code Section 14.20.120 and Public Works Construction Standard Detail 5-009.0. The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
 5. **Trash Enclosure Provision:** A trash enclosure area for trash and recycling containers shall be provided on the Real Property and screened from view from

surrounding properties and the street. Such structure shall be located at least five (5) feet from any building unless protected with fire sprinklers, with final location approved by the HLC, and runoff from the area shall be pre-treated prior to entering the public right-of-way.

6. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way (easement).
7. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Exterior lighting shall be shielded and directed toward the ground.
8. **Conditions on Plans/Signatures.** The final Staff Hearing Officer Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner

Date

Contractor

Date

License No.

Architect

Date

License No.

Engineer

Date

License No.

- E. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field for the duration of the project construction.

1. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container for collection of demolition/construction materials.
2. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m.,

and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below:

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

3. **Construction Parking/Storage.** Construction parking and storage shall be provided as follows:
 - a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director.
 - b. Storage or staging of construction materials and equipment within the public right-of-way is prohibited.
4. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
5. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.
6. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of

uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and an archaeologist from the most current City Qualified Archaeologists List shall be retained by the applicant. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

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

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

- F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, etc.) subject to the review and approval of the Public Works Department. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility undergrounding and installation of street trees.

This motion was passed and adopted on the 6th day of December 6, 2006 by the Staff Hearing Officer of the City of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Staff Hearing Officer at its meeting of the above date.

Deana McMillion, Administrative/Clerical Supervisor Date

PLEASE BE ADVISED:

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
3. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
4. **NOTICE OF APPROVAL TIME LIMITS:**
The Staff Hearing Officer's action approving the Modification shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:
 1. A Building Permit for the use authorized by the approval is issued within twenty-four (24) months of granting the approval. An extension may be granted by the Community Development Director, if the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
 2. Because this project is an enforcement case, the Owners are required to submit plans revised to incorporate changes required by the Conditions of Approval to Historic Landmarks Commission within 30 days of project approval. Building permit applications for said changes shall be submitted within 90 days of project approval.

STAFF HEARING OFFICER MINUTES

DECEMBER 6, 2006

G. APPLICATION OF SUZANNE ELLEDGE PERMIT PROCESSING, TIFFANY CAMPBELL, AGENT FOR PUEBLO VIEJO PROPERTIES, 128-138 EAST CANON PERDIDO STREET AND 825-833 SANTA BARBARA STREET, APN: 031-011-004, C-2 COMMERCIAL ZONE, GENERAL PLAN DESIGNATION: OFFICES AND MAJOR PUBLIC AND INSTITUTIONAL (MST2003-00243)

The project consists of alterations to an existing mixed-use complex, consisting of one and two-story buildings, for "as-built" changes including conversion of two existing residential units into four units, converting the existing 15 residential garages to a laundry room, residential storage and commercial square footage which will include alterations to the existing garage doors, and Development Plan approval to allow 1,434 square feet of new non-residential floor area for the conversion of the garages. Modifications are requested to eliminate the existing residential parking and to provide no additional parking for the converted commercial square footage, to allow bonus density for the two "as-built" residential units, a floor area modification to allow the "as-built" residential units to be less than 400 square feet, a modification of private outdoor living space to allow one of the new residential units to have no outdoor living space and a modification of private outdoor living space to allow one of the new residential units to have private outdoor living space that does not meet the required six foot minimum dimension .

The discretionary applications required for this project are:

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

Case Planner: Jo Anne LaConte, Assistant Planner
Email: jlaconte@SantaBarbaraCA.gov

Tiffany Campbell, Agent; Rex Ruskauff, Architect; Trey Penner, Applicant Representing Ownership, present.

Jo Anne LaConte, Assistant Planner, gave the Staff presentation and recommendation.

Ms. Weiss announced that she read the Staff Report recommendation for the proposed project and also visited the site and surrounding neighborhood.

The Public Hearing was opened at 3:09 p.m.

Jarrell Jackman, Executive Director of the Santa Barbara Trust for Historic Preservation, expressed concern as to the relief being provided for the variety of parking and asked if the Presidio State Park General Plan for parking was considered as to a solution for the parking situation. He mentioned there is a possibility of making the parking lot across the street available since it is currently owned by the State and administered by the Trust.

The Public Hearing was closed at 3:12 p.m.

Ms. Weiss noted into the record a letter received from the public:

Sheila Lodge, Citizen's Planning Association, expressed concern about losing all of the on-site parking and suggested that at least two be made available for bicycles, motorcycles and other alternative transportation.

Ms. Weiss mentioned that there is a record that the building construction was done illegally and went against the City's standards. The property is also over the current density requirements. One of the positive aspects is that the building provides mixed-use living for people downtown.

Ms. Weiss mentioned that there are new City requirements as to the displacement of residents when their rental homes are being converted or eliminated.

Parking Modification

Ms. Weiss expressed concern about the loss of parking. Rob Dayton, Supervising Transportation Planner, stated that Transportation Staff agrees with the proposal and considered how safety concerns could be eliminated in its evaluation.

Mr. Dayton stated that the loading zone on the Santa Barbara Street side is to be eliminated and a loading area will be created on the Canon Perdido driveway as a safety element.

Ms. Weiss asked whether the Health Department had been consulted as what could be placed in the storage areas. Mr. Penner responded that that issue has already been addressed by the Health Department.

Ms. Weiss inquired as to alternative designs that could provide some parking while still providing the proposed storage.

ACTION:

Assigned Resolution No. 087-06

Approval of the lot area Modification for the purposes of restoring the original residential density of 15 units making the finding that it is consistent with the purpose and intent of the Zoning Ordinance and necessary to secure appropriate improvements.

Denial of the remainder of the application with the comment that, although the Staff Hearing Officer supports the parking Modifications in concept, she cannot make the findings for the project as currently proposed.

Ms. Weiss announced the ten calendar day appeal period.

CONCEPT REVIEW - NEW

2. **128 E CANON PERDIDO ST** C-2 Zone
Assessor's Parcel Number: 031-011-004
Application Number: MST2003-00243
Architect: Rex Ruskauff
Owner: Pueblo Viejo Properties Ltd
Agent: Suzanne Elledge Permit Processing

(Proposal to legalize "as-built" changes including two new residential units, converting the existing 15 residential garages to a laundry room and commercial square footage which will include alterations to the existing garage doors, and Development Plan approval to allow 2,718 square feet of new non-residential floor area for the conversion of the garages. Modifications are requested to eliminate the existing residential parking and to not provide new parking for the converted commercial square footage, to allow density bonus for the two "as-built" residential units, and a floor area modification to allow the "as-built" residential units to be less than 400 square feet.)

(PROJECT REQUIRES ENVIRONMENTAL ASSESSMENT, STAFF HEARING OFFICER APPROVAL OF MODIFICATIONS, AND DEVELOPMENT PLAN APPROVAL FINDINGS.)

(1:46)

Rex Ruskauff, architect; Trey Penner, representative for the owner; and Jo Anne La Conte, Assistant Planner for the City of Santa Barbara, present.

Public comment opened at 1:57 p.m.

Mr. Kellam De Forest expressed concern over where people would park if they didn't have access to the garage since off street parking is already impacted during business hours. He also inquired about the long range plans for absorbing the area into the Presidio restoration. Commissioner Boucher responded that she believes that this particular property was removed from the Presidio restoration by City Council.

Public comment closed at 1:59 p.m.

Motion: Continued indefinitely and referred to the Planning Commission with the following comments: 1) The Commission felt that conversion of the parking spaces should be reviewed by the Planning Commission. 2) The garage doors with windows are unacceptable as proposed.

Action: Boucher/La Voie, 7/0/0.

*copy for BLW
JoAnne file*

CITIZENS PLANNING ASSOCIATION
OF SANTA BARBARA COUNTY
915 Anacapa Street, Santa Barbara, CA 93101

December 6, 2006

RECEIVED

DEC 06 2006

CITY OF SANTA BARBARA
PLANNING DIVISION

Ms. Bettie Weiss
Staff Hearing Officer
City of Santa Barbara
630 Garden Street
Santa Barbara, CA 93101

INTERESTED PARTIES CORRESPONDENCE:

- DISTRIBUTED ON: 12/6/06
 SHO (4):
 STAFF HEARING SUPERVISOR (Bettie Weiss)
 ORIGINAL TO STAFF HEARING OFFICER (Rox)
 PLANNING TECH FOR ITEM
 APPLICANT

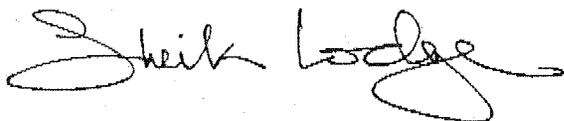
Re: 128-138 East Canon Perdido & 825-833 Santa Barbara Street
December 6, 2006 Hearing

Dear Ms. Weiss:

Regarding the above referenced proposal, we have concerns regarding the modification to eliminate all the existing residential parking. We believe that at least two of the 15 one-car garages should be retained for use by the residents of the residential units for parking bicycles, mopeds, motorcycles, etc., or any other kind of innovative small transportation vehicles that may come along in the future.

We also have concerns about the very small (less than 400 square feet) residential units. We think that there should be some affordability requirements in the rent charged (requirements which perhaps already exist in city ordinances) or they should be recombined and restored to their original size.

Sincerely,



Sheila Lodge
Chair, South Coast Land Use Committee

28.90.045 Parking Design Standards.

1. REQUIREMENTS. All parking facilities must be designed and constructed pursuant to the following:
 - a. Backing out onto a public street or sidewalk from a parking space shall be permitted only for a one-family or two-family dwelling, where not more than four (4) spaces are provided.
 - b. All turnaround movements shall be accomplished in one (1) maneuver. One (1) maneuver is considered to be one (1) back up and one (1) forward movement.
 - c. The required dimensions and criteria for parking plans and vehicle ramps shall be as shown in the current City Standard for Parking Design as prepared by the Transportation Engineer and on file with the City Clerk.
 - d. It shall be the duty of the Transportation Engineer to review and approve all parking plans.
2. VARIATION. Any variation from the above requirements must be approved pursuant to a waiver by the Public Works Director or his designee.
3. Vehicle Ramps:
 - a. A vehicle ramp is defined to be a sloping connection between a street level and a parking level or two (2) parking levels.
 - b. For multiple-family dwellings or non-residential uses, all parking plans involving ramps shall be accompanied by a profile showing the ramp, ramp transitions and overhead and adjacent wall clearances.
 - c. The length of a ramp is defined as that portion of the ramp from the beginning of the transition at one end of the ramp to the end of the transition at the opposite end thereof.
 - d. For ramps longer than sixty-five feet (65'), the ramp grade shall not exceed twelve percent (12%) with the first and last eight feet (8') of the ramp not exceeding six percent (6%).
 - e. For ramps sixty-five feet (65') or less, the ramp grade shall not exceed sixteen percent (16%) with the first and last ten feet (10') of the ramp not exceeding eight percent (8%).
 - f. The slopes of all parking areas shall not exceed five percent (5%), excluding ramps. (Ord. 3113, 1966.)
 - g. The maximum grade for the driveway (vehicle ramp) serving a one-family dwelling shall not exceed sixteen percent (16%), except when the distance from the street pavement to the rearmost portion of any structure on the subject parcel is one hundred fifty feet (150') or less in which case the maximum grade shall not exceed twenty percent (20%).
4. TANDEM PARKING. Notwithstanding any other provision in this Title, parking for mixed use developments may be provided in a tandem configuration (one parking space behind the other) if each set of tandem parking spaces is assigned to a single residential unit, and the tandem parking spaces are provided either on the subject lot or on an immediately adjacent lot. Vehicle movements necessary to move cars parked in a tandem arrangement shall not take place on any public street or alley. Guest parking spaces shall not be provided in a tandem configuration.
5. BICYCLE PARKING. All bicycle parking facilities must be designed and constructed pursuant to the following:
 - a. All facilities intended for permanent use shall provide a method for securing or locking the bicycle. A rack or space shall be provided for locking both the frame and the wheels.
 - b. All bicycle areas shall be accessible and lighted, on an all-weather surface.
 - c. A typical bicycle space shall be a minimum of two and one-half (2-1/2) feet in width and six (6) feet in length or less, if a permanent device is provided to stand the bicycle on end. A backout or maneuvering space of approximately five feet (5') shall be provided. (Ord. 4946, 1996; Ord. 4945, 1996; Ord. 4063, 1980; Ord. 3834, 1976; Ord. 3710, 1974; Ord. 2585, 1957.)

28.90.050 Landscaping and Lighting.

1. GENERAL. In an effort to encourage the development of more attractive parking lots in commercial, industrial, and multiple-family use areas, to provide for attractive and durable screening between such parking lots and adjoining areas, and to lessen the effect of commercial and industrial uses upon adjoining residential uses, the following requirements shall be met. Landscape plans shall be prepared by an architect or landscape architect registered in the State of California, unless said requirement is waived by 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, in projects containing fewer than twenty (20) parking spaces. The landscaping standards set forth below are required for all parking areas, parking lots, automobile service stations and automobile service stations/mini-markets except for one- or two-family dwellings.
2. FENCES AND WALLS. Where any parking area is for commercial, multiple-family residential, or industrial use and the parking area or driveway abuts property used for residential purposes, it shall be separated therefrom by an approved wall or fence at least six (6) feet in height, except (a) within ten (10) feet of a driveway exiting onto a street and within twenty (20) feet of the front property line, the fence shall be three and one-half (3-1/2) feet in height as required by Santa Barbara Municipal Code §28.87.170.2(b); (b) within ten (10) feet of the front property line, the wall or fence shall be three and one-half (3-1/2) feet; (c) subject to approval by 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, said walls or fences may be lowered or eliminated in proportion to the degree of screening provided by differences in elevation, mounding, existing planting, and other similar factors.



City of Santa Barbara Planning Division

PLANNING COMMISSION MEETING MINUTES OF FEBRUARY 15, 2007 FOR 128-138 EAST CANON PERDIDO STREET AND 825-833 SANTA BARBARA ST. (MST2003-00243)

STAFF HEARING OFFICER APPEAL:

ACTUAL TIME: 1:13 P.M.

APPEAL OF APPLICATION OF SUZANNE ELLEDGE PERMIT PROCESSING, TIFFANY CAMPBELL, AGENT FOR PUEBLO VIEJO PROPERTIES, 128-138 EAST CANON PERDIDO STREET AND 825-833 SANTA BARBARA STREET, APN: 031-011-004, C-2 COMMERCIAL ZONE, GENERAL PLAN DESIGNATION: OFFICES AND MAJOR PUBLIC AND INSTITUTIONAL (MST2003-00243)

The project consists of alterations to an existing mixed-use complex, consisting of one and two-story buildings, for "as-built" changes including converting the existing 15 residential garages to a laundry room, motorcycle parking, residential storage and commercial square footage which will include alterations to the existing garage doors, a new gate to eliminate vehicle access to the site from Santa Barbara Street and Development Plan approval to allow 1,434 square feet of new non-residential floor area for the conversion of the garages from residential to commercial. The project would result in eliminating the existing residential parking and providing no additional parking for the converted commercial square footage.

The discretionary applications required for this project are:

1. A Modification of the residential parking requirements to allow no parking spaces instead of the required number of parking spaces for the existing residences and of the nonresidential parking requirements to allow no parking spaces instead of the required number of parking spaces for the conversion of the residential garages to nonresidential storage space (SBMC Chapter 28.90);
2. A lot area Modification to allow the conversion of existing garage space to a laundry room on a property that is non-conforming to residential density (SBMC §28.21.080); and
3. Development Plan Approval for 1,434 square feet of new non-residential floor area, converted from existing residential garage space (SBMC §28.87.300).

This project was denied by the Staff Hearing Officer and has been appealed by the property owners to the Planning Commission.

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

Case Planner: JoAnne La Conte, Assistant Planner
Email: jlaconte@SantaBarbaraCA.gov

Jo Anne La Conte, Assistant Planner, gave the Staff presentation. Betty Weiss, City Planner/Staff Hearing Officer, and Rob Dayton, Principal Transportation Planner were available to address any questions.

Susan Elledge, representing the appellant, introduced Trey Pinner, Property Manager and Rex Ruskauff, Architect, and gave the presentation on behalf of the appellant.

Ms. Elledge responded to the Planning Commission's questions regarding a prior building addition, permits for the trash enclosure, residential parking alternatives, zone of benefit, and the potential use of the driveway shared with Jimmy's.

Mr. Pinner addressed the Commission's questions on the shared driveway, enhanced bicycle parking, and current parking lot use.

Mr. Dayton answered Planning Commission's inquiries on curb cuts, deliveries, residential parking permits, and clarification of the zone of benefit. Ms. Hubbell added that the intent of the downtown parking program is intended for short term parking, not for residential parking. Current tenants would be grandfathered, but future tenants would not be able to apply for a City-issued parking permit

Ms. Weiss responded to a question on Presidio Parking, stating that Jarell Jackman, Trust for Historic Preservation, has developed a plan for Presidio Parking and has offered to work with the applicant on shared parking. No follow-up has been made. Ms. Hubbell stated that any shared parking would be a short-term plan since the Presidio will be doing some reconstruction on the Trust site in the future.

Ms. Hubbell addressed the Commission's concerns regarding the structures' historic significance and stated that three of the four buildings on the site are eligible for Structure of Merit designation, and possibly Landmark designation.

Chair Jacobs opened the public hearing at 2:10 P.M.

John Bargiel, Downtown Residents Association, approves of the project and looks forward to the laundry room and improvement to the quality of life. Stated that it is not feasible to provide parking on-site.

With no one else wishing to speak, the public hearing was closed at 2:14 P.M.

Commissioner's comments:

1. Commissioners acknowledged the parking constraint conundrum, but cannot ignore the parking issue. Reducing parking permits in the area sends the message that this would be a limited car area. If temporary use of parking was allowed by the Trust for Historic Preservation, over time the grandfathered parking permits would phase out and would allow for more parking.
2. Some Commissioners agreed with the proposal for closing off the driveway on Santa Barbara Street and the elimination of curb cuts. Does not agree with curb cut for loading dollies; curb should be for parking. Would like to see a condition for semi-permeable paving in the area between the two existing garage buildings. .
3. Appreciated the applicant keeping rentals in the downtown area. Suggested trading parking for historic designation. Also suggested the new exterior living space be used for residential use only and not outdoor dining.
4. Would like to see a pedestrian access that moves to the south wall and is strictly for pedestrian use and not loading. Suggested the addition of landscaping.
5. Does not see a public benefit that offsets the changes being proposed by legalizing an illegal non-conforming use. Would like to see the City uphold the laws in place and not create a precedent. Feels there are easement alternatives that the appellant could explore for parking. Would like to see pedestrian access added.
6. Santa Barbara Street driveway is a traffic hazard and should be closed off. The Canon Perdido side has not been explored sufficiently. If the one story garage and the trash enclosure were removed, it could allow for more parking.
7. Would like to see applicant make an effort to come up with alternatives rather than have the Commission uphold the appeal.

Ms. Elledge responded that, even if the one story garage and the trash enclosure were removed, it would still not create a safe parking environment. With regard to public benefits, Mr. Pinner added that the applicant is giving up the right to ask for downtown parking permits over time. Mr. Ruskauff stated that parking alternatives were considered; however, all still presented unsafe parking conditions. Mr. Ruskauff did not see that Mr. Jackman has any parking spaces that can be shared, even though they were offered.

Mr. Dayton felt that support of this project does not violate the direction that the City is already going with the minimization of cars in the downtown area. At the suggestion of the Commission, Staff was willing to give consideration to giving present permit holders one more year after their next renewal.

MOTION: Thompson/Myers

Uphold the appeal to allow the parking modification and allow the development plan to proceed with the added conditions: 1) Include in the approved development condition A.4. the construction of the wall and gate on Santa Barbara Street; 2) Reuse of the area between the existing garages as a courtyard but not for outdoor dining or other commercial purposes; 3) Include in the Historic Landmark Commission's review of enhanced landscaping between the two existing garages; and 4) initiate historical Landmark or Structure of Merit designation within 90 days.

Discussion took place on the Parking and Business Improvement Area (Improvement District) and Mr. Vincent stated that any increase in participation would be voluntary.

STRAW VOTE:

Include a condition to set a three year sunset date for existing tenants' parking permits.

Ayes: 5 Noes: 1 (Thompson) Abstain: 0 Absent: 1 (Jostes)

Mr. Thompson withdrew his motion.

MOTION: Myers

Uphold the appeal to allow the parking modification and allow the development plan to proceed with the added conditions: 1) Include in the approved development condition A.4. the construction of the wall and gate on Santa Barbara Street; 2) Reuse of the area between the existing garages as a courtyard, but not for outdoor dining or other commercial purposes; 3) Include in the Historic Landmark Commission's review enhanced landscaping between the two existing garages; and 4) Initiate historical Landmark or Structure of Merit designation within 90 days; and 5) Include a three-year sunset date for existing tenant's parking permits.

The motion failed for lack of a second.

MOTION: Myers/Thompson

Uphold the appeal to allow the parking modification and allow the development plan to proceed with the added conditions: 1) Include in the approved development condition A.4. the construction of the wall and gate on Santa Barbara Street; 2) Reuse of the area between the existing garages as a courtyard, but not for outdoor dining or other commercial purposes; 3) Include in the Historic Landmark Commission's review enhanced landscaping between the two existing garages; and 4) initiate historical Landmark or Structure of Merit designation within 90 days.

This motion failed by the following vote:

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

The Planning Commission discussed the applicant's options of a continuance or a denial with an appeal to City Council. Ms. Elledge restated that alternatives have been considered, and the conditions presented today are acceptable to the applicant. However, a continuance would not result in any more action from the applicant than has already been done.

MOTION: White/Larson

Continue to April 19, 2007 to study other on and off-site parking alternatives or a contribution to the Downtown Parking District to offset parking impact.

Mr. Vincent clarified the motions presented today stating that thus far the appeal had not been overturned.

Mr. Dayton elaborated on the parking alternatives being discussed and clarified that residential parking and commercial parking did not have the same options for use of the Granada garage.

This motion carried by the following vote:

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

Chair Jacobs announced a break at 3:30 P.M. and reconvened the meeting at 3:50 P.M..
Julie Rodriguez, Planning Commission Secretary

