



# City of Santa Barbara California

## PLANNING COMMISSION STAFF REPORT

**REPORT DATE:** April 11, 2007  
**AGENDA DATE:** May 3, 2007  
**PROJECT ADDRESS:** 517 W Figueroa Street (MST2005-00143)  
 Johnson Map Amendment  
**TO:** Planning Commission  
**FROM:** Planning Division, (805) 564-5470  
 Jan Hubbell, AICP, Senior Planner  
 Peter Lawson, Associate Planner

### **I. PROJECT DESCRIPTION**

The project consists of three requests:

- 1) Amend an approved Tract Map (Resolution No. 009-005) to expand a designated building envelope an additional twenty feet to the south-west and modify conditions related to the building envelope.
- 2) A request to modify the applicable conditions of approval related to the drainage swale by installing a below grade bio filter and developing a portion of the swale instead of replanting with native vegetation.
- 3) A request to clarify the use of a bike path easement that was recorded as part of a condition of approval of the tract map. As proposed, a 16 foot wide driveway would share a portion of the bike path easement and a dual use driveway/bike path would be created.

### **II. BACKGROUND INFORMATION**

On August 18, 2006, the applicant submitted an application for pre-application review. The applicant is requesting feedback on expanding the approved building envelope to include a portion of the drainage swale for development and install an underground drainage system. The basis of the request is a 50 foot setback from the center line of the nearest rail line imposed by Union Pacific Railroad, which restricted development of habitable structures. The restriction was included in the final recorded deed (Exhibit C) of the property after the Planning Commission approved the lot split. The applicant is also requesting feedback on either eliminating a bike path easement or allowing it to be used as part of an access driveway.

The project site is located on the southern side of West Figueroa Street, where it intersects with Walnut Avenue. The project site was originally a part of the Union Pacific Railroad right-of-way, but it was never developed. A culvert, relocated from the middle of the lot to the southern

edge of the lot, drains from Old Mission Creek into Mission Creek and a swale, located on the westerly side of the lot, begins at Figueroa Street draining into Old Mission Creek.

On July 27, 1998, a pre-application conceptual review was reviewed by the Development Review Committee for a nine-unit condominium, which was proposed by Union Pacific Railroad. The proposal was not supported due, in part, to the applicant's proposal to fill in the entire drainage swale (Exhibit H). The Planning Division comments stated that the proposal would be in substantial conflict with the Conservation Element and suggested the applicant consider a redesign. No further development proposal was submitted by Union Pacific Railroad.

On February 3, 2005, the Planning Commission approved a subdivision of land (Resolution 0009-005), still owned by the Union Pacific Railroad at the time, which created two lots and subsequently was recorded (Exhibit F). Parcel 1 is 0.765 acres and continues to be a part of the railroad right-of-way. Parcel 2 is vacant, approximately 0.516 acres in size and now privately owned. A development envelope and a ten foot wide bike path/sidewalk easement within the envelope were included on Parcel 2. The development envelope was designated on the subsequently approved parcel map for purposes of environmental analysis.

A Final Mitigated Negative Declaration (FMND) was prepared for the project and adopted by the Planning Commission. All of the questions in the biological section of the FMND yielded "Potentially Significant, Mitigable" impacts, which were mitigated to less than significant levels by conditions imposed on the project. Mitigations that were approved included restoration of the swale consistent with a biology report prepared by Rachael Tierney, dated August 1, 2004.

### **III. REQUIRED APPLICATIONS**

The discretionary applications required for this project are:

1. A Map Amendment to allow a change to an approved building envelope (SBMC §28.92.026.A);
2. A Tentative Subdivision Map for a one-lot subdivision to create nine (9) residential condominium units (SBMC 27.07 and 27.13);

### Vicinity Map



#### IV. SITE INFORMATION AND PROJECT STATISTICS

##### A. SITE INFORMATION

Applicant:	Mark Wienke	Property Owner:	Steve Johnson
Parcel Number:	039-250-020	Lot Area:	0.516 acre (22,477 s.f.)
General Plan:	12 Units/Acre	Zoning:	R-3
Existing Use:	Vacant	Topography:	Average of 15% with a drainage on the southerly property line
Adjacent Land Uses:			
North – Southern Pacific RR		East – Multi-Family Residence	
South – Single Family Residence		West – Single Family Residence	

**V. ISSUES**

**A. UNION PACIFIC RAIL ROAD SETBACK**

As part of the sale of the property, Union Pacific deed restricted the applicant's property with the provision that no habitable structures would be located within 50 feet of the centerline of the nearest tracks (Exhibit C). This restriction was imposed on the property after the project was approved by the Planning Commission. The purpose of the setback was to buffer habitable development from the sound of the passing trains. The applicant contends that, because the setback encroaches into the recorded development envelope, it reduces the developable area and thus the building envelope should be increased to accommodate that setback (Exhibit B).

Except for the 10-foot wide bike path easement, the Planning Commission approved development envelope could be fully developed. Based upon the location of the nearest railroad tracks, the setback would encroach 24 feet onto the subject lot. Within that 24 foot area is the 10-foot wide bike path easement, which is located along the easterly property line, closest to the railroad tracks. Therefore, a 14-foot wide area would be restricted from habitable structures. However, a parking garage, storage structure, a driveway or other non-habitable structure could be constructed within this area and be consistent with the deed restriction. In fact, construction of these structures would help reduce the noise effects on future development. As shown on a conceptual site plan, a 16 foot wide driveway (located partially on the bike path easement), with a 3 foot wide planter one side and a 4 foot wide planter on the other side is proposed. Along with a 1 foot thick sound wall, the total non-habitable proposed development is 24 feet wide, which is consistent with the deed restricted non-habitable area.

**B. DEVELOPMENT IN THE DRAINAGE SWALE**

Along the westerly property line is a drainage swale, which conducts runoff from Figueroa Street and the project site to Old Mission Creek, located to the south. The swale was created partly by Old Mission Creek as well as the runoff from Figueroa Street. Additionally, fill on both the project site and the adjacent developed property to the west effectively raised the elevation on either side of the swale. The swale is not considered a riparian habitat per a biology report prepared by Rachael Tierney, dated August 1, 2004, but recommendations were provided to improve the swale with native plants and remove the non-native vegetation. The swale was excluded from the recorded development envelope and thus no development was considered in that area under the final Mitigated Negative Declaration.

While the swale is not considered a riparian habitat, it does provide an effective means to filter pollutants carried by runoff from both Figueroa Street and any future on-site development. It also provides an area for Old Mission Creek to back flow in the event the culvert leading under the 101 to Mission Creek is clogged or inundated. Additionally, as proposed, a culvert from Figueroa Street was proposed that would direct flow to the drainage. It should be noted that both Old Mission Creek and the associated swale are not a FEMA mapped flood plain. However, Santa Barbara County Public Works Flood Control Division designated an inundation elevation of 63 feet NAVD due to a substandard culvert located on the south-westerly corner of the site potentially backing up during a storm event.

The applicant provided an alternative solution to filter runoff from development on the project site, as well as from offsite. This would include directing all the drainage into an underground, 75 foot long, perforated pipe that would be buried in gravel. The pipe would deposit runoff into the remaining swale that would include a deposit of rip-rap of approximately six feet in width, which would then drain into Old Mission Creek.

The new proposal for draining the project site and Figueroa Street would be difficult to support. The combination of the increased development envelope and the proposed fill, with retaining walls, to underground the perforated pipe would reduce the overall area of the existing swale by at least one half or more. The proposed development and the retaining walls for the perforated pipe would also significantly reduce the width of the swale channel and potentially cause drainage to extend onto other properties. The perforated pipe would not be considered a bio-filter as stated on the plans. A bio-filter includes plant material combined with sunlight and micro-organisms to provide effective, natural filtration. Finally, the above grade channel located down gradient of the proposed drain pipe would be approximately 13 feet wide and of that width, rock rip rap would occupy approximately six feet or more, leaving only a small area on each side for plant material.

Expanding the envelope further into the drainage swale and toward Old Mission Creek could increase water pollution from the proposed development on the project site, inconsistent with the Storm Water Management Program (SWMP). Should storm water surge into the garage, pollutants would be washed out into Mission Creek. Under the SWMP requirements, all development proposals shall demonstrate that storm water run off from a project site is filtered through a bio filter or other means before leaving the site. Given the current configuration and elevation of the proposed parking garage of 57 feet, which is below the County Flood Control inundation level of 63 feet, it would be difficult to provide a bio filter to clean up the polluted water as it exits from the garage. Also, any bio filter could be inundated from a back flow of Old Mission Creek. Finally, any proposed development would be required to contain the initial one inch of runoff on site, before discharging off site. With the amount of hardscape being proposed, as well as located partially in the swale, it would be a challenge to find an area to accomplish that goal.

The change in the building envelope would be in conflict with the Conservation Element and Seismic Safety – Safety Element of the General Plan. The Conservation Element encourages enhancement of biological resources and under the Seismic Safety - Safety Element, recommendations are stated to provide buffers from flood hazards. Additionally, the proposal to expand into the swale would be inconsistent with Chapter 14.56, Natural Watercourses and Storm Drains (Exhibit E). This section states, in part, that no structures should be permitted in watercourses which obstruct, prevent or divert, or tend to obstruct, prevent or divert the normal, natural or ordinary flow of water. Natural water courses are broadly defined in this chapter and include natural swales or depressions, which contain or convey surface water during or after rain storms. The swale that is located along the north-western property line both contains water from Old Mission Creek, when the culvert backs up, and conveys runoff from Figueroa Street.

**C. ELIMINATION/REDUCTION OF THE BIKE PATH**

A bike path easement was exacted as a part of a subdivision that created the subject parcel. The easement was required for a future bike/pedestrian path that would eventually connect between Figueroa and Carrillo Street. The easement is essential in completing bike/pedestrian connections envisioned in the Bicycle Master Plan. This location is particularly attractive as only one more parcel is needed to complete the link and it will provide an opportunity to reduce bike traffic on busy Carrillo Street.

The applicant is proposing to purchase the bicycle easement from the City or use a portion of the easement for an access driveway that could be potentially shared with the future bike path (Exhibit B). Staff is not supportive of selling the easement, but is open to considering designs that permit a joint use providing that the function and purpose of the future path are not negatively impacted. Any proposal to share the bike path with a driveway would be presented to the Transportation and Circulation Committee and City Council final decision.

**VI. RECOMMENDATION**

Staff recommends that the Planning Commission conceptually review the proposed project and provide comments on the proposed discretionary actions required, specifically focusing on whether it is appropriate to expand the building envelope. Please note that this review is not meant to imply any approval of, or formal position on, the proposed project.

Exhibits:

- A. Site Plan
- B. Applicant's letter, dated April 4, 2007
- C. Grant Deed recorded July 13, 2005
- D. ABR Minutes dated September 18, 2006
- E. Chapter 14.56, Natural Watercourses and Storm Drains Excerpt
- F. Planning Commission Resolution No. 009-005
- G. Planning Commission Minutes dated February 3, 2005
- H. Development Review Committee Planning Comments dated July 27, 1998

**M**  
**MAKER WENIG ARCHITECT AIA**  
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 Suite 1000  
 Los Angeles, CA 90025  
 Phone: 310.206.1810  
 Fax: 310.206.1810  
 www.makerwenig.com

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 SCALE: 1/8" = 1'-0"



**Project:**  
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 1st Floor Conversion  
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 1st Floor Conversion  
 11/11/11 - 05/18/12

**Number:**  
 150000  
 1st Floor



**Sheet:**  
 150000  
 1st Floor

**A-05**

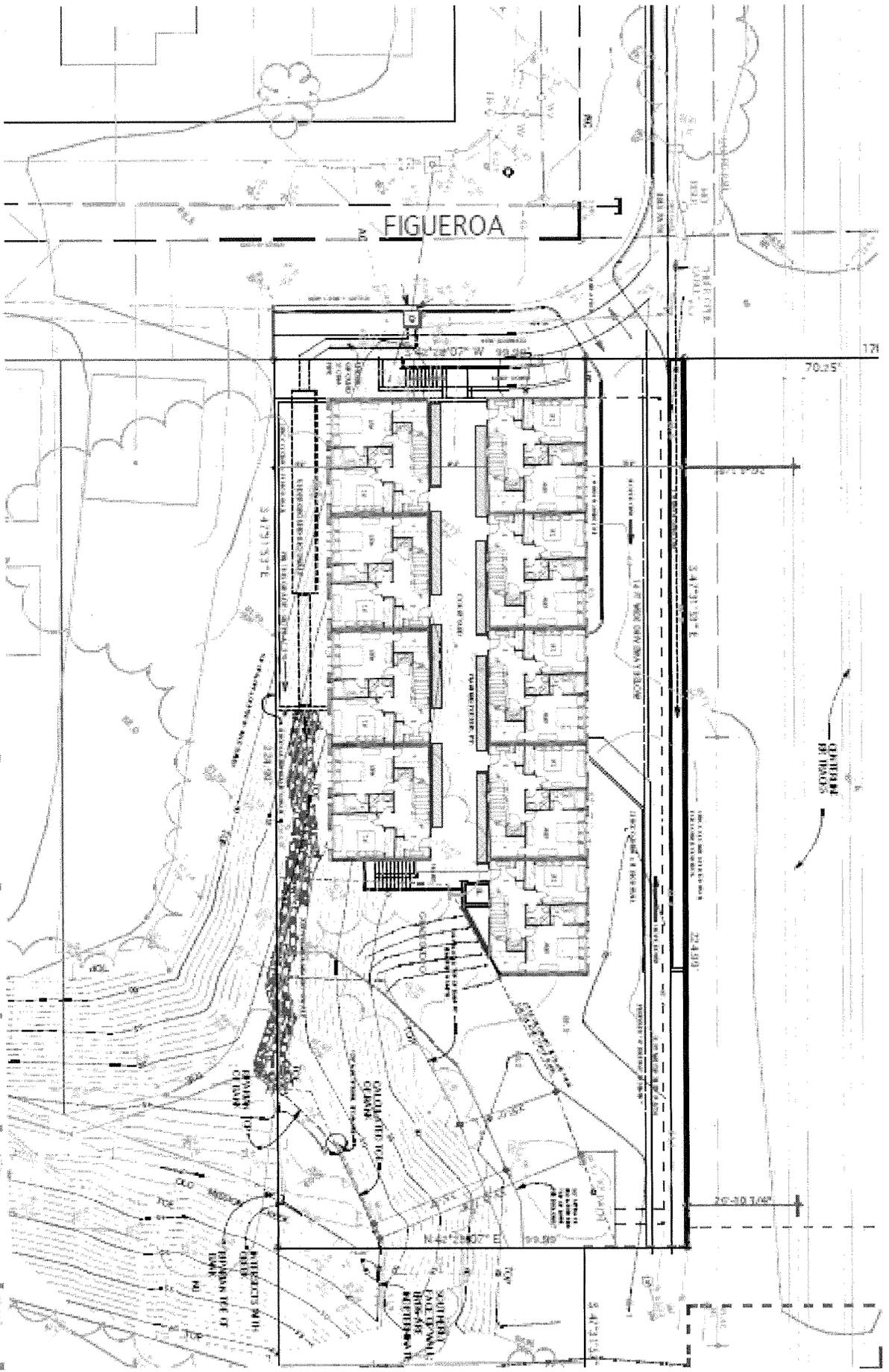


Exhibit A – Site Plan



**RECEIVED**  
APR 10 2007

**CITY OF SANTA BARBARA  
PLANNING DIVISION**

Steve Johnson  
319 W. Cota St  
Santa Barbara CA 93101

To: Planning Commission, City of Santa Barbara  
Date: April 4, 2007  
Subject: MST#2005-00143  
Application for a lot split of 517 W Figueroa

I am seeking approval from the City of Santa Barbara, California for a 9-unit condominium located at 517 W Figueroa. This application has benefited from 2 PRT reviews and 2 ABR reviews. The September 18, 2006 ABR viewed the current proposal favorably.

A 1998 proposal (MST98-00457) to build 9 condominiums received a pre-application review, but failed to satisfy the requirement to preserve flood buffering volume in the low areas surrounding Old Mission Creek.

This current proposal follows on MST2004-00268, which created a split of a single lot (owned by Union Pacific Railroad) into two. Business considerations mandated a prompt decision on granting the lot split; the applicant appreciates the cooperation received from the City. To facilitate the environmental analysis required to support the lot split, the applicant agreed to a development envelope. The luxury of time has allowed the applicant to now offer a specific and detailed proposal, which requires a revision of the development envelope. The applicant is confident that all concerns identified in the Initial Study prepared for the lot split can be met by the current proposal, and expects that a new or revised environmental analysis will confirm that expectation.

### **PROJECT DESCRIPTION**

- No structures currently exist on the lot; nine 2 bedroom, 1300 sqft condominiums (with an 8236 sqft semi-subterranean parking garage) are proposed as part of this application.
- The existing lot is 100' by 225' and 22,500 sqft (.52 acre).
- There are three existing trees on the property. Two will be removed, but the specimen sycamore near Old Mission Creek will remain. The riparian corridor adjacent to Old Mission Creek will be restored with native plantings.
- The following drainage improvements are proposed:
  - o curb, gutter, parkway, and sidewalk (curved at the easterly corner of Figueroa and Walnut)
  - o drainage improvements (drop inlet, understreet drain below Figueroa St, and outlet headwall at the head of the swale along the southwesterly boundary of the parcel).
  - o Detention basin and bioswale for treatment of storm water runoff from both the project and the adjacent area.

**EXHIBIT B**

- Cut/Fill: Excavation to create the parking garage, together with fill to reduce the grade of the existing prominent drainage swale, will result in approximately 600 cubic yards of fill and 1100 cubic yards of cut, for a net cut of approximately 500 cubic yards.

## **PROJECT JUSTIFICATION**

Development of this parcel will:

- increase the City's housing stock and tax base, with an ADA-friendly design
- improve and protect the riparian environment of Old Mission Creek
- discourage human activity contributing to pollution of Old Mission Creek
- arrest the erosion which threatens to undermine Figueroa Street

## **SIGNIFICANT ISSUES**

- Revision of the development envelope
- 100-year flood impact
- City policies related to flooding:
  - o flooding of parking structures
  - o preservation of flood buffering capacity
- Bikeway easement

## **REPORTS AND STUDIES PROVIDED FROM MST2004-00268:**

- Biology
- Soils
- Engineering geologist review
- Hydrology calculations – runoff from property
- Hydrology calculations – drainage swale and Old Mission Creek
- Flood hazard determination letter
- Noise analysis
- Environmental Hazards Search

## **NEW REPORTS, STUDIES, AND PLANS**

- Concept-level architectural plans
- Engineering analysis of grading impacts to flood buffering volume
- Additional engineering analysis of Old Mission Creek flood potential

## **DISCUSSION OF SIGNIFICANT ISSUES**

### **Revision of development envelope**

The current development envelope for this parcel was chosen to facilitate the prompt consideration of MST2004-00268 (the application for a lot split). Subsequent to the

Planning Commissions approval of the lot split, a deed restriction was imposed by Union Pacific. The deed restriction forbids habitable space from being constructed within 50' of the centerline of the UP tracks (24.7' feet from the property border adjacent to the tracks). The applicant spent a year working on a design which respected the initial development envelope as well as the deed restriction. However, consultations with four architects, as well as encouragement from the ABR, led to the newer design (favorably reviewed by the ABR September 18, 2006).

The design provides:

- attractive architecture, with the benefits of semi-subterranean parking
- an ADA-friendly elevator
- oversized detention basin feeding a daylighted bioswale;  
    compare this design with approved solutions for:  
        1420 Laguna  
        1776 Eucalyptus
- no loss of flood buffering capacity

### **100-year flood impacts**

The project site is not located in FEMA-designated flood zone. However, as noted in a letter from the SB County Flood Control District, a worst-case flood would inundate areas below the 61' NGVD (63.5' NAVD) level. The inundation would be the result of slowly rising floodwaters, as opposed to swiftly moving waters within a channel. Such a flood poses little threat to human safety; the greatest impact would be loss of autos left in the parking area. Flooding of parking levels is permitted by FEMA guidelines, and the City has approved such designs for recent projects (727 Bath St, 28 State St).

No detailed study has been performed to evaluate the likelihood of flood resulting in levels reaching the 63.5 NAVD level. However, all finished floors for the proposed project are at elevated 67' NAVD or higher. Only the parking structure (at elevation 57' NAVD) would be impacted by a worst case flood.

The City requires projects outside FEMA-designated flood areas to show a drainage conveyance system which adequately conveys a 25-year storm event. The applicant has provided such a report by a registered civil engineer.

### **Policies related to flooding**

1. The SB County Flood Control District strongly recommends that projects adjacent to Old Mission Creek not reduce the flood buffering capacity within the inundation area. The proposed project increases net buffering capacity, as a result of excavation for the parking level.

2. The City Municipal Code (Chapter 22.24 ) regulates below-grade parking subject to flooding. These regulations essentially replicate FEMA guidelines. Flooding of parking

levels is allowed, and guidelines are specified in 22.24.160; Section C.4. The proposed project will conform to these guidelines.

A possible concern is the worst case depth (6.5') of flooding of the parking level. FEMA guidelines recommend a maximum depth of 5' for basements; no clear guidance is provided for below-grade parking levels. However, since the proposed parking structure not subject to sudden flooding, and is readily evacuated by walking out along the driveway ramp, the extra 1.5' poses little danger. The parking level could be made raised to 59' if the bikeway easement is eliminated. The level could be even higher, but at some point the structure would become 3 stories, requiring either a 15' front yard setback or a modification allowing a 10' setback. ABR approval of a higher structure would also be an issue.

While the FEMA/City code does not allow a flood-proof below-grade parking level for residential structures, the reasons are unclear. The City's regulations do not explicitly state whether floodproofing is allowed for mixed use projects; FEMA Technical Bulletin 6-93 does make an exception for mixed-use projects, and a flood-proofed parking basement has been approved for 401 Chapala. The applicant notes that the flood-proofed basement at 401 Chapala results in the diversion of additional floodwater to downstream properties in the event of 100-year storm, counter to the County's guidance for properties along Old Mission Creek. The applicant could present a plan for a flood-proofed parking structure should the Planning Commission express an interest.

### **Bikeway easement**

The PRT for MST2004-00268 revealed the City's interest in obtaining an bikeway easement from Union Pacific Railroad (UP). The applicant at that time was merely an agent for Union Pacific, and wielded essentially no influence with UP management. A query was made, but was instantly rebuffed. In an effort to provide some benefit to the City, the applicant agreed to the current bikeway easement, despite uncertainty to its impact on future development options.

The applicant now considers the bikeway easement to be of little value to the City, but does pose a hindrance to sensible development of the site. The applicant proposes to "buy back" the easement in exchange for agreeing to fund \$25,000 in traffic calming improvements.

*Thank you for your consideration of this application.*

Documents related to this application can be found at <http://stevej.com>.

*Steven A. Johnson April 10, 2007*

Steve Johnson  
steve@stevej.com  
805-455-4826



2005-0065647

**RECORDING REQUESTED BY**  
**EQUITY TITLE COMPANY**  
RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Recorded	REC FEE	19.00
Official Records	PCOR	20.00
County Of	SURVEY	10.00
SANTA BARBARA		
JOSEPH E. HOLLAND		
Recorder		

STEVEN A. JOHNSON AND  
JULIE M. ALLEN  
319 W. COTA STREET  
SANTA BARBARA, CA 93101

08:00AM 13-Jul-2005 | NMA Page 1 of 5

MAIL TAX STATEMENTS TO:

STEVEN A. JOHNSON  
JULIE M. ALLEN  
319 W. COTA STREET  
SANTA BARBARA, CA 93101

5  
50 LIND  
100  
SUR

SB0460455  
Documentary Transfer Tax is not to  
be made part of the permanent record

TRANSFER TAX NOT MADE PART  
OF THE PERMANENT RECORD

1834-15

GRANT DEED

**MONUMENT SURVEY -- 10.00**

APN: 039-010-10

FOR VALUE RECEIVED, UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("Grantor"), formerly known as Southern Pacific Transportation Company, a Delaware corporation, grants to STEVEN A. JOHNSON and JULIE M. ALLEN, husband and wife as community property with rights of survivorship ("Grantees"), and unto their heirs or assigns forever all of its right, title, and interest in and to that certain real property (the "Property") situated in Santa Barbara, County of Santa Barbara, State of California, and as more particularly described in **Exhibit A**, hereto attached and hereby made a part hereof.

Grantees, at their sole cost and expense, shall install, within ninety (90) days after the date of delivery of this Deed, and thereafter maintain fencing or other barriers to prevent access to or encroachment on the railroad right-of-way of Grantor adjacent to the northeasterly boundary of the Property. The fencing or barrier must be of a design and type satisfactory to Grantor, and in compliance with applicable building codes. Grantees shall submit the plans for the fencing or barrier construction to:

Vice President-Engineering Management  
Union Pacific Railroad Company  
1400 Douglas Street, Mail Stop 0910  
Omaha, Nebraska 68179

with copy of transmittal to:

General Manager-Real Estate  
Union Pacific Railroad Company  
1400 Douglas Street, Mail Stop 1690  
Omaha, Nebraska 68179

for review and approval. Grantor shall complete such review and make appropriate response to Grantees within twenty (20) days after receipt of such plans by Grantor. Grantor shall not *unreasonably withhold its approval of such plans*. Such approval does not constitute a guarantee or warranty that such plans comply with applicable governmental laws, rules, regulations or ordinances, or that the fence as constructed will be structurally sound.

The foregoing covenant, condition and restriction will run with the Property. A breach of the foregoing covenant, condition and restriction, or the continuance thereof, may, at the option of Grantor, its successors or assigns, be enjoined, abated or remedied by appropriate proceedings.

Grantees and each subsequent fee owner of all or any portion of the Property ("Subsequent Owner") acknowledges that the property abutting the Coast Subdivision line of the Property is dedicated and used for railroad purposes, that railroad operations may create noise, vibrations, fumes and odors twenty-four (24) hours a day, and that the amount, nature and intensity of railroad operations may increase or change (collectively, the "Permitted Effects"). Grantees and each Subsequent Owner accepts the Property subject to the existence of the Permitted Effects. By acceptance of the Property, Grantee and each Subsequent Owner agrees that at their sole cost and expense, as part of the development of the Property, it shall design and install and/or construct and thereafter maintain improvements to reduce or limit the Permitted Effects and to comply with all governmental requirements, if any, which may be imposed as a condition to the development and use of the Property because of the Permitted Effects.

Grantees and each Subsequent Owner further agrees that they shall not and hereby waives all rights to (1) institute legal proceedings against Grantor to reduce or lessen the Permitted Effects, and (2) directly or indirectly participate in petition drives, lobbying efforts or other intentional acts seeking the enactment of federal, state or local laws or ordinances to reduce or lessen the Permitted Effects. In the event of the breach of such covenants, the breaching party shall reimburse Grantor for all costs incurred by Grantor to comply with any such orders, laws or ordinances, including, without limitation, damages, attorney fees and court costs.

Grantees and each Subsequent Owner further agree that if they lease all or any portion of the Property to others ("Tenants"), it shall require all Tenants to acknowledge the location of the railroad operations abutting the Property and the existence of the Permitted Effects, and to comply with the foregoing covenants.

The above covenants are covenants which run with the Property, the burdens of which will be binding on the successors and assigns of Grantees, and the benefits of which will inure to the successors and assigns of Grantor.

No habitable structure may be constructed within 50' of the centerline of the nearest rail track, as shown on Parcel Map No. 20,700 which is to be recorded on or about July 8<sup>th</sup>, 2005, the date of recordation of this agreement in the office of the Santa Barbara County Recorder.

EXCEPTING AND RESERVING UNTO GRANTOR, its successors and assigns, forever, all minerals and all mineral rights of every kind and character now known to exist or hereafter discovered underlying the Property, including, without limiting the generality of the foregoing, oil and gas and rights thereto, together with the sole, exclusive and perpetual right to explore for, remove and dispose of said minerals by any means or methods suitable to Grantor, its successors and assigns, but without entering upon or using the surface of the Property, and in such manner as not to damage the surface of the Property, or to interfere with the use thereof by Grantees, their heirs or assigns.

THE PROPERTY IS CONVEYED TO GRANTEE SUBJECT TO:

- A. All liens, encumbrances, easements, covenants, conditions and restrictions of record;
- B. All matters which would be revealed or disclosed in an accurate survey of the Property;
- C. All matters which would be revealed or disclosed by a physical inspection of the Property;
- D. A lien not yet delinquent for taxes for real property and personal property, and any general or special assessments against the Property;
- E. Zoning ordinances and regulations and any other laws, ordinances, notices, orders and other governmental regulations and restrictions affecting the use, occupancy or enjoyment of the Property, and amendments and additions thereto, now or hereafter in force or effect;
- F. Notices, orders or violations of any city, county, state or federal office, department, or authority having or purporting to have jurisdiction, now or hereafter filed against or affecting the Property or any part of the Property, or now or hereafter a lien thereon or noted in the records of any such office, department or authority; and

Existing licenses and other existing rights to use the Property and renewals thereof ("Use Rights"), regardless of whether visible, open and obvious, recorded or unrecorded, or for public streets, rights of way or utilities.



**EXHIBIT "A"**

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF SANTA BARBARA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AND DESCRIBED AS FOLLOWS:

PARCEL TWO OF PARCEL MAP NO, 20,700, AS SHOWN AND RECORDED IN BOOK 58, PAGES 76 THROUGH 78 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THE EXCLUSIVE RIGHT TO ALL MINERALS, MINERAL ORES OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVER UPON, WITHIN, OR UNDERLYING SAID LAND, AS RESERVED IN THE DEED RECORDED OCTOBER 11, 1957 AS INSTRUMENT NO. 23012, IN BOOK 1484, PAGE 130 OF OFFICIAL RECORDS.

**\*\*\*END OF LEGAL DESCRIPTION\*\*\***



**CONCEPT REVIEW - CONTINUED ITEM – PUBLIC HEARING****2. 517 W FIGUEROA ST**

R-3 Zone

Assessor's Parcel Number: 039-010-010  
 Application Number: MST2005-00143  
 Owner: Steven Johnson  
 Architect: Mark Wienke

(Proposal for a three-story, nine-unit apartment building. The new 18,265 square foot building includes a 7,577 square foot subterranean parking garage and a central courtyard. Each of the nine units would have two bedrooms and a 150 square foot roof deck. The project includes an onsite above- and below-ground bio swale drainage system, a bike path along the access driveway, and riparian restoration for Old Mission Creek. There would be 1,500 cubic yards of cut and fill grading on the 22,497 square foot lot. Planning Commission approval of a map amendment is requested.)

**(COMMENTS ONLY; PROJECT REQUIRES ENVIRONMENTAL ASSESSMENT AND PLANNING COMMISSION APPROVAL FOR AN AMENDMENT TO PC RESOLUTION NO. 009-05 TO CHANGE THE BUILDING ENVELOPE.)**

(3:50)

Present: Mark Wienke, Architect; Steve Johnson, Owner.

Motion: Continued indefinitely to the Planning Commission with the following comments:

- 1) The Board finds the current site plan to be much improved over the prior submittal.
- 2) The Board is in support of the proposed amendment to the development envelope because it moves the project further back from the railroad tracks.
- 3) The Board finds that the subterranean parking would mostly be hidden from the neighborhoods view.
- 4) The proposed subterranean bio-swale that connects to the abandoned Mission Creek provides opportunities to regain usable open space.
- 5) The applicant is encouraged to utilize the space above the underground bio-swale as open space for the west facing units, preferably as private outdoor space to adjacent bedrooms.
- 6) Provide increased variety on exterior elevations to help modulate the floor plans and units. The Board likes the Mediterranean style and feels the simple floor plan diagram with central paseo works well.
- 7) The applicant is encouraged to study a common use area as an extension of the paseo on the south end of the project that opens to the rear open space.
- 8) The Board appreciates the interior paseo planters; however, the applicant is to study ways to provide larger trees.
- 9) Restudy the paseo stairway as it descends to the parking garage so as to not conflict with the building envelope or the creek setback.
- 10) Some Board members are concerned that the street elevation is simplistic and looks forward to increased enhancement, other Board members like the simplicity.
- 11) As to the proposed sound wall adjacent to the railroad tracks, the Board prefers to see the applicant study the use of a fence that allows vined landscape and to only consider the solid sound wall on the southerly portion of site to mitigate the sound to the open yard space.
- 12) Although the bike path is a future consideration, linking it to the driveway depression adjacent to the parking garage creates an awkward condition with the slope. Seek a better solution for the bike path, even if it is not on this parcel.

Action: Manson-Hing/Mudge, 5/0/0. Wienke stepped down. Blakeley and Sherry absent.



## Chapter 14.56

### NATURAL WATERCOURSES AND STORM DRAIN SYSTEM

#### Sections:

14.56.010	Definitions.	14.56.100	Issuance of Permit Not an Assumption of Liability, Etc., by City.
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14.56.030	Allowing Rubbish, Garbage, Debris, Etc. to Obstruct.	14.56.130	Installation Permit - Plan, Etc., Required.
14.56.040	Fill Material.	14.56.140	Inspection - Approval Generally.
14.56.050	Obstruction, Etc., by Buildings, Etc.	14.56.150	Approval Not a Guarantee.
14.56.060	Duties of Street Superintendent.	14.56.180	Design, Etc., Standards.
14.56.070	Connecting with City Drain System - Permit Required.	14.56.190	Enforcement of Chapter.
14.56.080	Connection Permit - Plan Required - Exception to Plan Requirement.		
14.56.090	Connection Permit - Issuance Generally.		

#### 14.56.010 Definitions.

As used in this chapter the following terms shall have the meanings respectively ascribed to them by this section:

(1) "City storm drain system" means all pipes, structures and street appurtenances located within public right-of-way or easements and designed for the purposes of carrying storm waters.

(2) "Watercourse" means a creek, arroyo, gulch, wash and the bed thereof whether containing water or dry. It shall also mean a natural swale or depression which contains and conveys surface water during or after rain storms. (Prior Code §37.63.)

#### 14.56.020 Watercourses - Obstructions, Etc., by Matter Unlawful.

It shall be unlawful for any person to dump or place, or to permit to be dumped or placed, deposited, maintained or accumulated in any watercourse, on public or private property, within the corporate limits of the City, or in the City's storm drain system, any debris, garbage, rubbish, trash, brush, timber, waste products or any combustible or incombustible material or commodity whatsoever, which obstructs, prevents, diverts or tends to obstruct, prevent or divert, the normal, natural or ordinary flow of water in such watercourse or storm drain system or which at any time may be in such watercourse or storm drain system. (Ord. 2931 §2(part), 1963; prior Code §§37.64, 44.58(part).)

#### 14.56.030 Allowing Rubbish, Garbage, Debris, Etc. to Obstruct.

It shall be unlawful for any person owning or having control or possession of all, or any part of any watercourse on private property within the corporate limits of the City, to permit, maintain, retain or allow to remain in any such watercourse, or any part thereof, any debris, garbage, rubbish, trash, brush, timber, waste products, or any combustible or incombustible material or commodities whatsoever, which obstructs, prevents, diverts or tends to obstruct, prevent or divert the normal, natural or ordinary flow of water in such watercourse, or which at any time may be in such watercourse whether or not the same has been previously dumped, placed, deposited, maintained or accumulated therein by reason of any act or omission of such person, or by anyone else with or without the knowledge, consent or permission of such person, and regardless of the cause or reason for the existence of the same in such watercourse. (Ord. 2931 §2(part), 1963; prior Code §§37.64, 44.58(part).)

#### 14.56.040 Fill Material.

The placement of any fill material in any natural watercourse without provision for drainage conduit of adequate size and strength to replace the existing natural watercourse capacity, so as to provide sufficient capacity for storm waters of the contributing drainage area and so as to withstand the fill and building loads which may be placed thereon, shall be considered an unlawful obstruction of a natural watercourse. (Prior Code §37.65.)

## EXHIBIT E

**14.56.050 Obstruction, Etc., by Buildings, Etc.**

It shall be unlawful for any person to construct or maintain, or to permit to be constructed or maintained, in any watercourse, on public or private property, within the corporate limits of the City, any building or structure which obstructs, prevents or diverts, or tends to obstruct, prevent or divert the normal, natural or ordinary flow of water in such watercourse, or which at any time may be therein, in such manner as to endanger, or tending to endanger public property, including bridges, roads, buildings, structures or facilities, or the land crops, buildings or structures of other persons. (Ord. 2931 §2(part), 1963; prior Code §§37.66, 44.59.)

**14.56.060 Duties of Street Superintendent.**

It is the duty of the Street Superintendent to enforce all of the provisions of this chapter. (Ord. 2931 §2(part), 1963; prior Code §44.60.)

**14.56.070 Connecting with City Drain System - Permit Required.**

It shall be illegal for any person to connect any drainage pipe to the City storm drain system, without obtaining a permit therefor from the Public Works Director. (Prior Code §37.67.)

**14.56.080 Connection Permit - Plan Required - Exception to Plan Requirement.**

Such permit as required by Section 14.56.070 shall be issued only after submission of a plan prepared and signed by a licensed civil engineer showing the size, type, length and location of the drainage structures to be connected to the City's storm drain system, the type and height of fill, if any, to be placed thereon, the type of connection to be made to the City's storm drain system, including provision for access thereto, if any, which plan shall be accompanied and supported by necessary drainage area data and calculations. The Public Works Director is hereby authorized to waive the provisions of this section where installations are of such minor nature as not to require strict enforcement hereof. In no case shall the requirement for a permit be waived. (Prior Code §37.68.)

**14.56.090 Connection Permit - Issuance Generally.**

The permit issued for connection to the City's storm drain system shall be based upon the data submitted, and inspection of the site, and shall be reviewed by the Public Works Department and issued only with respect to the adequacy of the proposed installation in not causing damage to the City's storm drain system and in not causing blockage of a natural watercourse. (Prior Code §37.69.)

**14.56.100 Issuance of Permit Not an Assumption of Liability, Etc., by City.**

The City in issuing the permit under Section 14.56.090 shall in no way assume responsibility or liability for the plan, installation or performance of any drainage facility installed by the permittee. (Prior Code §37.70.)

**14.56.120 Installing Pipe, Etc., in Intermediate Watercourses - Permit Required.**

No pipe or other drainage structures shall be installed in such natural watercourses as carry drainage between portions of the City's storm drain system, or immediately upstream or downstream from portions of the City's storm drain system, or which constitute a part of the City's projected storm drainage system as delineated on the map adopted by resolution of the City Council and on file in the Public Works Department without first obtaining a permit from the Public Works Director to make such pipe or drainage structure installation. (Prior Code §37.72.)

**14.56.130 Installation Permit - Plan, Etc., Required.**

The Public Works Director, prior to issuing any permit for the installation of pipe or drainage structures in the subject natural watercourses, shall require submission of a plan to the Public Works Department by a licensed civil engineer indicating the size, type, length, and location of the proposed installation, amount of fill, if any, to be placed thereon, the relationship of the proposed structures to existing structures in the subject watercourse or to the City's storm drain system, and any necessary data or calculations based upon the drainage area contributing to storm water flow in the subject watercourse at the location of the proposed installation. (Prior Code §37.73.)

**14.56.140 Inspection - Approval Generally.**

Approval of structure installation in such natural watercourses shall be based upon checking and inspection considerations in order that the installation will not block a natural watercourse and will tend not to cause damage to adjacent or planned portions of the City's storm drain system. (Prior Code §37.74.)

**14.56.150 Approval Not a Guarantee.**

Approval given under Section 14.56.140 shall not in any way guarantee the construction in as far as benefits or hazards which may result therefrom by the property owner or by adjacent property owners. (Prior Code §37.75.)

**14.56.180 Design, Etc., Standards.**

All installations to be approved and constructed pursuant to permits issued hereunder shall be designed and constructed equal to or in accord with standard specifications and materials criteria on file in the Public Works Department of the City and approved by the City Council. (Prior Code §37.78.)

**14.56.190 Enforcement of Chapter.**

The Public Works Department of the City is hereby empowered to enforce all of the provisions of this chapter. (Prior Code §37.79.)





# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 009-05  
517 W. FIGUEROA STREET  
TENTATIVE SUBDIVISION MAP  
FEBRUARY 3, 2005

**APPLICATION OF STEVE JOHNSON, AGENT FOR UNION PACIFIC RAILROAD  
(PROPERTY OWNER), 517 W. FIGUEROA , 039-010-010 , R-3, MULTIPLE FAMILY  
RESIDENTIAL ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 12 UNITS/ACRE  
(MST2004-00268)**

The proposal involves a two-lot subdivision. Proposed Parcel 1 would be 0.765 gross acres (33,323 square feet) and proposed Parcel 2 would be 0.516 gross acres (22,477 square feet). Parcel 1 would continue to function as the Union Pacific Railroad operational right-of-way. Parcel 2 would potentially be developed with residential units, but the current project does not propose development.

The discretionary application required for the project is a Tentative Subdivision Map, SBMC §27.07, to create two parcels.

The Planning Commission will consider approval of the Negative Declaration prepared for the project pursuant to the California Environmental Quality Act Guidelines Section 15074.

**WHEREAS**, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

**WHEREAS**, no one appeared to speak in favor of the application, and no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, January 31, 2005
2. Site Plans **NOW, THEREFORE BE IT RESOLVED** that the City Planning

Commission:

I. Approved the subject application making the following findings and determinations:

**A. MITIGATED NEGATIVE DECLARATION FINDINGS**

1. The Planning Commission has considered the proposed Final Mitigated Negative Declaration, dated February 3, 2005, for 517 W. Figueroa Street Subdivision, (MST2004-00268), and comments received during the public review process. The proposed Final Mitigated Negative Declaration has been prepared in compliance with California Environmental Quality Act requirements, and constitutes adequate environmental analysis of the 517 W. Figueroa Street Subdivision Project (MST2004-00268).

2. Mitigation measures identified in the Mitigated Negative Declaration have been agreed-to by the applicant and incorporated into the project, which would avoid or reduce all potentially significant impacts to less than significant levels. Additional mitigation measures would be applied as conditions of approval to minimize adverse but less than significant environmental effects. In the Planning Commission's independent judgment and analysis based on the whole record, there is no substantial evidence that the 517 W. Figueroa Street Subdivision (MST2004-00268) will have a significant effect on the environment. The Final Mitigated Negative Declaration, dated February 3, 2005, is hereby adopted.
3. A Mitigation Monitoring and Reporting Program prepared in compliance with the requirements of Public Resources Code § 21081.6, is included in the Final Mitigated Negative Declaration for the 517 W. Figueroa Street Subdivision (MST2004-00268) and is hereby adopted.
4. The location and custodian of documents associated with the environmental review process and decision for the 517 W. Figueroa Street Subdivision (MST2004-00268) is the City of Santa Barbara Community Development Department, 630 Garden Street, Santa Barbara, CA 93101.
5. The California Department of Fish and Game (DFG) is a Trustee Agency with oversight over fish and wildlife resources of the State. The DFG collects a fee from project proponents of all projects potentially affecting fish and wildlife, to defray the cost of managing and protecting resources. The project has the potential to affect fish and wildlife resources. The Initial Study/ Mitigated Negative Declaration for the project identified potential impacts as mitigable to less than significant levels. The project is subject to the DFG fee (\$1250 for a Negative Declaration). A condition of approval has been included which requires the applicant to pay the fee within five days of project approval.

**B. FINDINGS FOR THE TENTATIVE SUBDIVISION**

The Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara since the proposed lots would meet the minimum lot size specified in the R-3 zone and the density requirements of the General Land Use Designation of twelve units per acre. The site is physically suitable for the potential future development.

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 Parcel 2 of the Real Property and shall be recorded with the Parcel Map on an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property" which shall be reviewed as to form and content by the City Attorney:

1. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through Parcel 2 of 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 drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard of life, health or damage to the Real Property or any adjoining property.
  2. **Allowed Development.** The project approved by the Planning Commission on February 3, 2005 is limited to the subdivision of a 1.281 acre lot into two parcels, Parcel 1 would be 0.765 acres or 33,232 square feet and Parcel 2 would be 0.516 acres or 22,477 square feet, with the development envelope on Parcel 2 adjusted to minimize intrusion into the banks of the swale or the creek, and the improvements shown on the Tentative Map, signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
- B. Public Works Submittal Prior to Parcel Map Recordation.** 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 for the project.
1. **Parcel Map Submittal.** The owner shall submit to the Public Works Department, a Parcel Map prepared by a licensed land surveyor or registered Civil Engineer. The Parcel Map shall conform to the requirements of the City Survey Control Ordinance.
  2. **Street Improvement Plans.** The Owner/Developer shall submit C-1 public improvement plans for construction of improvements along the subject property road frontage on Figueroa Street. Public Works C-1 Improvement Plans shall be submitted separately from Building Permit plans. As determined by the Public Works Department, the improvements shall include City standard sidewalk, curbs, gutters, driveway approach modified to meet Title 24 requirements, crack seal to the centerline of the street, City/private water and sewer mains, drop inlet, storm drain at Figueroa Street, storm drain stenciling, detention, erosion protection, etc., preserve and/or reset contractor stamp and/or survey monuments, biofilter/swale, drought-tolerant parkway landscaping, street trees, and provide adequate positive drainage from site. The public improvement plans shall be prepared by a registered civil engineer or licensed architect and reviewed and signed by the City Engineer.
  3. **Agreement for Land Development Improvements.** An Executed Agreement for Land Development Improvements and improvement security for construction of improvements.
  4. Pursue, in good faith, an easement that connects the bikeway easement on Parcel 2 with City-owned parcel to the south.
- C. California Department of Fish and Game Fees Required** Pursuant to Section 21089(b) of the California Public Resources Code and Section 711.4 et. seq. of the

California Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified Department of Fish and Game fees are paid and filed with the California Department of Fish and Game within five days of the project approval. The fee required is \$1,250 for projects with Negative Declarations. The fee shall be delivered to the Planning Division within five days of project approval in the form of a check payable to the California Department of Fish and Game.

- D. Required Prior to Building/Grading Permit or Public Works Permit Issuance.** The Owner shall submit the following or evidence of completion of the following to the Public Works Department prior to the issuance of a Building Permit or a Public Works Permit.
1. **Mitigation Monitoring and Reporting Requirement.** The owner shall submit to the City's Environmental Analyst a monitoring program for the project's mitigation measures, as stated in the Mitigated Negative Declaration or the Environmental Impact Report for the project. A Project Environmental Coordinator (PEC) and Mitigation monitors responsible for permit compliance monitoring must be hired and paid for by the applicant. The mitigation monitoring program shall include, but not be limited to:
    - a. A list of the project's mitigation measures.
    - b. An indication of the frequency of the monitoring of these mitigation measures.
    - c. A schedule of the monitoring of the mitigation measures.
    - d. A list of reporting procedures.
    - e. A list of the mitigation monitors to be hired.
  2. **Project Environmental Coordinator.** A qualified representative for the Owner, approved by the City Planning Division, shall be designated as the Project Environmental Coordinator (PEC). The PEC shall be responsible for assuring full compliance with the provisions of the mitigation monitoring and reporting program to the City. The PEC shall have authority over all other monitors/specialists, the contractor, and all construction personnel for those actions that relate to the items listed in this program.
  3. **Pre-Construction Conference.** Prior to commencement of construction, a construction conference shall be scheduled by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Building Division, Planning Division, the Property Owner, Architect, Arborist, Landscape Architect, Biologist, Geologist, Project Engineer, Project Environmental Coordinator, Mitigation Monitors, Contractor and Subcontractor(s).
  4. **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. (CR-1)

5. **On-site Drainage Plan.** A complete drainage plan that addresses the existing drainage patterns and leads towards improvement of the quality of water run-off conditions from the site.
6. **Hydrology.** Submit to the Land Development Engineer hydrology calculations demonstrating that the onsite/offsite proposed and existing drainage conveyance system adequately convey a 25-year storm event.
7. **Encroachment Permits.** Submit any encroachment permits from other jurisdictions (County Flood Control) for the construction of improvements (including any required appurtenances) within their right of way (easement). Such permits shall be submitted to the Land Development Engineer.
8. **Water Rights Assignment.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract water from under Parcel 2 of the Real Property. Said assignment and any related agreements are subject to the review and approval of the City Attorney and the City Public Works Director. Said agreement shall be recorded in the Office of the County Recorder.

- E. Required Prior to Building Permit or Public Works Permit Issuance.** The Owner shall submit the following, prior to the issuance of a Building permit or Public Works permit:
1. **Design Review.** Prior to building permit issuance, proposed project grading and landform alteration, structural design, landscaping, and lighting shall be subject to preliminary and final review and approval by the Architectural Board of Review for consistency with design guidelines for views, visual aesthetics and compatibility, and lighting (AES-1).
  2. **Lighting.** Lighting design shall conform with City Lighting Ordinance requirements, including shielding and direction to the ground to avoid off-site lighting and glare effects, and shall be approved by the Architectural Board of Review (AES-2).
  3. **Riparian Restoration.** A Riparian Buffer Restoration and Enhancement Plan, prepared by a qualified biological or resource specialist, shall be submitted, for review and approval by the City Environmental Analyst: Develop and Implement a 35-Foot Restored Buffer and Restoration Plan for Old Mission Creek. A 35-foot riparian buffer, measured from the top of biological bank to the edge of any improvements, shall be established. The riparian buffer shall consist of a restoration plan that incorporates native species appropriate to the habitat conditions onsite per the project biologist and shall be in accordance with the Biological Assessment prepared by Rachel Tierney Consulting, dated August 1, 2004.(BIO-1).
  4. **Restoration Plan for Swale.** A restoration plan for swale area, including drainage improvements and installation of a bioswale, shall be developed and implemented when development of the site is proposed. Plants shall be native species appropriate to the habitat conditions on site per the project biologist and shall be in accordance with the Biological Assessment prepared by Rachel Tierney Consulting, dated August 1, 2004. (BIO-2).
  5. **Erosion Control Plan/Water Quality.** A detailed grading and erosion-control plan shall be submitted for review and approval prior to issuance of grading permit. The plan shall be coordinated with drainage and landscaping plans, and shall incorporate the following measures (B-3 and W-2):
    - a. Grading shall incorporate any applicable measures recommended in soils and geology reports. Detailed plans and a geologic report shall be submitted for any permanent erosion-control structures.
    - b. Grading shall be designed to minimize erosion and control drainage.
    - c. Graded areas shall be revegetated within four weeks of grading activities with deep-rooted, native, drought-tolerant species to minimize slope failure and erosion. Planted areas shall be irrigated if necessary, and maintained to ensure that plants are established.

- d. Install silt fence, sand bag, hay bale or silt devices where necessary around the project site to prevent offsite transport of sediment.
  - e. Silt fencing (buried and staked) shall be installed 15 feet from the top of the bank along the entire length of the creek on the property to prevent sediment from entering the creek. Vehicles and material storage shall not be allowed within 15 feet of the creek bank.
  - f. Excavation and grading shall be limited to the dry season of the year (i.e., April 15-November 1) unless otherwise approved by the Building Division based on identified erosion-control measures.
6. **Geotechnical Conditions and Design.** The applicant shall submit evidence with project plans for City Building and Safety Division review and approval, which indicate compliance with Uniform Building Code seismic safety design requirements and with the recommendations contained in the Preliminary Foundation Investigation prepared by Pacific Materials Laboratory, dated April 5, 2004, regarding site preparation, grading and construction plans. (G-1)
  7. **Site Remediation.** Prior to issuance of demolition, grading or building permit for the proposed project, the applicant shall demonstrate compliance with all applicable federal, state, and local regulations relative to remediation of hazardous materials on the subject property (H-2)
  8. **Number of Residential Units.** The future residential development shall be limited to a maximum of 10 units. If additional units are proposed, a traffic analysis will be necessary to ensure that project impacts on traffic are less than significant. If they are found to be significant, a mitigation measure would be required or an EIR would be prepared. (T-1)
  9. **Construction Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods. The Transportation Engineer shall approve the haul route(s) for all construction-related trucks of three tons or more, entering or exiting the site. (TC-2)
  10. **Construction Parking.** Construction parking shall be provided as follows:
    - a. During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Transportation and Parking Manager.
    - b. On-site or off-site storage shall be provided for construction materials and equipment. Storage of construction materials within the public right-of-way is prohibited. (TC-3)
  11. **Disabled Accessibility.** Project circulation shall provide for disabled accessibility or equivalent facilitation in accordance with American Disabilities Act requirements. (T-4)

12. **Construction Dust Control - Watering.** During site grading and transportation of fill materials, regular water sprinkling shall occur using reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.  
  
Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph. (AQ-1)
13. **Construction Dust Control – Tarping.** Trucks transporting fill material to and from the site shall be covered from the point of origin. (AQ-2)
14. **Construction Dust Control – Gravel Pads.** Gravel pads shall be installed at all access points to prevent tracking of mud on to public roads. (AQ-3)
15. **Construction Dust Control – Disturbed Area Treatment.** After clearing, grading, earth moving or excavation is completed; the entire area of disturbed soil shall be treated to prevent wind pickup of soil. This may be accomplished by: (AQ-4)
  - a. Seeding and watering until grass cover is grown;
  - b. Spreading soil binders;
  - c. Sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind;
  - d. Other methods approved in advance by the Air Pollution Control District.
16. **Construction Dust Control – Paving.** All roadways, driveways, sidewalks, etc., should be paved as soon as possible. Additionally, building pads should be laid as soon as possible after grading unless seeding or soil binders are used. (AQ-5)
17. **Dust Control Monitor.** The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading for the structure. (AQ-6)

18. **Prohibition of Wood-burning fireplaces and stoves.** Wood-burning fireplaces and wood stoves shall be prohibited. (AQ-8)
19. **Construction Equipment/Construction Noise Mitigation.** All construction equipment and vehicles shall be maintained in tune per manufacturer's specifications. All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices. (AQ-7 & N-2)
20. **Construction Fencing.** Prior to commencement of construction (demolition and subsequent installation of utilities, grading and soils excavation, and foundation work), an orange construction fence shall be installed along the approved creek setback/buffer line. The fence shall be kept in place until construction is completed. (BIO-5)
21. **Protection from Pollutants.** Vehicles and material storage shall not be allowed within approved creek setback/buffer area. Construction personnel shall not refuel machinery and vehicles, or handle any solvents or other pollutants within 50 feet of the creek. Washing concrete, paint or equipment shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Washing shall not be allowed near the creek or swale area. The swale shall be designed and constructed as a functioning bioswale to treat run-off from the site as well as the adjacent City streets. Important design considerations would include: creating a vegetated strip that could contain the expected run-off from low flows; developing a gradient that would retain the flows for the longest possible time, allowing for pollutant adsorption to soil particles and absorption of water into the ground and provide flood storage; and incorporating native plants to supplement habitat value of Old Mission Creek.(BIO-3)
22. **Construction Personnel/ Resource Discovery.** 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. If during any site preparation, demolition, grading or construction on the site such archaeological resources are encountered or suspected, work in the area of the find shall be halted immediately, and the City Master Environmental Assessment Procedures followed as outlined above. Work in the area may only proceed after the Environmental Analyst grants authorization.

If prehistoric or other Native American remains are encountered, a Native American representative shall be consulted, and the archaeologist and Native American representative shall monitor all further subsurface disturbances in the area of the find. If the discovery consists of potentially human remains, the Santa Barbara County Coroner and the California Native American Heritage Commission must also be contacted. Work in the area may only proceed after the Environmental Analyst grants authorization. (CR-1)

23. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 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: (N-1)

New Year's Day.....	January 1 <sup>st</sup>
Martin Luther King Jr.'s Birthday .....	3 <sup>rd</sup> Monday in January
President's Day .....	3 <sup>rd</sup> Monday in February
Memorial Day .....	Last Monday in May
Independence Day .....	July 4 <sup>th</sup>
Labor Day.....	1 <sup>st</sup> Monday in September
Thanksgiving Day .....	4 <sup>th</sup> Thursday in November
Following Thanksgiving Day.....	Friday following the 4 <sup>th</sup> Thursday in November
Christmas Day .....	December 25 <sup>th</sup>

\*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday respectively shall be observed as a legal holiday. (N-4)

24. **Contact Information.** Signage shall be posted at the points of entry to the site that list the contractor(s) name and phone number, work hours, and site rules to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval and inform subcontractors of site rules and restrictions. Signage location shall be readily visible from public viewing areas and shall be a minimum of 24'' x 18'' in size.
25. **Emergency Response Plan.** An Emergency Response Plan shall be formulated and submitted by the developer and approved by the City Fire and Police Departments. The Plan shall address evacuation of the development in the event of a train derailment, release of hazardous materials from a train car, or other emergency (H-1)
26. **Recommended Noise Barrier Wall.** A continuous, solid masonry noise barrier wall six feet above the finished floor elevation of the residences will provide adequate protection from transportation noise in the required outdoor living spaces on the northeast side of the site. (N-1)
27. **Recommended Dwelling Unit Construction for Northeast Façade** The following construction specifications will result in the required performance of less than 45 dBA interior noise level along the critical northeast-facing side of dwelling units, facing the noise source. (N-2)
- a. **Vents and roof penetrations:** Soffit vents, eave vents, dormer vents and other wall and roof penetrations shall be located on the walls and roofs facing away from the noise source wherever possible. If soffit or eave or dormer vents or doors or windows or skylights or other roof or wall penetrations must be placed facing toward the transportation noise

source, they shall be acoustically rated and designed to have a Sound Transmission Class (STC) rating of 30 or greater. (N-2a.)

- b. **Walls:** The northeast-facing walls of habitable spaces of dwelling units nearest the noise source shall have wall construction with an STC rating of 30 or greater. For instance, stucco exterior or equivalent on 2" x 4" stud walls with minimum R-13 batt insulation and two layers of 1/2" gypsum board, with staggered seams and mounted on resilient channels on the interior will provide an S.T.C. rating of 30 or greater along these walls. Common acoustic leaks, such as electrical outlets, pipes, vents, ducts, flues and other breaks in the integrity of the wall, especially at the header, the ceiling or roof construction on the northeast side of the dwellings nearest transportation noise source shall receive special attention during construction. All construction openings and joints on walls on the noise facing side of the site shall be insulated, sealed and caulked with a resilient, non-hardening caulking material. All such openings and joints shall be airtight to maintain sound isolation. (N-2b.)
- c. **Windows:** To meet the interior LDN 45 DBA requirements, windows for habitable spaces of affected units facing the noise source shall be of double-glazed construction with one light of laminated glass, and installed in accordance with the recommendations of the manufacturer. The windows shall be fully gasketed, with an S.T.C. rating of 30 or better, as determined in testing by an accredited acoustical laboratory. (N-2c.)

28. **Construction Notification.** At least 20 days prior to commencement of construction, the contractor shall provide written notification to property owners and residents within 450 feet of the project area, to surrounding area homeowners associations, and posted at the construction site. The notice shall provide a construction schedule, required noise conditions applied to the project, and the name and telephone number of the Project Manager who can address questions and problems that may arise during construction. (N-3)
29. **Construction Recycling.** Construction-related solid waste shall be minimized through source reduction, re-use and recycling, and bins shall be provided on the site (PS-1).
30. **Storm Water Quality.** The Owner shall apply storm water quality control guidelines to the project per the Public Works Department Construction Project Best Management Practices.
31. **Contractor's Stamps Preserved.** Any existing contractor stamps in the sidewalks, driveway aprons, and curbs shall be preserved and protected in place during all construction to the satisfaction of the Public Works Department.
32. **Conditions on Plans/Signatures.** All Planning Commission Conditions of Approval shall be provided on a full size drawing sheet as part of the drawing

sets. 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:

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Property Owner Date

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Contractor Date License No.

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Architect Date License No.

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Engineer Date License No.

**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.
2. **Complete Public Improvements.** Public improvements as shown on the C-1 public improvement plans.
3. **Cross-Connection Inspection Required.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.

**G. Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the

approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses and costs of that independent defense.

**NOTICE OF TENTATIVE SUBDIVISION TIME LIMITS:**

The Planning Commission's action approving the tentative subdivision shall expire two (2) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code section 27.07.110 or the provisions of the California Subdivision Map Act.

This motion was passed and adopted on the 3rd day of February, 2005 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 ABSTAIN: 0 ABSENT: 1 (Maguire)

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

\_\_\_\_\_  
Liz N. Ruiz, Planning Commission Secretary

\_\_\_\_\_  
Date

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.



Commissioners' comments and questions:

1. Questioned the landscaping around the tree(s).
2. Not certain that the open space around the units is useable.
3. Felt bungalow type elements add more charm to the porch facing Pedregosa Street. Suggest that rafter tails should show and add more detail to front as recommended by ABR.
4. Project is fairly dense, but works well for neighborhood.
5. Feels that the 7:00 a.m. start up time is okay for quiet construction work only, but no work before 8:00 a.m. until the framing and sheathing is complete.
6. Conditions should be contained on a sign and posted at the site.
7. A separate discussion on construction hours in general should be scheduled.

**MOTION: Mahan/Larson**

**Assigned Resolution No. 008-05**

Approve the project making the findings, subject to the conditions of approval, as amended below:

- Allow quiet construction between 7:00 a.m. and 8:00 a.m. after framing and sheathing is complete and that conditions are posted on a sign at the site.
- Use a more permanent pervious material around the oak trees than bark.
- Make design changes to Unit #1 to be more consistent with Spanish-style bungalows.

This motion carried by the following vote:

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

Vice-Chair Jostes announced the ten calendar day appeal period.

**ACTUAL TIME: 2:05 P.M.**

**B. APPLICATION OF STEVE JOHNSON, AGENT FOR UNION PACIFIC RAILROAD (PROPERTY OWNER), 517 W. FIGUEROA , 039-010-010 , R-3, MULTIPLE FAMILY RESIDENTIAL ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 12 UNITS/ACRE (MST2004-00268)**

The proposal involves a two-lot subdivision. Proposed Parcel 1 would be 0.765 gross acres (33,323 square feet) and proposed Parcel 2 would be 0.516 gross acres (22,477 square feet). Parcel 1 would continue to function as the Union Pacific Railroad operational right-of-way. Parcel 2 would potentially be developed with residential units, but the current project does not propose development.

The discretionary application required for the project is a Tentative Subdivision Map, SBMC §27.07, to create two parcels.

The Planning Commission will consider approval of the Negative Declaration prepared for the project pursuant to the California Environmental Quality Act Guidelines Section 15074.

Ms. Allen gave a brief presentation of this project.

Commissioners' comments and questions:

1. Asked if the drainage is year-round or seasonal and what required creek, drainage setback, and restoration would include.
2. Concerned about the lack of environmental review if future construction only requires ABR approval.
3. Hampering ABR's ability when approving "footprints" on projects like this.
4. Questioned bikeway easement.
5. Questioned small parcel which is owned by railroad.
6. The "notch" in the map underneath belongs to the State of California, not the City.
7. Asked, if notch were granted to applicant and applicant permitted the City or State to enter for maintaining the culvert, why the railroad would care.
8. Want the drainage from Figueroa to be treated like a creek and kept open.
9. Appreciates that applicant has taken on this project.
10. Incorporate into Conditions any future development will follow recommendations and the biological assessment.
11. Questioned the possibility of apartments turning into condominiums down the line.

Ms. Hubbell responded that the creek is seasonal, and there is a 25 foot setback. Environmental review includes the potential for future development and all conditions must be met. The map establishes a development envelope, not building footprints.

Steve Johnson, Applicant and Agent for Union Pacific Railroad, addressed the Planning Commission regarding the "notch" owned by the railroad which interrupts the bicycle easement.

Vice-Chair Jostes invited the applicant to come before the Planning Commission and give his presentation.

Mr. Johnson gave a brief presentation of the project.

Mr. Vincent stated he feels not only the City, but the State of California and Union Pacific Railroad would be very concerned as to the change of easement. Staff has taken a very conservative approach to this matter by analyzing a likely future project.

With no one wishing to speak, the public hearing was opened and closed at 2:51 p.m.

Commissioners' made the following comments:

1. Very good project; will benefit neighborhood, and creek and drainage.
2. Hopes this comes back and would like to see cross sections, and understand how this project integrates the drainage from Figueroa Street.
3. Supports mitigated declaration and subdivision.
4. Access and driveways should be taken as close to the railroad as possible.

5. Save urban creek interface.
6. One Commissioner asked if the bike path can be put along side of the creek so bikers can ride along the creek as opposed to the railroad tracks.

**MOTION: Jacobs/Mahan**

**Assigned Resolution No. 009-05**

Approve the Final Mitigated Negative Declaration and Subdivision Map making the findings outlined in the staff report with conditions as amended below:

- Changing the development envelope to minimize intrusion into creek or swale banks.
- Pursue, as feasible, a connection between the bike way easement on Parcel 2 and City Parcel to the south across land owned by Union Pacific.
- Specifically reference the Biological Assessment as part of Condition E.3.

This motion carried by the following vote:

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

**V. ENVIRONMENTAL HEARING:**

**APPLICATION OF PEAK LAS POSITAS PARTNERS, 900-1100 BLOCK OF LAS POSITAS ROAD, APNs 047-010-016, 047-010-053 (A PORTION), 047-010-009, 047-010-011, AND 47-061-026; CURRENT COUNTY ZONING: 8-R-1 SINGLE-FAMILY RESIDENTIAL (8,000 SQ. FT. MIN. LOT SIZE), AND RR-20 RURAL RESIDENTIAL (20-ACRE MIN. LOT SIZE); CURRENT COUNTY COMPREHENSIVE PLAN DESIGNATION: RESIDENTIAL, 4.6 UNITS PER ACRE AND RESIDENTIAL RANCHETTE, ONE UNIT PER 20 ACRES (MST99-00608).**

This item was continued indefinitely and will be renoticed.

**VI. DISCUSSION ITEM:**

**APPLICATION OF PEAK LAS POSITAS PARTNERS, 900-1100 BLOCK OF LAS POSITAS ROAD, APNs 047-010-016, 047-010-053 (A PORTION), 047-010-009, 047-010-011, AND 47-061-026; CURRENT COUNTY ZONING: 8-R-1 SINGLE-FAMILY RESIDENTIAL (8,000 SQ. FT. MIN. LOT SIZE), AND RR-20 RURAL RESIDENTIAL (20-ACRE MIN. LOT SIZE); CURRENT COUNTY COMPREHENSIVE PLAN DESIGNATION: RESIDENTIAL, 4.6 UNITS PER ACRE AND RESIDENTIAL RANCHETTE, ONE UNIT PER 20 ACRES (MST99-00608).**

This item was continued indefinitely and will be renoticed.

**VII. ADMINISTRATIVE AGENDA**

- A. Committee and Liaison Reports.



**DEVELOPMENT REVIEW COMMITTEE  
PLANNING DIVISION COMMENTS  
JULY 27, 1998  
517 W. FIGUEROA STREET.**

Applications Required

The discretionary applications necessary for this project are as follows:

1. A Tentative Subdivision Map (TSM), to allow for the subdivision of the subject property to create nine residential condominiums;
2. A Modification to allow for the encroachment of the garage structure into the required six foot interior setback; and
3. Design Review by the Architectural Board of Review (ABR) and the Planning Commission, to evaluate the overall design of the project, including neighborhood compatibility, and size, bulk and scale.

General Plan and Zoning Consistency:

1. Land Use Element

The project site is designated as Residential- 12 units per acre, and Buffer/Stream under the Land Use Element of the General Plan. The proposed project is consistent with the description for this portion of the West Side neighborhood as discussed in the Land Use Element. The project site is zoned R-3- Multi-Family Residential, which allows for the density of the nine two-bedroom units proposed.

2. Conservation Element

The General Plan Conservation Element includes the policies and implementation strategies outlined below regarding the protection of oak trees, creek environment, and riparian habitat, and control over creek erosion. It is our understanding, after discussions with the applicant, that the project includes a proposal to fill and compact a large natural drainage channel from the former Mission Creek channel which runs through the property. This proposal is in substantial conflict with the Conservation Element polices and implementation strategies outlined below. Staff therefore cannot support the project in its current configuration, and would recommend a substantial redesign to minimize impacts to the drainage channel.

- i. Visual Resources

Policy 1.0: Development adjacent to creeks shall not degrade the creeks or their riparian environment.

Policy 4.0: Trees enhance the general appearance of the City's landscape and should be preserved and protected.

ii. Biological Resources

Policy 4.0: Remaining Coastal perennial grasslands and Southern Oak Woodlands shall be preserved, where feasible.

iii. Drainage and Flood Control

Implementation Strategy 3.2: Regulate buffer zones along creeks to protect against bank erosion from public or private practices, including grading, brush clearing, dumping, or construction of private structures such as bridges or walkways across creeks.

3. Noise Element

The General Plan Noise Element also identifies a maximum acceptable noise exposure level of 45 dBa for the interior of residential units, and 60 dBa for exterior residential space. As discussed in the Environmental Review section below, the proximity of the project to the railroad tracks will require additional study to verify compliance with these requirements.

Compliance with Zoning Ordinance/Related Planning Issues

The conceptual level of the submittal does not permit a complete review for code compliance. Additional project information required at the time of application submittal is listed on the attached handouts. The following zoning and related planning issues have been identified based on a review of the plans provided:

1. As noted above, the project proposes a substantial alteration of existing sensitive environmental conditions on-site. Staff would recommend the project be redesigned to maintain the natural condition of the drainage channel.
2. The following additional information will need to be included on the project plans:
  - a. Indicate compliance with physical standards for new condominiums, per SBMC section 27.13.060 (attached), including: