



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 008-08
225 CHAPALA STREET
COASTAL DEVELOPMENT PERMIT
FEBRUARY 14, 2008

**APPLICATION OF THOMAS CONTI ENGINEER FOR CITY OF SANTA BARBARA
PUBLIC WORKS DEPARTMENT, 225 CHAPALA STREET, : 033-010-011, 033-010-013, 033-
010-014, 033-042-014, AND 033-041-012, C-2/S-D-3 ZONE, GENERAL PLAN DESIGNATION:
COMMERCIAL (MST2007-00642/CDP2008-00001)**

The proposed project involves construction of a six foot deep, 36 foot wide, and 90 foot long, concrete double box culvert beneath the two railroad lines at the western end of the Railroad Depot platform within the prior alignment for Chapala Street.

The discretionary application required for this project is a Coastal Development Permit (SBMC § 28.44.060).

The proposed project is consistent with the larger project analyzed in the certified Final Environmental Impact Statement/Environmental Impact Report for the Lower Mission Creek Flood Control Project and findings must be made (CEQA Guidelines Section 15091) and a Mitigation Monitoring and Reporting Program will be provided.

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, February 7, 2008
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. **Environmental Findings**

1. The final EIR has been completed in compliance with CEQA.
2. The Planning Commission has read and considered the Lower Mission Creek Flood Control Project Feasibility Study and Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR).
3. The final EIR reflects the lead agency's independent judgment and analysis.

4. Although the Lower Mission Creek Flood Control Project EIS/EIR identifies significant unavoidable cultural resource, aesthetic, and traffic impacts, these unavoidable impacts are not associated with the proposed culvert construction.
5. Changes and/or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the following significant effects identified in the EIS/EIR: geology impacts, water and air quality impacts, biological resources impacts, land use impacts, socioeconomic impacts, aesthetic impacts, recreation impacts, hazardous, toxic and radioactive waste impacts, and safety impacts, summarized as follows:
 - a. A Storm Water Pollution Prevention Plan (SWPPP) will be prepared prior to construction and implemented that would minimize less than significant impacts related to water erosion and equipment related leaks that could reduce water quality associated with this component of the Lower Mission Creek Flood Control Project.
 - b. Construction and maintenance-related air quality impacts from fugitive dust will be mitigated to less than significance by watering the construction and maintenance areas daily, covering material transported in trucks, limiting vehicle speeds and ceasing grading and earth movement when wind speeds exceed 20 mph.
 - c. Construction-related noise impacts will be mitigated and maintenance-related noise impacts will be mitigated to less than significance by following the City of Santa Barbara Noise Ordinance, prohibiting construction between 7:00 PM and 7:00 AM, prohibiting heavy equipment operation before 8:00 AM and after 7:00 PM, prohibiting all construction on Sundays and holidays and requiring truck traffic to follow designated routes. Note that the project, as defined, would include one night of construction provided that the neighbors are notified. Since this overnight construction would only occur over one night, neighbors would be notified in advance, and the area is already subject to nighttime noise from existing railroad traffic the impact of construction noise would not be significant.
 - d. Construction-related hazardous, toxic and radioactive waste impacts will be mitigated to less than significance by requiring the preparation and implementation of a SWPPP, and requiring testing of soils prior to construction. Based on the tests, a plan for reducing contamination to acceptable levels shall be prepared and implemented in coordination with the Regional Water Quality Control Board and the Santa Barbara County Department of Environmental Health Services.
 - e. Construction-related traffic and parking impacts will be mitigated and safety impacts mitigated to less than significance by requiring a truck routing plan to be prepared and implemented which includes avoidance

of impacted intersections and peak traffic hours and reduction of conflicts between trucks and other traffic through the provision of a traffic control monitor and noticing of residents and businesses. In addition, a construction parking plan will be required. A construction traffic and pedestrian plan for temporary routing of traffic during construction has been prepared and provides continued access during construction. Temporary alternative parking would be provided for the Railroad Depot parking area closed during construction.

- f. Construction-related cultural resource impacts will be mitigated to less than significance for all archaeological resources by archaeological monitoring of any potential sites and, if resources are found, stopping work in the area, determining their significance and, if significant, developing and carrying out an appropriate mitigation plan, subject to approval by the Historic Landmarks Commission and the Environmental Analyst.
- g. Construction related recreational impacts would not be substantially related to the railroad culvert component of the Lower Mission Creek Flood Control project because the project would occur at the Railroad Depot and would not directly impact any recreational facilities, including the adjacent Moreton Bay Fig Tree Park.
- h. Project related construction related aesthetic impacts would not cause, by themselves, a significant visual impact because the construction area would occur in a limited area and would be temporary, lasting up to two months. Also, the Depot would be returned to its original condition after construction.
- i. Socioeconomic impacts would not be related to the railroad culvert component of the Lower Mission Creek Flood Control project because the project would occur at the Railroad Depot and no property acquisition would occur due to this component of the larger Lower Mission Creek Flood Control project.
- j. Public safety impacts would be minimized and less than significant because mitigation requires that construction traffic control officers be present to divert traffic.

B. Coastal Development Permit (SBMC §28.44.150)

- 1. The project is consistent with the policies of the California Coastal Act.
- 2. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code.
- 3. The project is consistent with the Chapter 3 (commencing with Section 30200) Policies of the Coastal Act regarding public access and public recreation.

II. Said approval is subject to the following conditions:

A. **Community Development Requirements.** The following shall be finalized prior to commencement of construction:

1. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.
2. **Traffic Control Plan.** A traffic control plan shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines. Traffic Control Plans are subject to approval by the Transportation Manager.
3. **Monitoring Contract.** Submit to the Planning Division a contract with an archaeologist from the most current City Qualified Archaeologists List for monitoring during all ground-disturbing activities associated with the project, including, but not limited to, grading, excavation, trenching vegetation or paving removal and ground clearance. The contract shall be subject to the review and approval of the Planning Division.

The archaeologist's monitoring contract shall include the following provisions: If cultural resources are encountered or suspected, work shall be halted or redirected by the archaeologist immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent and significance of any discoveries and 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, preparation of further site studies and/or mitigation.

If the discovery consists of possible human remains, the Owner shall contact the Santa Barbara County Coroner immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. The Owner shall retain 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 Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, the Owner shall retain 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 Planning Division grants authorization.

- B. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor 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 of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met.
 2. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.
 3. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Public Works Director.
 4. **Haul Routes.** The haul route(s) for all construction-related trucks, three tons or more, entering or exiting the site, shall be approved by the Public Works Director.
 5. **Traffic Control Plan.** All elements of the approved Traffic Control Plan shall be carried out by the Contractor.
 6. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Saturday before 7:00 a.m. and after 8:00 p.m., and all day on 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. In addition, heavy equipment operation is prohibited before 8:00 a.m. or after 7:00 p.m. on any work day unless otherwise permitted according to the exception described in the following paragraph.

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. Subject to notification of the neighbors the project would be permitted to conduct 24-hour construction for one night provided neighbors are notified in advance about the construction.

7. **Construction Parking/Storage/Staging.** 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. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.
 - b. Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project.
 - c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.

8. **Water Sprinkling During Grading.** During site grading and transportation of fill materials, regular water sprinkling shall occur on-site, 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 on-site 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 on-site 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.
9. **Expeditious Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used, as directed by the Building Inspector.
10. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.
11. **Street Sweeping.** The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.
12. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division. The applicant shall provide a Storm Water Pollution Prevention Plan (SWPPP) that includes measures necessary to minimize release of hazardous materials and to address any releases that accidentally occur. Measures shall include fueling away from the creek, cleaning up spills as soon as possible, and properly maintaining equipment. Measures to address accidental release of hazardous materials such as training workers on how to clean up leaks and providing the materials to clean up accidental releases.
13. **Construction Contact Sign.** Prior to commencement of construction, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number(s), work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height.
14. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.

15. **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.
 16. **Archaeological Monitoring Report.** A final report on the results of the archaeological monitoring shall be submitted to the Planning Division within 180 days of completion of the monitoring or prior to the issuance of the Final Inspection, whichever is earlier.
- C. **Prior to Final Inspection.** Prior to Final Inspection, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Prior condition.** The project site must be returned to its original condition. Project must not negatively impact the Train Depot building and its status on the National Register of Historic Places.
- D. **After Final Inspection.** After Final Inspection, the Owner of the Real Property shall complete the following:
1. **Archaeological Monitoring Report.** A final report on the results of the archaeological monitoring shall be submitted to the Planning Division within 180 days of completion of the monitoring or prior to Final Inspection whichever occurs first.
- E. **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 COASTAL DEVELOPMENT PERMIT TIME LIMITS (SBMC § 28.44.230):

A. TIME FOR COMMENCEMENT OF APPROVED DEVELOPMENT. The time for commencement of the approved development shall be two years from the date of the final action upon the application, unless a different time is specified in the conditions of approval for the coastal development permit.

B. EXTENSIONS. Prior to the time that commencement of development must occur under the terms of the coastal development permit or Subsection A, the applicant may apply to the Community Development Director for an extension of time not to exceed an additional one-year period. Such an extension of time may be granted no more than three (3) times, and under no circumstances shall the time for commencement of development be more than five (5) years after the date of the final action on the application. Extensions of time may be granted by the Community Development Director upon findings that the development continues to be in conformance with the certified Local Coastal Program, that the applicant demonstrated due diligence to implement and complete the proposed development as substantiated by competent evidence in the record, and that there are no changed circumstances that may affect the consistency of the development with the certified Local Coastal Program, the General Plan and applicable City ordinances, resolutions and other laws.

This motion was passed and adopted on the 14th day of February, 2008 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 0 ABSTAIN: 0 ABSENT: 2 (Jostes, Jacobs)

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.

Julie Rodriguez, Planning Commission Secretary

May 22, 2008
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.

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