



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: September 11, 2008
AGENDA DATE: September 18, 2008
PROJECT ADDRESS: Review of Staff Hearing Officer Actions
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
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I. DISCUSSION

This report provides the Planning Commission information regarding the Staff Hearing Officer process over the last year and a half.

In March 2008, the California Coastal Commission approved the City's Local Coastal Program Amendment to give the Staff Hearing Officer (SHO) the authority to review applications for Coastal Development Permits (CDP) for projects located within the Coastal Zone. The Planning Commission has retained CDP authority for SHO eligible projects in areas where potential environmental impacts could occur, such as: sensitive areas along the coastal bluffs, creekside properties, and projects in the Hillside Design District. The SHO has reviewed one application for a CDP for a project located at 218 Santa Barbara Street. That project involved the conversion of an existing third story deck to habitable space and the interior remodel of an existing condominium unit. A modification was granted to allow the addition to encroach into the interior setback.

In April of this year, the Medical Cannabis Dispensaries Ordinance became effective. This Ordinance requires any Medical Cannabis Dispensaries to obtain a Dispensary Use Permit from the SHO. As of the writing of this report, no hearings have been held before the SHO on a Medical Cannabis Dispensary.

The final change is that in July of this year, Bettie Weiss, City Planner, made the transition out of the role of the SHO and Susan Reardon, Senior Planner, assumed the duties of the SHO.

II. STAFF HEARING OFFICER ACTIONS

A major element of the SHO process is the consideration of Modification requests. The majority of Modifications requested over the last year and a half were in the following categories:

	<u>Jan-Dec 2007</u>	<u>Jan -June 2008</u>
➤ Front setback	40%	30%
➤ Interior setback	25%	34%
➤ Open yard	15%	12%
➤ Fences/hedges/walls/screens	11%	15%
➤ Other various	9%	9%

In July of this year, the City Council adopted amendments to the Zoning Ordinance that clarify or, in some cases, change the zoning requirements. Although the purpose of the proposed amendments was mostly to clarify existing language and policy, some changes were also in response to the Modification process and would result in fewer Modifications. Of the 308 separate Modifications acted upon during the last year and a half (some project sites had multiple Modification requests), at least nine would not have been required if the proposed Zoning Ordinance amendments were in place.

Staff recommendations and SHO actions on Modification requests are based on policy direction from Council and the Planning Commission and on the specifics of each case. The key considerations Staff makes in looking at modifications include the following:

1. Avoid modifications when good alternatives exist that comply with the ordinance.
2. Recognition that many areas of the city have become nonconforming since the major rezoning of 1975, and whole neighborhoods are developed with a different standard than the current code. A uniform improvement sometimes seems to be the fair and appropriate action.
3. Site constraints can be justification for modifications, such as: odd shaped or small lots; multiple front yards; existing development footprint, etc.
4. The flexibility of the modification process can be good when the project design is improved and no impacts are created.

Staff continues to hold pre-application meetings with potential applicants for modifications. During this pre-application meeting, Staff reviews plans, photos, and property history, and makes a very preliminary decision about whether to support the proposed Modification. This pre-application screening is very important in the early identification of issues and concerns and in the identification of alternatives that conform to the zoning requirements, site development, and/or neighborhood issues. Staff continually recommends that potential applicants propose development that conforms to the Zoning Ordinance. A vast majority of potential applicants follow the recommendation and no longer pursue the modification. In 2007, a total of 508 pre-application meetings were held with Staff. Of those, 107 (or 21%) actually applied for Modifications. From January – June 2008, a total of 198 pre-application meetings were held; of which 48 (or 24%) applied for Modifications.

The number of modification requests has been relatively stable over the last several years:

- 214 modification requests in 2004

- 156 modification requests in 2005
- 133 modification requests in 2006
- 149 modification requests in 2007

III. APPEALS AND SUSPENSIONS

In 2007, there were four SHO appeal hearings and two Planning Commission suspensions. In 2008, there have been four SHO appeal hearings and no Planning Commission suspensions.

2007 SHO Appeals

518 State Street

On May 9, 2007, the SHO approved a project which included the demolition of an existing 302 square foot non-residential building and construction of a new mixed-use building with 2,487 square feet of commercial space on the first floor and two apartments on the second floor. Development Plan Approval and a Modification to allow no on site residential parking were granted. The Church of Scientology appealed the SHO's approval, expressing concerns regarding the blockage of windows and resulting loss of light and air as the properties share a common property line. On July 12, 2007, the Planning Commission denied the appeal (6/0 vote), recognizing the applicant's right to build a larger project. The Planning Commission recognized that the project provides a benefit of rental housing downtown as opposed to condominiums and supported the parking modification for rental housing. The Planning Commission's decision was appealed to the City Council which also denied the appeal and upheld the approval.

1596 Oramas Rd.

On August 15, 2007, the SHO approved requested modifications of the interior and front setbacks to legalize an "as-built" 390 square foot two-car carport and allow a portion of an existing landing within the interior setback with the condition that the carport be set back three feet from the interior property line. The applicant appealed the decision based on their position that the condition was arbitrary and inconsistent with the existing development in the neighborhood and would require a rebuild of the entire "as-built" carport structure. On January 17, 2008, the Planning Commission denied the appeal (5/2 vote) and upheld the decision of the SHO with additional conditions.

3230 State Street

On October 24, 2007, the SHO approved a request for a front setback modification to allow an equipment storage area for T-mobile in the front setback of Calle Alamo with the condition that the applicant receive input from the Public Works Department regarding vegetation and landscaping. The project was appealed by interested persons based on their position that the project violates the setback requirements and that there was no basis for the new structure to be located within the required front setback. On February 21, 2008, the Planning Commission upheld the appeal (5/0/2 vote) because it was not able to make the required findings for the modification.

222 West Alamar Ave.

On December 5, 2007, the SHO approved a project which included the demolition of an existing residence on the City's List of Potential Historic Resources (McKain Residence) and the construction of three new condominium units with four covered parking spaces. A Modification of the parking requirement and a Modification of the front setback were granted. The project was appealed by an interested party based on concerns with the findings that were made for the approval of the front setback modification, the parking modification, and the tentative subdivision map approval which caused the demolition of a historic structure. On February 7, 2008, the Planning Commission denied the appeal (6/0/1 vote) stating the project contributed to the community in providing small units close to downtown employment and transit.

2008 SHO Appeals

1406 Grande Ave.

On January 16 and January 30, 2008, the SHO reviewed a proposed project which involved an enforcement case for over-height vegetation. The Staff Hearing Officer denied the request for an over-height hedge located on the northern portion of the lot, and approved a portion of the existing hedges located along the westerly and front lot lines, with conditions. The property owner appealed that decision. On June 19, 2008, the Planning Commission denied the appeal (7/0 vote) and upheld the decision of the SHO.

2506 Calle Andaluia

On March 12, 2008, the SHO reviewed a project which involved a 270 sq. ft. accessory space addition to the garage which would have encroached up to 12' into the required 30' front setback along Calle Galicia. The SHO partially approved the applicant's modification application, granting an additional 2.5' encroachment into the setback along Calle Galicia. The property owners appealed the partial approval to the Planning Commission and requested approval of the modification as originally proposed. On June 5, 2008, the Planning Commission upheld the appeal (5/2 vote) and approved the requested modification. The Planning Commission stated that the project site was constrained by the two front yards and that the project site is located on a cul-de-sac with little traffic.

810 Bond Ave and 516 N. Nopal

On April 9, 2008, the SHO denied a request for a condominium conversion of three existing apartments and one commercial space into condominiums. The applicant appealed that decision. On July 10, 2008, the Planning Commission held a public hearing on the appeal. An exception to the Condominium Conversion Ordinance physical elements requirement for parking was requested at the Planning Commission hearing. After a lengthy discussion on the parking design/layout and landscaping within the parking area, the project was continued for the applicant to re-study the parking and landscaping. On September 4, 2008, the Planning Commission continued their deliberation of the project and continued to have concerns regarding the lack of significant landscaping onsite. The project was continued to September 18, 2008, with the direction that a Landscape Architect prepare a landscape plan that has significant green space and for clarification of storage space on site.

1420 Alameda Padre Serra

On July 2, 2008, the SHO denied a request to allow a two-car garage to encroach into the required interior setback and instead approved a modification for uncovered parking within the interior setback. The applicant appealed that decision. On September 4, 2008, the Planning Commission upheld the appeal (5/1/1 vote) and approved the requested modification with direction to the Single Family Design Board to review the site plan for opportunities to enhance the landscaping.

2007 Planning Commission Suspensions

819 Garden Street

On August 1, 2007, the SHO approved a project which involved the demolition of an existing office building and construction of a four story mixed-use building with two parking spaces. The project included two deeded off-site parking spaces. A modification was granted to not provide the required 10 percent open space on the ground floor. The Planning Commission suspended that decision. On September 20, 2007, the Planning Commission held a public hearing on the project and expressed concerns with the size of the proposed units and plate heights and concern with the off-site parking being located outside of the Central Business District (CBD) while the project was inside. The Planning Commission perceived this as allowing more commercial development within the CBD than would be allowed if parking were provided on-site or in the CBD. The Planning Commission affirmed the SHO's decision (5/1/1 vote) with conditions that the Historic Landmarks Commission reviews the project for the purpose of reducing the size, bulk, and scale of the building in order to reduce the view impacts of the face of the proposed building on Garden Street.

814 Orange Ave

On September 26, 2007, the SHO approved a project which involved the demolition of an existing single-family residence and two-car garage and the construction of a new duplex with a two-car garage and two uncovered parking spaces. A modification to allow the uncovered parking to be located within the interior setback was granted. The Planning Commission suspended that decision and on November 15, 2007, the Planning Commission affirmed the SHO's approval (6/0/1 vote) with additional conditions related to the Orange Avenue street frontage, privacy concerns related to the proposed second story deck and street trees.

IV. CONCLUSION

Staff reviewed the appeals and suspensions which have occurred over the last year and a half and concludes that generally the Planning Commission, SHO, and Staff are on the same track in terms of implementing City policies and the intent of development standards. Different opinions can come about based on the facts of each case, but in general, the process works well. The relationship and regular communication between the SHO and Planning Commission liaison is very important for the flow of information and consistency in the application of City policy to reduce the potential number of appeals. Additionally, Staff has an important role in the appeal process to help resolve issues in appeal situations.

Exhibits:

- A. Staff Hearing Officer Actions, January 2007–December 2007
- B. Staff Hearing Officer Actions, January 2008–June 2008

**Modification Actions
January 2007 – December 2007**

Type of Modification	Approved SHO	No Mod w/ ZOA
Front Setback	58 1 denied	0
Interior Setback	37	0
Rear Setback	0	0
Open Yard	21 1 denied	6 Multi-front yards
10% Open Yard	2	0
Private Outdoor Living Space	0	0
Distance between bldgs	2	0
Parking req.	2 1 denied	0
Parking uncovered	2	0
Fence/wall/hedge	16	0
Lot Area	0	0
Accessory Structure – size	3	0
Accessory Structure location	3	0
Solar Height Limit	0	0
Floor Area Unit Size	0	0
Height Limit	0	0
Total	146 3 denied	6

Projects, Other than Modifications Only January 2007 – December 2007

Mixed Use Projects

518 State Street

Demolish the existing 302 square foot non-residential building and construct a new mixed-use building with 2,487 square feet of commercial space on the first floor and two apartments on the second floor. Development Plan Approval and a Modification to allow no on site residential parking were granted.

New Residential Condominiums

420 E. Anapamu St.

Construct two new condominium units adjacent to an existing Landmark-worthy single-family residence for a total of three two-story condominium units on site. An existing one car garage would be demolished and replaced with three now two car garages. A Modification to allow the second story to encroach into the interior setback and a Modification to allow the required private outdoor living space to not meet the minimum dimension were granted.

320 E. Victoria St.

Partially demolish and add to an existing single family residence and construct three new condominium units to the rear of the site for a total of four condominium units on site. Four attached two car garages are proposed off the existing alley to the rear. Two Modifications of the interior setback and a Modification of the rear setback were granted.

1809 San Andres St.

Partially demolish and add to an existing single family residence and construct one new condominium with an attached carport for a total of two condominium units on site. No Modifications were requested.

2028 Castillo Street

Demolish the existing duplex and construct four condominium units. A Modification to allow an encroachment into the interior setback was granted.

1115 Quinientos Street

Construct three new detached condominiums with three attached two-car garages. No Modifications were granted.

222 West Alamar Avenue

Demolish existing residence on the City's List of Potential Historic Resources (McKain Residence) and construct three new condominium units. Four covered parking spaces are proposed. A Modification of the parking requirement and a Modification of the front setback were granted.

226 West De La Guerra Street

Add two condominium units to an existing single family residence for a total of four condominium units on site. Five covered parking spaces are proposed. No Modifications were requested.

Condominium Conversions

1916 Chino St

Convert an existing single family residence and duplex unit into condominiums for a total of three condominium units on site. The existing two car carport would be demolished and a new two car garage and storage would be constructed. A total of three covered and three uncovered parking spaces would be provided. No Modifications were requested.

820 Lowena and 833 East Anapamu Street

Convert an existing duplex with tow attached two-car garages into condominium units. No Modifications were requested.

516 and 518 West Los Olivos Street

Convert two existing residences to condominiums. Two covered and two uncovered parking spaces would be provided for each unit. Two Modifications were granted to allow alterations to the existing buildings within the interior setback.

427 Alameda Padre Sierra

Convert an existing duplex to condominiums. Two one-car garages and two uncovered parking spaces exist. No Modifications were requested.

1024 East Gutierrez Street

Convert three existing detached residences with three two-car garages to condominiums. The project was previously approved by the Planning Commission on March 11, 2004; however, that approval expired. No Modifications were requested.

623 East Ortega Street

Convert an existing three unit apartment building to condominiums and construct a three car carport. Three uncovered parking spaces would also be provided. A Modification to allow less than the required 10% open space was granted.

Land Subdivision or Lot Line Adjustment

2017 Garden Street and 225 East Mission Street

Lot Line Adjustment which includes additions to an existing single family residence. Two Modifications were granted to allow additions and alterations within two separate interior setbacks and one Modification was granted to allow an awning and entrance stairs to encroach into the required front setback.

49 and 51 Via Alicia

Lot Line Adjustment and Substantial Conformity Determination for changes to a Parcel Map previously approved by the Staff Hearing Officer. A new residence is proposed at 49 Via Alicia.

226 and 232 Eucalyptus Hill Drive

Lot Line Adjustment between two existing lots. A Street Frontage Modification and a Performance Standard Permit for an additional dwelling unit was granted for each parcel. The application was denied and an appeal is pending, but yet to be scheduled, before the Planning Commission.

2206 Mission Ridge Road

A Lot Line Adjustment between two legal parcels. Two Modifications were granted to allow both parcels to have less than the required amount of lot area in the A-1 Zone

Coastal Development Permit

218 Santa Barbara Street

Convert an existing 231 third-story deck to habitable space and remodel the interior of an existing residential condominium unit in the Appealable Jurisdiction of the Coastal Zone. A Modification to allow the addition to encroach into the rear setback was granted.

**Modification Actions
January 2008 – June 2008**

Type of Modification	Approved SHO	No Mod w/ ZOA	Pending SHO*
Front Setback	18		4
Interior Setback	19 1 denied		3
Rear Setback	0		0
Open Yard	7	3	0
10% Open Yard	0		0
Private Outdoor Living Space	0		0
Distance between bldgs	0		0
Parking req.	0		0
Parking uncovered	1		0
Fence/wall/hedge	9		1
Lot Area	0		0
Accessory Structure – size	2		2
Accessory Structure location	1		0
Solar Height Limit	1		0
Floor Area Unit Size	0		0
Height Limit	0		0
Total	58 1 denied	3	10

*Pending as of September 4, 2008.

Projects, Other than Modifications Only
January 2008 – June 2008

Mixed Use Projects

810 Bond Avenue and 516 North Nopal Street- Denied

Convert an existing mixed-use development, consisting of three apartments and one commercial unit, to four condominium units. Seven existing parking spaces (two covered and five uncovered) exist on site. No Modifications were requested.

New Residential Condominiums

520 West Figueroa Street

Demolish existing single family residence and construct three condominium units. Each unit would have an attached two-car garage. No Modifications were requested.

2016 and 2020 State Street

Demolish the existing rear single family residence and carport and construct a new residence and attached two-car garage for two condominium units on site. No Modifications were requested.

Condominium Conversions

1155 Coast Village Road

Convert three existing commercial buildings to commercial condominiums. A Modification of the front setback was granted for the expansion of the existing trash enclosure.

Land Subdivision or Lot Line Adjustment

693 Westmont Road and 694 Circle Drive

Lot Line Adjustment between two existing lots. No Modifications were requested.