



City of Santa Barbara

Planning Division

PLANNING COMMISSION MINUTES

December 17, 2009

CALL TO ORDER:

Chair Larson called the meeting to order at 1:02 P.M.

ROLL CALL:

Present:

Chair Stella Larson

Vice-Chair Addison S. Thompson

Commissioners Bruce Bartlett, Charmaine Jacobs, John Jostes, Sheila Lodge, and Harwood A. White, Jr.

Absent:

Commissioner Sheila Lodge

STAFF PRESENT:

Paul Casey, Community Development Director

Bettie Weiss, City Planner

Danny Kato, Senior Planner

N. Scott Vincent, Assistant City Attorney

Steve Foley, Supervising Transportation Planner

Allison De Busk, Project Planner

Melissa Hetrick, Project Planner

Julie Rodriguez, Planning Commission Secretary

I. ROLL CALL

II. PRELIMINARY MATTERS:

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

None.

B. Announcements and appeals.

Mr. Kato announced that Staff is responding to the need for an emergency Coastal Development Permit for an accessory structure that on land that is partially eroding at 1547 Shoreline Drive. Notices have gone out with a request for public comments through January 11, 2010.

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

Chair Larson opened the public hearing at 1:06 P.M. and, with no one wishing to speak, closed the hearing.

III. NEW ITEM:

ACTUAL TIME: 1:06 P.M.

APPLICATION OF BRENT DANIELS, L&P CONSULTANTS, AGENT FOR KELLOGG ASSOCIATES; 3714-3744 STATE STREET (APN: 053-300-023 AND -031); C-P/S-D-2 AND C-P/R-3/R-4/S-D-2 ZONES; GENERAL PLAN DESIGNATION: GENERAL COMMERCE, OFFICE, RESIDENTIAL – 12 UNITS PER ACRE, AND BUFFER (MST2007-00591)

The project consists of the demolition of the existing 113-room Sandman Inn Hotel, Downtown Brewing Co. restaurant building, and all site improvements, and the construction of a new office complex consisting of 13,075 square feet on Lot A, and two commercial condominiums totaling 1,537 square feet and 73 residential condominium units on Lot B. The project includes a total of 241 parking spaces (71 parking spaces for the commercial component, 163 parking spaces for the residential component and 7 common/shared spaces). Access would be provided from State Street.

The office development on Lot A would be contained within a two-story building with a maximum height of approximately 31 feet. A majority of the parking (46 of 63 required spaces) would be provided in an at-grade parking lot located behind the building. The remaining required parking spaces would be located along the at-grade driveway (3 spaces), in the existing adjacent parking lot on-site (4 spaces) and in the underground parking garage located on Lot B (10 spaces).

The commercial development on Lot B would have a maximum height of approximately 24 feet. Parking would be provided along the at-grade driveway (5 spaces) and in the underground parking garage (3 spaces).

The residential development on Lot B would have a maximum height of 35 feet above finished grade, with parking provided in an underground parking garage. Of the 73 residential condominium units, two units would be one-bedroom units of approximately 873 square feet, 52 units would be two-bedroom units of between 1,080-1,350 square feet, and 19 units would be three bedroom units of between 1,425-1,520 square feet. Eleven of the 73 units (2 one-bedroom units, 5 two-bedroom unit and 4 three-bedroom units) would be provided at sales prices targeted to middle-income households, pursuant to the City of Santa Barbara's Affordable Housing requirements. The residential development would also

include a Community Center of approximately 1,200 square feet and common open space areas located east and west of the at-grade driveway turn-around.

The discretionary applications required for this project are:

1. A Lot Line Adjustment to transfer 2.22 acres from APN 053-300-031 to APN 053-300-023;
2. A Development Plan to allow construction of a building of 10,000 square feet or more of total floor area in the C-P Zone (SBMC §28.54.120);
3. A Modification of the lot area requirements to allow one over-density unit on a lot in the C-P/S-D-2, R-3/S-D-2 and R-4/S-D-2 zone districts (SBMC Section 28.92.110.A.2); and
4. A Tentative Subdivision Map (TSM) for a one-lot subdivision to create 73 residential condominium units and two commercial condominium units (SBMC Chapters 27.07 and 27.13).

A Final Environmental Impact Report (EIR) has been prepared, and, prior to an action on the project, the Planning Commission will consider certification of the EIR, and must make findings pursuant to the California Environmental Quality Act Guidelines Section 15091.

Case Planner: Allison De Busk, Project Planner
Email: ADebusk@SantaBarbaraCA.gov

Allison De Busk, Project Planner, gave the Staff presentation joined by Melissa Hetrick, Environmental Analyst/Project Planner, and Steve Foley, Supervising Transportation Planner. Available for responding to any questions were Joe Gibson, Impact Sciences, EIR consultant; and Rob Olson, ITERIS, traffic consultant.

Brent Daniels, L&P Consultants, gave the Applicant presentation joined by Greg Parker, Investec Real Estate Properties; and Susan Van Atta, Landscape Architect.

Chair Larson opened the public hearing at 1:40 P.M.

Christopher Manson-Hing, Architectural Board of Review (ABR), acknowledged the positive changes from the original project and found that it now has terrific balance and proportion and would be an enhancement to the community.

The following people provided public comment:

1. Christopher Manson-Hing, Architectural Board of Review (ABR), acknowledged the positive changes from the original project and found that it now has terrific balance and proportion and would be an enhancement to the community.
2. Paul Hernadi, Citizens Planning Association, submitted and summarized written comment with concerns that the Applicant's Alternative is not identified as the environmentally superior alternative. Asked that Planning Commission refuse to certify the final EIR or require that the EIR be revised to exclude evaluation of the originally proposed project.

3. Naomi Kovacs, Executive Director, Citizens Planning Association, submitted and summarized two comment letters submitted in April. Appreciated the suggestions taken by the Applicant and asked that the number of market rate residential units should be somewhat reduced and/or some market-rate units should be turned into smaller sized rentals. Believes updated traffic information is needed for the intersection, and that impacts on public resources and public services were not fully addressed.
4. Connie Hannah, Santa Barbara League of Women Voters, supports the Applicant's Alternative but still feels it is still too large. Supports letters submitted by the CPA. Opposes any consideration or return to the original project.
5. Cathy McCammon, Allied Neighborhood Association, summarized and submitted written comment supporting concerns expressed by CPA and asked that the EIR not be certified in its current form. Concerned with cumulative traffic impacts and size, density and visual impacts of the project, as well as the transformation to the area.

With no one else wishing to speak, the public hearing was closed at 1:53 P.M.

In response to Commissioner Jacobs request for clarification regarding the EIR certification, Mr. Vincent stated that the purpose of the EIR is as an informational tool. Certification of an EIR does not result in approval of a project or the identification of an environmentally superior alternative. This EIR is adequate in having met and satisfying its obligation.

Discussion was held regarding the EIR analysis of impacts on aesthetics and potential for further review if the project changes over time; and pedestrian access, specifically from San Remo Street to State Street.

Additional discussion was held regarding confirmation that all environmental impacts were reduced with the new proposed project alternative; changes in the price of affordable units; the rationale between the number of garages and open spaced parking spaces; and use of green LEED standards in development, specifically use of photovoltaics, as well as the new LEED for Neighborhoods.

The Commissioners made the following comments:

1. Commissioner Jostes commented on the calculation provided for reduction of water usage, sewer needs, and solid waste generation between the Applicants alternative and the proposed project referenced in the CPA letter, felt that there were slightly further reductions in those impacts by the project presented by the Applicant today. While there are no class 1 impacts to mitigate, per CEQA it is the responsibility of public agencies and decision makers to do all reasonably possible to mitigate and avoid significant environmental impacts. Felt it incumbent on the Commission to indicate in the findings that the current proposal has reduced impacts and creates the least environmental harm to resources. He finds the EIR to be a competent document. Commissioners White and Thompson concurred with his remarks and can certify the EIR.

2. Commissioner Bartlett acknowledged that the project is a redevelopment, not development of a project, and this is where we want to see growth. Can support certification of the EIR and the project. Feels that the alternative presented to day is superior to the alternative presented before, and it is unfair to make the EIR change to reflect beneficial, voluntary project changes.
3. Commissioner Thompson felt that the project has improved with each iteration.
4. Commissioner Jacobs agreed that over time this project has gotten better and better. Suggested the bus stop be designed as a deluxe bus stop in keeping with the Urban Design Guidelines. Suggested improved walkability with a pedestrian paseo from the San Remo Street neighborhood to State Street. Advocated National Recreation and Association's NRPA standards for park proximity. Projects in the Upper State Street area consistently show that the area is underserved by parks and would like to see that change.
5. Commissioner White appreciated the use of flats and garages in the project and agreed with the CPA letter in wanting to see opportunities for rentals to occur. Appreciated that traffic impacts are reduced from what currently exists.
6. Commissioner Jostes can support the project because of its connectivity with residential units in the neighborhood; provision of open space at the center of the project; reduction of its visual presence and height on the corner of State and Hitchcock; expansion of public open space along State Street; and preservation of mature trees. The physical design is more elegant with an urban village feel. Suggested that the site design keep flexibility of future access to Hitchcock Way. Appreciated the approach to low impact development and the Applicant's responsiveness to the Upper State Street Guidelines.
7. Commissioner Bartlett appreciated the site plan's provision for future potential access to Hitchcock Way via the existing adjacent driveway. Suggested that the Applicant allow for a future east/west pedestrian connection that would link to San Roque Creeks and trails (Auto Club property). Liked that the project speaks to sustainability with underground parking and water treatment and serves as an example for other projects. Appreciated the addition of 1-story units and open garages that allow more light and also found the public space along State Street to be an improvement.
8. Commissioner Larson appreciates that this will be a livelier contribution to Upper State Street. Appreciates the rooftop landscaping.

MOTION: Jostes/Thompson

Assigned Resolution No. 046-09

Certify the Environmental Impact Report with the additional finding that "The Planning Commission finds the project dated December 3, 2009 to be environmentally superior in terms of relative environmental impacts to all other alternatives evaluated in the EIR."

Approve the Lot Line Adjustment, Development Plan, Modification, and Tentative Subdivision Map, making the findings outlined in the Staff Report, subject to the Conditions of Approval in Exhibit A, as revised by staff at the hearing, and with the following revision to the Conditions of Approval: that the ABR evaluate the green building elements of plans submitted for final review and approval and to provide the Planning Commission with an

information report as to what those elements are so that the Planning Commission can benefit from knowing how the Applicant has met the intent to make this a green and sustainable project.

Mr. Parker acknowledged that pedestrian access is not a part of the application, but is being offered to the neighbors to the north and can be offered to the neighbors to the east.

This motion carried by the following vote:

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

Chair Larson announced the ten calendar day appeal period runs until January 7, 2009.

Chair Larson called for a break at 2:57 P.M. and reconvened the meeting at 3:20 P.M.

Scott Vincent did not return to the dais after the break. Steve Wiley, City Attorney joined the meeting as Counsel.

IV. RECOMMENDATION TO CITY COUNCIL:

ACTUAL TIME: 3:20 P.M.

REVISIONS TO THE MEDICAL CANNABIS DISPENSARY ORDINANCE

The Planning Commission will hold a public hearing to discuss revisions to Chapter 28.80 (Medical Cannabis Dispensaries) of Title 28, The Zoning Ordinance, of the Santa Barbara Municipal Code. The purpose of the meeting is to review a proposed ordinance that was drafted pursuant to direction given by the Council Ordinance Committee, and to make recommendations on the revisions to City Council.

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15305, Minor Alterations in Land Use Limitations.

Case Planner: Danny Kato, Senior Planner
Email: DKato@SantaBarbaraCA.gov

Danny Kato, Senior Planner, gave the Staff presentation.

Discussion was held regarding a comparison of the locations where Medical Cannabis Dispensaries are allowed versus Adult Entertainment facilities; and the lack of input from the Santa Barbara Chamber of Commerce or the Downtown Organization regarding restrictions on Upper State Street.

Steve Wiley, City Attorney, stated that cooperatives and collectives are legal at this time and that they can provide cannabis to its members, with reimbursement for expenses for cultivation of Cannabis. Departures from the collective/cooperative model, such as a

delivery service, are a police matter, not zoning matter and that most likely these ancillary issues will not be able to be dealt with as a land use matter. The City does not have a business license that allows someone to do business in the city. The City only has a business tax.

Additional discussion was exchanged about the inconsistencies of the maps presented with the land use maps that are being developed by Plan Santa Barbara as a part of the General Plan Update; clarification between a recommendation made by physician and a prescription (the latter is regulated by Federal Law, i.e., pure drug act, pure substance act); HIPPA confidentiality and review by the Police Department; the serial shopping of cannabis not being possible by a primary caretaker; and Casa Esperanza buffer restriction as compared to other recovery facilities, such as Transition House, The Rescue Mission, or the Salvation Army

Other discussion was held on the medical cannabis not being available in a medical facility; and the legality of dispensaries beyond land use permits;

Chair Larson opened the public hearing at 4:03 P.M.

The following people spoke in opposition to the ordinance or with concerns:

1. Jen Lemberger, Fighting Back, Council on Alcohol and Drug Abuse, believes that having multiple cannabis dispensaries, especially near parks, schools, and other areas, is providing a permissive environment that is interpreted as acceptable use. Asked that the recovery community and youth be taken into consideration and asked that no less than a 500' safety zone be established around recovery facilities, youth facilities, after-school program facilities, and recreation centers. She will submit a list of recovery facilities to Staff.
2. David K. Hughes, suggested holding off a recommendation until Phase II is held, or a business model is considered. Medical cannabis cannot be sold to anyone but only distributed to a collective or cooperative; a nonprofit situation. A dispensary cannot be designated as a caregiver. Encourages 500' zone of protection to be expanded to include recreational centers, youth facilities, recovery centers, special needs housing; and residential buffer between dispensaries and residential areas. Encourages that the Commission urge the City Council to accept final appeal rights.
3. Sharon Byrne submitted written comments and stated that medical cannabis is too complex and controversial to be regulated via zoning. The State law is in to much of a flux and in the courts. Felt that a ban is the only option.
4. Heather Poet Johnson, Santa Barbara Patients Group, has tried to work with the Ordinance Committee to frame a moratorium and supports Staff's recommendations. Feels dispensaries should provide safety for its clients and carefully regulated.
5. Kellam De Forest felt that dispensation of cannabis attracts an undesirable clientele. Asked that dispensaries be prohibited in the El Pueblo Viejo and Brinkerhoff Districts.

6. Mick Toomay, Salvation Army, stated that having a cannabis dispensary so close to a recovery facility, specifically across the street, presents too much pressure and temptation for recovering clients. A dispensary in close proximity presents a challenge for the Salvation Army and other recovery centers in helping its clients succeed.
7. Tony Vassallo, Brinkerhoff Landmark District, previously submitted written comment and advocated against dispensaries in the Brinkerhoff District for the impact it would have on the preservation efforts of the District. Asked the Commission to add the Brinkerhoff Landmark District to the list of areas in the city where dispensaries are prohibited.
8. Shereen Khatapoush, Council on Alcohol and Drug Abuse, expressed concern for the number of proposed zones for Santa Barbara when Oakland has only four dispensaries. Advocated for the restriction of dispensaries near recovery facilities.
9. Janet Rowse is against any cannabis dispensaries or any retail cannabis stores in Santa Barbara and asked for larger buffer zones than 500'.

With no one else wishing to speak, the public hearing was closed at 4:23 P.M.

The Commissioners made the following comments:

1. Commissioner Jacobs was pleased to see the recovery community present and sharing their concerns. Recommended that this be an interim ordinance with a 6 month sunset clause to allow for enforcement clean up; suspend current permits, and move to a collective/cooperative model as soon as possible. Also recommended the consolidation of zones narrowed down to four zones: 1) Upper State Street, De La Vina and Mission Streets; 2) Downtown; 3) Milpas corridor; and 4) The Mesa. Suggested expanding to 1000' buffer around the prohibition zone and mirror the Adult Entertainment Ordinance. Asked that the decision-making process be changed to allow for appeal to City Council. This appears as a land use issue, but is truly a political issue that should be decided by City Council, not the Planning Commission or Staff Hearing Officer.

Commissioner Jacobs left the dais at 4:30 P.M. due to a prior commitment.

Mr. Wiley stated the way that the ordinance describes the areas where dispensaries are allowed is confusing to the public, and suggested a change wherein the ordinance describes streets and blocks where dispensaries would be allowed, rather than buffers around protected uses where dispensaries are not allowed. The Ordinance Committee directed putting a cap of 7 dispensaries with 7 locations in the city where dispensaries might be permitted.

2. Commissioner Jostes agreed with Commissioner Jacobs perspectives adding that we 1) underline the need to appeal to City Council; 2) in the interest of fairness and equity would agree to have 2 districts as opposed to 7 districts and limit the number of future outlets to 3 (the number that are approved and operating and approved permit issued, but not yet open); 3) Urge movement from 3 to 2, since two uses are

- in very close proximity to each other. Would like to see the ordinance restrict that no two dispensaries could be 1000' of each other. Felt that the City does not need 7 dispensaries for its population size. Agrees with comments made by Mr. Hughes.
3. Commissioner Thompson recalled that the ordinance was created to aid compassionate medical use, but has evolved to something more. Details and locations are not a productive discussion since the model is destined to change in the future. Staff's report is a reasonable starting point. More locational restrictions and uses should be considered given the abuses. Asked for consistency with zoning restrictions around all recovery facilities, rather than just Casa Esperanza. Opined that the approval decision must be appealable to an elected body, not an appointed body or Staff person.
 4. Commissioner Bartlett felt that mapping was not productive when we do not know where this is going. If the ordinance is for the truly non-profit and cooperative then the list should not be so long. If dispensaries are truly care-giving, then they should be located closer to the medical community.
 5. The consensus of the Commission felt that the appeal should be to an elected body.
 6. Commissioner White agreed with other Commissioner's comments and asked for consideration for allowable locations near the medical community, such as Cottage Hospital.
 7. Commissioner Larson looked at page 6 of the ordinance and suggested that further clarification of the language regarding Criminal History. Agreed that all recovery facilities should have the same buffer restriction. Youth oriented institutions, such as Girls Club, should be included in the protected uses.

The Commission recommended sending their recommendations to City Council with comments made by Commissioners consistent with the General Plan.

V. **ADMINISTRATIVE AGENDA**

ACTUAL TIME: 4:51 P.M.

- A. Committee and Liaison Reports.
 1. Staff Hearing Officer Liaison Report

None.
 2. Other Committee and Liaison Reports
 - a. Commissioner Jostes acknowledged Chair Larson for her leadership as Chair and thanked outgoing Commissioners White and Thompson for their service.
 - b. Commissioner White expressed his gratitude to Staff and his peers over 14 years of his service on the Commission.

B. Action on the review and consideration of the following Draft Minutes and Resolutions listed in B.2. of this Agenda:

- a. Draft Minutes of November 12, 2009
- b. Draft Minutes of December 3, 2009
- c. Resolution 044-09
1927 El Camino de la Luz

MOTION: Thompson/White

Approve the minutes and resolutions as corrected.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 0. Absent: 2 (Jacobs, Larson)

VII. ADJOURNMENT

Chair Larson adjourned the meeting at 4:57 P.M.

Submitted by,



Julie Rodriguez, Planning Commission Secretary