



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: August 27, 2009
AGENDA DATE: September 3, 2009
PROJECT ADDRESS: 124 Los Aguajes Avenue (MST2004-00725)
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
 Danny Kato, Senior Planner *DJK*
 Suzanne Riegle, Assistant Planner *SR*

I. PROJECT DESCRIPTION

On April 16, 2009, this project was reviewed and continued by the Planning Commission to return to the Architectural Board of Review for additional comments and project refinement. The project consists of the demolition of an existing 884 square foot, single-family residence and 440 square foot detached garage, and the construction of three new residential condominium units in the Appealable Jurisdiction of the Coastal Zone. The proposed structure would be three stories with a maximum building height of 29' 7", consisting of 3,856 square feet of residential floor area above 1,143 square feet of garage floor area on a 6,000 square foot lot located adjacent to Mission Creek. The project includes two two-car garages, a one-car garage, and one unenclosed covered parking space, a two-bedroom unit and two one-bedroom residential units. The project proposes 25 cubic yards of cut and 135 cubic yards of fill outside the main building footprint. Grading under the main building footprint would involve 110 cubic yards of cut. The project also includes landscaping changes, bioswales and retention basin adjacent to the proposed residences.

II. REQUIRED APPLICATIONS

The discretionary applications required for this project are:

1. A Modification to allow the building to encroach into the front setback (SBMC §28.21.060 and §28.92.110.A.2);
2. A Modification to allow the entry stair and a support column to encroach into the interior setback to the east (SBMC §28.21.060 and §28.92.110.A.2);
3. A Coastal Development Permit (CDP2005-00021) to develop a three unit residential condominium project located in the Appealable Jurisdiction of the Coastal Zone. (SBMC §28.44.060)
4. A Tentative Subdivision Map for a one-lot subdivision to create three (3) residential condominium units (SBMC 27.07 and 27.13).

III. RECOMMENDATION

With the approval of the modifications and the Tentative Subdivision Map, the project as proposed conforms to the applicable the policies of the General Plan or Local Coastal Plan. Therefore, Staff recommends that the Planning Commission approve the project, making the findings outlined in Section VIII of this report.

NEGATIVE DECLARATION ADOPTED: April 16, 2009
DATE ACTION REQUIRED: June 5, 2009
ONE TIME 90-DAY EXTENSION: September 3, 2009

IV. SITE INFORMATION AND PROJECT STATISTICS

A. PROJECT STATISTICS

	Existing	Proposed Unit 1	Proposed Unit 2	Proposed Unit 3
Living Area (net sq. ft.)	887	1,448	1,318	1,090
Bedrooms	2	2	1	1
Garage (net sq. ft.)	400	501	218	424

V. ZONING ORDINANCE CONSISTENCY

Standard	Requirement/ Allowance	Existing	Proposed
Setbacks * -Front	10' for 1 st and 2 nd story 20' for 3 rd story*	20'	10' 1 st and 2 nd floor 10' 3 rd floor for deck and 20' 3 rd floor floor area
-Interior	6' -1 st and 2 nd story 10' - 3 rd story*	2' - garage, 6' - house	4' for entry stair
-Rear	6' - 1 st floor 10' - 2 nd , 3 rd floors	35' - garage, 64' - house	>6' - 1 st floor >10' - 2 nd and 3 rd floors
* Setbacks for a three story building where the 3 rd story net floor area is less than 50% of the net floor area of the first floor footprint. A three story building which does not meet this condition would have a 15' front setback and a 10' interior setback.			
Mission Creek Development Limitation Area	25' from top of either bank	> 25'	25' on 1st floor
Building Height	45'	Single-story	29' 6"

Parking	3 covered, 2 uncovered	1 covered	6 covered
Lot Area Required for Each Unit (Variable Density)	1-Bdrm = 1,840 sq. ft. 2-Bdrm = 2,320 sq. ft.	2,320 sq. ft.	(1) 2,320 sq. ft. (2) 1,840 sq. ft. Total Rqd.: 6,000 sq. ft.
15% Open Space	900 sq. ft.	>900 sq. ft.	1100.5 sq ft
<i>Not Required</i> Private Outdoor Living Space	Unit 1 – 84 sq. ft. (2 nd floor) Units 2&3 – 72 sq. ft. (2 nd floor)	Not Required	Unit 1 – 119 sq. ft. Unit 2 – 126 sq. ft. Unit 3 – 65 sq. ft.
Lot Coverage			
-Building	N/A	1,320 sq. ft. 22%	1,387 sq. ft. 23.1%
-Paving/Driveway	N/A	1,384 sq. ft. 22%	2,134 sq. ft. 35.6%
-Landscaping	N/A	3,356 sq. ft. 56%	2,479 sq. ft. 41.3%

Except for the requested modifications to the front and interior setbacks, the proposed project complies with the requirements of the R-4, Hotel-Motel Multiple Residence Zone. The requested modifications are discussed in Section VI.

VI. ISSUES

A. DESIGN REVIEW

Since the last review by the Planning Commission on April 16, 2009, the project has returned to the Architectural Board of Review (ABR) on three separate occasions. As a result of the review on June 1, July 13, and July 27, 2009 meetings, the applicant further refined the project, and reduced the number of requests for modifications from three to two: the two-foot encroachments of an entry stairway element and a support column into the interior setback at the east, and the 10 foot encroachment of a third floor deck into the front setback at the south. The applicant returned to ABR with a project that had compressed the building further since the project's last review by the Planning Commission. The building footprint has been reduced by 175 square feet or 11.2%, the buildings net square footage by 222 square feet or 4.3%, and increased the landscaped areas by 4.5%, and reduced the building height by two feet. The Board forwarded the project to the PC with the comments that the modifications requested do not adversely impact the mass, bulk, and scale of the project. The Board appreciated the change in materials at the front elevation which broke up the large plaster mass previously proposed at the street elevation and the removal of the fourth story elements.

B. DEVELOPMENT ALONG MISSION CREEK

As described in the April 16, 2009 Planning Commission Staff Report, the previously proposed project was consistent with the requirements outlined in Section 28.87.250 of the Zoning Ordinance, *Development Along Creeks*, which was established for the purpose of controlling development adjacent to Mission Creek. The intent of the development limitation is to prevent undue damage or destruction of developments by flood waters; prevent development of one

parcel from causing undue detrimental impact on adjacent or downstream properties in the event of flood waters; and to protect the public health, safety and welfare.

The Chief Building Official made a determination that the previously reviewed development met the criteria outlined in SBMC§28.87.250, because the documentation provided demonstrated that the proposed development would not create a flood issue, and thereby impact downstream properties. The current project has been revised to eliminate all development within the 25 foot development limitation area. Staff supports the project and finds that it is consistent with city policies for development along creeks and with the General Plan policies within the Conservation and Open Space Element.

C. MODIFICATIONS

Front Setback Modification. A three-story structure that has a third floor which is less than 50% total floor area of the first floor footprint, has a front setback requirement of 10 feet for the first two floors and 20 feet for the third floor. The project reviewed on April 16, 2009 required a modification for the deck and habitable space to encroach into the required 20 foot front setback. The proposed deck was located 10 feet from the front property line and the habitable space was proposed at 15 feet. The current project provides a 20 foot setback for all habitable space; however, the roof of the second floor is being used as a third story deck which is proposed at 10 feet from the property line. Staff finds the requested third floor 10 foot setback modification for the deck to be supportable because the proposed first and second stories meet the required setbacks and are consistent with buildings on the adjacent properties and the constraint of locating the entire building outside of the 25' from the Mission Creek top of bank providing relief from the creek area.

Interior Setback Modifications. A three-story structure that has a third floor which is less than 50% total floor area of the first floor footprint, has an interior setback requirement of 6 feet for the first two floors and 10 feet for the third floor. The project reviewed by the Planning Commission on April 16, 2009 required modifications to both interior property lines to allow for various encroachments on each floor which encroached from two to six feet into the required setback. The project has been revised to eliminate all but two minor encroachments. The applicant has requested a modification to allow an entry staircase from the ground to the second floor to be located four feet from the eastern interior property line. In addition a structural support column to encroach 2 feet into the required 6 foot setback at the easterly property line.

Staff supports the request for a modification to allow the minor encroachment of a stair and structural support to encroach given the site constraints placed on the property by the location abutting Mission Creek, and the fact that the applicant is providing an additional off-street parking space.

D. NEW CONDOMINIUM DEVELOPMENT

Section 27.13.060 discusses the required physical standards for new residential condominium developments, including parking, private storage space, separate utility metering, either private or common laundry facilities for all units, waiver of the right to protest a public improvement

district, density requirements, minimum unit size and minimum outdoor living space requirements, and that a determination regarding the storage of recreational vehicles be made by the advisory agency at the time of approval. The project provides the required number of off-street parking spaces, separate laundry facilities, separate utility metering for all units, a total of 300 cubic feet of separate lockable private storage space for each unit. Due to the location of the project and the surrounding uses, staff does not find that the storage of recreational vehicles should be allowed. The residential development would be subject to the density requirements of the R-3/R-4 Multiple Family Residential Zones, which allow 12 dwelling units to the acre. However, the General Plan Land Use and Housing Elements recognize that, in zones where variable density standards apply, development may exceed the limit of 12 units per acre without causing an inappropriate increase in the intensity of activities. The proposed projects would result in a density of approximately 22 units per acre, which is, would be consistent with the Land Use and Housing Elements of the General Plan with regards to projects approved using variable density method in the R-3/R-4 Zones

E. COMPLIANCE WITH THE LOCAL COASTAL PLAN

The project site lies within the Coastal Zone. Development in the Coastal Zone must be consistent with the Local Coastal Plan (LCP) and the Coastal Act. The proposed project site is located in Component 3 of the LCP, also known as the West Beach neighborhood. Because the project site is located within 100' of Mission Creek, the site falls within the Appealable Jurisdiction of the Coastal Zone. This neighborhood includes hotels and motels, a mix of single- and multiple-family residences, and other commercial uses such as offices and restaurants. The project site is located in a land use area designated as Hotel and Residential, which allows for development of visitor-serving facilities, and for residential use at a density of twelve units per acre. Coastal Act policy concerns within the West Beach neighborhood include: hazards from flooding of Mission Creek and potential soil liquefaction during earthquakes; protection of existing recreational facilities; provision of visitor serving uses, primarily hotel/motel related; protection of the unique West Beach residential neighborhood; problems of circulation and parking related to the waterfront area in general and, specifically, possible City College expansion.

The Chief Building Official has determined that the project would not result in hazards from the flooding of Mission Creek. No public recreational facilities or visitor serving uses would be affected by the project. The Architectural Board of Review and the Planning Commission have stated that the architectural style could be found to be compatible with the West Beach neighborhood, citing that the buildings on the north side of Los Aguajes have a variety of architectural styles, and directed the applicant to reduce the mass, bulk and scale.

LCP Housing Policy 5.3 states that new development in and/or adjacent to existing residential neighborhoods must be compatible, in terms of scale, size, and design, with the prevailing character of the established neighborhood. Further, Policy 5.4 states that the part of the coastal zone bounded by the half blocks between Castillo and Bath Streets and Mason and Cabrillo Streets, Chapala, and the half block north of Los Aguajes Avenue, is recognized as a unique residential neighborhood, and shall be treated in a manner that strives to maintain this unique character. The LCP recognizes the predominant style in Component 3 as "Spanish flavor

architecture typical of Santa Barbara". The existing residence is one-story and is described in a Historic Structures Report as predominantly Spanish Colonial Revival, with Craftsman style windows and distinct Mission Revival elements. The neighborhood is described as a mix of mostly small single-family Spanish Colonial Revival style homes, stucco residential apartment buildings, and three commercial buildings. Existing residential structures on Los Aguajes Avenue are all one and two stories, whereas the proposed structure is three stories. The Planning Commission directed the applicant to reduce the mass, bulk and scale of the development and stated that the architectural style could be found to be compatible with the adjacent buildings on the north side of Los Aguajes Avenue. The applicant has reduced the building height of project by approximately one and half feet. The Planning Commission must make the findings that the structure is compatible with the surrounding neighborhood in mass, bulk, and scale and architectural style to approve the project.

F. COMPLIANCE WITH THE GENERAL PLAN

Before a condominium project and a tentative subdivision map can be approved, both must be found consistent with the City's General Plan. The project site is located in the West Beach Neighborhood and has a General Plan designation of Hotel and Residential and is zoned C-2, Commercial. The West Beach Neighborhood is an area delineated in the City's General Plan by Cabrillo Boulevard and Shoreline Drive on the southeast, Santa Barbara City College on the western property line; Montecito Street, Castillo Street, and Highway 101 on the northwest; and Yanonali and Chapala Streets and Kimberly Avenue on the north east. This neighborhood is developed as a residential neighborhood in the eastern and northern sections with a mixture of single-family, duplexes, and higher-density multiple units interspersed through the neighborhood. On the east, as it merges into downtown, mixed residential and commercial uses appear.

Sometimes known as the Ambassador area, the West Beach neighborhood is characterized by a combination of Spanish-style motels along the ocean frontage, which merge into an attractive residential area of single- and multiple-family dwellings behind Cabrillo Boulevard. Although the residential population of West Beach increased in recent years as a result of new apartment construction, it is anticipated that substantial portions of existing residential areas will be converted into motel uses. Therefore, it will be likely that West Beach will experience a net loss in residential population. The General Plan reflects this trend by expanding the area designated for mixed hotel and residential development as far toward the ocean as Mason Street.

Approximately half the land area of the West Beach neighborhood is given over to City College. In addition, the area contains Pershing Park, which is shared with City College for athletic facilities. West Beach also contains Ambassador Park, located within the motel strip on Cabrillo Boulevard, Plaza del Mar, and the Moreton Bay Fig Tree. The proposed three-unit condominium project is compatible with the predominantly residential/motel character of the West Beach neighborhood.

The neighborhood shopping facility located on Montecito Street serves the ocean-front residential and motel areas in the vicinity.

Conservation and Open Space Elements: The Conservation Element recognizes the creekside environment of Mission Creek as a contribution to meeting the spatial needs of the community by offering visual relief from the built environment. Further, it recognizes that, in the past, the absence of creek management, including some creekside construction activities, has severely detracted from the creek's visual value and indirectly contributes to degradation of the coastal environment as well. Additionally, the Open Space Element recognizes that creek corridors are important open spaces and that redevelopment should respect these open space areas. Staff finds that the project is consistent with the General Plan policies within the Conservation and Open Space Elements which requires to place all new construction 25' away from the top of Mission Creek.

Noise Element:

A review of the City's Noise Contour Map indicates that the project is located in an area in which the noise level exceeds 65 dBA L_{dn} (average A-weighted sound level over a 24-hour day). The noise level mapped for the site ranges from 65 to over 70 dBA. The General Plan Noise Element Land Use Compatibility Guidelines identify up to 60 dBA L_{dn} as the maximum compatible exterior noise level for residential uses and 45 dBA L_{dn} for interior noise levels.

The City's normal practice is to find compatibility with the Noise Element where the required outdoor living spaces are exposed to less than or equal to the 60 dBA noise level, and the interior areas are less than or equal to 45 dBA. The noise report identifies design measure that will ensure that the interior noise level is less than or equal to 45 dBA.

The applicant is satisfying the open space requirements of the zoning code by providing common outdoor living space, wherein 15% of the lot (including setbacks) is open space. The common outdoor living space is provided between the building and Mission Creek (the backyard).

According to the noise report, the common outdoor living space is area would have an ambient noise level of 72 dBA L_{dn} , which cannot be reduced to 60 dBA. Normally, this would result in a finding of incompatibility with the Noise Element. However, the applicant is providing a private outdoor living space for each unit, and these decks have been designed to have noise levels that do not exceed 60 dBA per the noise study. Staff believes that these decks are the areas more likely to be used by the condominium owners as recreational space than the 15% open space, which overlaps with the Mission Creek setback.

The intent of the noise limits and policies in the Noise Element is largely to provide indoor residential areas with less than 45 dBA L_{dn} and ensure there are some recreational outdoor areas provided that do not exceed 60 dBA L_{dn} . With the design changes to address the sound mitigation on the proposed decks and indoor areas, staff believes that the project is consistent with the intent of the Noise Element policies. However, the Planning Commission must agree in order to make the General Plan Consistency findings.

Housing Element:

Santa Barbara has very little vacant or available land for new residential development. Therefore, City housing policies support build out of infill housing units in the City's urban

areas. The City's Housing Element encourages construction of a wide range of housing types to meet the needs of various household types. The project would be consistent with the Housing Element as it will contribute three additional residential units to the City's existing housing stock.

Neighborhood Compatibility

In accordance with Housing Element Policy 3.3, which requires new development to be compatible with the prevailing character of the neighborhood, the proposed building would be compatible in scale, size and design with the surrounding neighborhood. The surrounding neighborhood is comprised of a mix of commercial and multi-family residential development, with a wide range of heights. Along the north side of Los Aguajes, the uses are a mixture of commercial and multi-family residential apartment complexes. The building height of the proposed three-story structure is consistent with adjacent commercial and apartment buildings on the northerly side of Los Aguajes Avenue. The building has comparable front yard setbacks to many of the structures that front Los Aguajes. Both the Architectural Board of Review and the Planning Commission have stated that the architectural style could be found to be compatible with the West Beach neighborhood, citing that the buildings on the north side of Los Aguajes have a variety of architectural styles, and directed the applicant to reduce the mass, bulk and scale.

Urban Design Guidelines

One of the goals of the Urban Design Guidelines is compatibility of new development with the character of the City, the surrounding neighborhood, and adjacent properties. The ABR considers the Urban Design Guidelines in reviewing development proposals. As discussed above, the ABR is supportive of the site plan, and the size, bulk and scale of the project.

VII. ENVIRONMENTAL REVIEW

A Final Mitigated Negative Declaration has identified significant but mitigable impacts and no unavoidable impacts related to the proposed project. Pursuant to CEQA, the Planning Commission adopted the Mitigated Negative Declaration for this project on April 16, 2009. Each of the adopted required mitigation measures outlined in the Mitigated Negative Declaration has been incorporated into the proposed conditions of project approval attached as Exhibit A., and each mitigations shall be implemented as outlined in the adopted mitigation monitoring and report program that was attached to the final Mitigated Negative Declaration to ensure their compliance during project implementation (PRC Sec.21081.6).

VIII. FINDINGS

The Planning Commission finds the following:

A. FRONT SETBACK MODIFICATION

The front setback modification is consistent with the purpose and intent of the Zoning Ordinance, and is necessary to secure an appropriate improvement on a lot, because the

lot is small and constrained by Mission Creek to the rear, and the front setback is consistent with the adjacent structures as discussed in Section IV of the Staff Report.

B. INTERIOR SETBACK MODIFICATION

The staircase on the easterly property line encroaches into the interior setback approximately two feet. The interior setback modification is consistent with the purpose and intent of the Zoning Ordinance, and are necessary to secure an appropriate improvement on a lot. The lot is 50 feet wide by 120 feet deep, the 25 feet by 50 feet (1,250 square feet) at the rear is constrained by the Mission Creek Development Limitation area, the stairway to the residential units above the parking level must be placed in way that accommodates the necessary parking maneuvers for each of the garages and provides a stair way access to the units above, and as discussed in Section IV of the Staff Report.

C. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.060)

The project is consistent with the policies of the California Coastal Act, all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code, in that the land use is a replacement of an existing residential use in a residential neighborhood; the project is visually compatible with the character of the surrounding areas; the project is compatible with, and preserves the unique character of the West Beach neighborhood; and it would not have any effect on public access or public recreation. The project is consistent with Coastal Act Policy 30251, which requires new development to be visually compatible with the character of surrounding areas, as described in Section VI of the Staff Report.

D. THE TENTATIVE MAP (SBMC §27.07.100)

With the approval of the front and interior setback modifications, the Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara, in that all General Plan policies and zoning requirements are met, as described in Section V of the Staff Report. The site is physically suitable for the proposed development because it is compatible with the neighborhood, and is located a sufficient distance from Mission Creek; the project is consistent with the variable density provisions of the Municipal Code and the General Plan as described in Section V of the Staff Report; and the proposed use is consistent with the vision for this neighborhood of the General Plan because it is a residential project in a predominantly residential neighborhood, as described in Section VI.F. of the Staff Report. The design of the project will not cause substantial environmental damage because it compatible with the surrounding residential neighborhood, and is located a sufficient distance from Mission Creek, and associated improvements will not cause serious public health problems because the building has been designed to meet interior and exterior maximum noise levels, as described throughout the Staff Report.

E. THE NEW CONDOMINIUM DEVELOPMENT (SBMC §27.13.080)

1. The project complies with all provisions of the City's Condominium Ordinance, as described in section VI of the Staff Report.
2. The proposed development is consistent with the General Plan of the City of Santa Barbara, as it meets the land use, density, noise and other policies, as described in Section VII of the Staff Report.
3. The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources, in that the project is an infill residential project proposed in an area where residential development is a permitted use. The project is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts, and the project is compatible with the aesthetics of the neighborhood.

Exhibits:

- A. Conditions of Approval
- B. April 16, 2009 Planning Commission Staff Report without attachments
- C. Addendum to Mitigated Negative Declaration (SCH#2009021005) dated August 26, 2009
- D. April 16, 2009, February 19, 2009 and November 2, 2006 Planning Commission Minutes
- E. Architectural Board of Review Minutes

PLANNING COMMISSION CONDITIONS OF APPROVAL

124 LOS AGUAJES AVENUE
MODIFICATION AND TENTATIVE SUBDIVISION MAP
SEPTEMBER 3, 2009

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

- A. **Design Review.** The project is subject to the review and approval of the (Architectural Board of Review (ABR). ABR shall not grant preliminary approval of the project until the following Planning Commission land use conditions have been satisfied.
1. **Appropriate Plants within Development Limitation Area.** Special attention shall be paid to the appropriateness of the existing and proposed plant material within the riparian setback. All existing exotic or invasive plants shall be removed and replaced with appropriate plant material within the 25 foot development limitation area. (BIO-1)
 2. **Architectural Style.** Prior to issuance of demolition or building permits, the applicant shall submit final plans that show that the architecture of the new construction is compatible and harmonious with the buildings of the West Beach Neighborhood in both massing and architectural style consistent with the guidance provided by ABR. (CR-5)
- B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property," which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Approved Development.** The development of the Real Property approved by the Planning Commission on _____ is limited to 3 residential condominiums and the improvements shown on the Tentative Subdivision Map signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
 2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
 3. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
 4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said

landscape plan. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.

5. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) in a functioning state (and in accordance with the Operations and Maintenance Procedure Plan prepared in accordance with the Storm Water Management Plan BMP Guidance Manual). Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit and Coastal Development Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property. (W-2, 3)
6. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:
 - a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium units.
 - b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
 - c. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
 - d. **Trash and Recycling.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the

landscaping or be hauled off site by the landscaping maintenance company. If no green waste containers are provided for common interest developments, include an item in the CC&Rs stating that the green waste will be hauled off site.

- e. **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.
 7. **Pesticide or Fertilizer Usage Near Creeks.** The use of pesticides or fertilizer shall be prohibited within the Mission Creek setback area, which drains directly into Mission Creek.
 8. **Residential Permit Parking Program.** Residents shall not participate in the Residential Permit Parking Program.
- C. **Public Works Submittal Prior to Final/Parcel Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Final/Parcel Map and prior to the issuance of any permits for the project:
1. **Parcel Map.** The Owner shall submit to the Public Works Department for approval, 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. **Dedication(s).** Easements as shown on the approved Tentative Subdivision Map (described as follows), subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:
 - a. A 4-foot wide easement for public utility purposes for as shown on the approved Tentative Subdivision Map.
 3. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an "Agreement Assigning Water Extraction Rights." Engineering Division Staff will prepare said agreement for the Owner's signature.
 4. **Required Private Covenants.** The Owner shall submit a copy of the draft private covenants, reciprocal easement agreement, or similar private agreements required for the project.
 5. **Drainage Calculations.** The Owner shall submit drainage calculations prepared by a registered civil engineer or licensed architect demonstrating that the new development will not increase runoff amounts above existing conditions for a 25-year storm event. Any increase in runoff shall be retained on-site.
 6. **Drainage and Water Quality.** Project drainage shall be designed, installed, and maintained such that stormwater runoff from the first inch of rain from any storm event shall be retained and treated onsite in accordance with the City's NPDES

Storm Water Management Program. Runoff should be directed into a passive water treatment method such as a bioswale, landscape feature (planter beds and/or lawns), infiltration trench, etc. Project plans for grading, drainage, stormwater treatment methods, and project development, shall be subject to review and approval by City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants, or groundwater pollutants would result from the project. The Owner shall maintain the drainage system and storm water pollution control methods in a functioning state. (W-1)

7. **Storm Drain System Stenciling and Signage.** Within the project area, the applicant shall implement stenciling of all storm drain inlets and catch basins, and posting of signs at all public access points along channels and creeks, with language in English and Spanish and graphic icons prohibiting dumping, per approved plans. The applicant shall submit project plans to the satisfaction of Public Works Engineering that identify storm drain inlet locations throughout the project area, and specified wording and design treatment for stenciling of storm drain inlets and signage for public access points that prohibit dumping. The owners association shall maintain ongoing legibility of the stenciling and signage for the life of the project, and shall inspect at least annually and submit report to City annually. (W-4)
 8. **Los Aguajes Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Los Aguajes Avenue. As determined by the Public Works Department, the improvements shall include the following: driveway apron modified to meet Title 24 requirements, approximately 15 l.f. curb and gutter, asphalt concrete, crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limit of all trenching, underground service utilities, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations and/or hydrology report for installation of curb drain outlets, preserve and/or reset survey monuments and contractor stamps, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.
 9. **Removal or Relocation of Public Facilities.** Removal or relocation of any public utilities or structures must be performed by the Owner or by the person or persons having ownership or control thereof.
 10. **Maintenance Agreement Required.** The Owner shall submit an Executed Agreement for Maintenance of the proposed (private road) (driveway), subject to the review and approval of the Public Works Director and City Attorney.
- D. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works

Department for review and approval, prior to the issuance of a Building Permit for the project.

1. **Recordation of Parcel Map Agreements.** After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department.
2. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building Permit.

E. **Community Development Requirements with the Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit:

1. **Project Environmental Coordinator Required.** Submit to the Planning Division a contract with a qualified representative for the Owner, subject to approval of the contract and the representative by the Planning Division, to act 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 (MMRP) and Conditions of Approval to the City. The contract shall include the following, at a minimum:
 - a. The frequency and/or schedule of the monitoring of the mitigation measures.
 - b. A method for monitoring the mitigation measures.
 - c. A list of reporting procedures, including the responsible party, and frequency.
 - d. A list of other monitors to be hired, if applicable, and their qualifications.
 - e. Submittal of weekly reports during demolition, excavation, grading and footing installation and biweekly reports on all other construction activity regarding MMRP and condition compliance by the PEC to the Community Development Department/Case Planner.
 - f. 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 the MMRP and conditions of approval, including the authority to stop work, if necessary, to achieve compliance with mitigation measures.
2. **Neighborhood Notification Prior to Construction.** At least 20 days prior to commencement of construction, the contractor shall provide written notice to all property owners and residents within 450 feet of the project area. The notice shall contain a description of the project, the construction schedule, including days and hours of construction, the name and phone number of the (Project Environmental Coordinator (PEC) and) Contractor(s), site rules and Conditions of Approval pertaining to construction activities and any additional information that will assist

the Building Inspectors, Police Officers and the public in addressing problems that may arise during construction. The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person(s) who compiled the mailing list shall be submitted to the Planning Division. (N-2)

3. **Preservation Plan.** Prior to issuance of demolition permits, the applicant shall submit a Preservation Plan for review and approval by the City's Historian that shall include the following elements (CR-4):
 - a. A site plan of the property as it exists, with the subject building clearly indicated, drawn to scale and with dimension given.
 - b. Floor plans drawn to scale.
 - c. Measured building elevation scaled drawings of the exterior and of significant, representative interior elevations. The Commission or Planning Staff may be consulted for a determination of what is significant.
 - d. Notation as to the buildings construction materials.
 - e. Black and white photographic prints and negatives, taken with a large format (also known as a 4x5) camera, of all exterior elevations, interior rooms, and architectural details. The prints shall have identification labels on the back, with the subject clearly expressed, keyed to No. 2 above, and the photo date included. The City provides a list of photographic professionals for assistance in selecting a photographer capable of this specialized work.
 - f. A detailed history of the building including the original construction date, the name of the original owner, the name of the original architect, if known, the builder and any factual information on subsequent alterations.
 - g. The materials shall be collected in a presentation binder with the property address and assessor's Parcel Number identified on the front cover and the spine.

The recordation documentation listed above (a.-g.) shall become a part of the permanent archival collection of the City of Santa Barbara, and photocopies of the documentation shall be placed in the following local public archival repositories:

- (1) Gledhill Library of the Santa Barbara Historical Society;
 - (2) City of Santa Barbara/Urban Historian
- h. Prior to demolition the applicant will be required to offer and advertise the building at 124 Los Aguajes Avenue for sixty days. Submit proof of publication and the advertisement that clearly shows that the advertisement was run for a minimum of sixty (60) days.

- i. If demolition occurs, then historic materials such as doors must be salvaged and offered for reuse.
4. **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.
5. **Archaeological 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 in the areas identified in the Phase I Archaeological Resources Report prepared for this site by Compass Rose Archaeological, Inc., dated December 2004. The contract shall be subject to the review and approval of the Planning Division.

The archaeologist's monitoring contract shall include the following provisions (CR-1):

- a. **Extended Phase 1 Archaeological Survey and Monitoring.** Prior to issuance of general grading and building permits for the project, a permit for demolition of existing structures and grading associated with a Extended Phase I and Construction Monitoring Plan shall be issued and final inspection completed. Said permit shall include (CR-1):
 - (1) Prior to issuance of any grading or demolition permits, the applicant shall submit for review and approval by the environmental analyst a contract and monitoring plan with a City Qualified Barbareño Chumash observer and qualified archaeologist to monitor all demolition and ground disturbing activities associated with the project and to conduct the Extended Phase I Archaeological Investigation.
 - (2) Following vegetation, and/or pavement removal and prior to earthwork or construction, an extended Phase 1 study of the project site shall be conducted by a City-qualified archaeologist. This study shall consist of a series of backhoe trenches, the examination of the exposed soil profiles, or any other methods of survey to reveal evidence of prehistoric and historical cultural resources. Based on results of the re-survey, the archaeologist shall recommend, City shall approve, and project shall implement any further monitoring, evaluation/ documentation of resources, or other mitigation measures necessary to ensure that no significant archaeological impacts would result.
 - (3) If potentially significant historical 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 prepare a work plan to assess the nature, extent and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment consistent with the City of Santa Barbara Master Environmental Assessment Guidelines for Archaeological Resources and historic Structures and Sites (January 2002). The significance assessment work plan shall be reviewed and approved by the City's Environmental Analyst and Archaeological Advisor. In the event that the discoveries are determined to be significant, the monitoring archaeologist shall prepare a Phase 3 mitigation program proposal including excavation and analysis methods to collect sufficient information to characterize the resource, and prepare a report consistent with the City of Santa Barbara Master Environmental Assessment Guidelines for Archaeologist Resources and Historic Structures and Sites (January 2002) for Phase 3 mitigation investigations. The Phase 3 mitigation proposal shall be reviewed and approved by the City's Environmental Analyst and Archaeological Advisor. All costs of potential significance assessment and mitigation shall be borne by the project applicant.

- (4) If discoveries include Native American cultural remains, the significance assessment shall include 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.
- (5) 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 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.
- (6) 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 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.
- (7) A report shall be prepared by the monitoring archaeologist 15 days after completion of all monitoring and Extended Phase I work. The report should include the results of the monitoring, determinations

as to the significance of any remains found, and recommendations for any future work that is needed. The report shall be reviewed and approved by the City's Environmental Analyst prior to issuance of grading permits for the balance of the proposed project excavations and soil disturbance. If a Phase 3 recovery program becomes necessary, the archaeological data recovery reports resulting from the Phase 3 activities shall be submitted to the City's Environmental Analyst and Archaeological Advisor for review and approval within six (6) months of issuance of general grading and building permits for the project.

- (8) General Grading, Building and Public Work permits shall not be issued prior to completion of the Extended Phase I or any necessary Phase 2 or 3 work on the site.
- b. Project plans shall be designed to limit all construction-related ground disturbance to the maximum extent feasible (CR-2).
 - c. Discovery Procedures and Mitigation. Standard discovery measures shall be implemented per the City Master Environmental Assessment throughout grading and construction (CR-3):
 - (1) 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 grading or construction on the site such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and a City-approved archaeologist shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, including but not limited to redirection of grading and/or excavation activities. If the findings are potentially significant, further analysis and/or other mitigation shall be prepared and accepted by the Environmental Analyst and the HLC, and implemented by the project Work in the area may only proceed after the Environmental Analyst grants authorization.
 - (2) 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. A final report on the results of the archaeological monitoring shall be submitted by the City-

approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to the issuance of final City permits.

F. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits:

1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Architectural Board of Review, outlined in Section A above.
2. **Mitigation Monitoring and Reporting Requirement.** Owner shall implement the Mitigation Monitoring and Reporting Program (MMRP) for the project's mitigation measures, as stated in the Mitigated Negative Declaration for the project.
3. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected 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, 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 Planning Division 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 Planning Division grants authorization.

4. **Post-Construction Erosion Control and Water Quality Plan.** Provide an engineered drainage plan that addresses the existing drainage patterns and leads towards improvement of the quality and rate of water run-off conditions from the site by capturing, infiltrating, and/or treating drainage and preventing erosion. The Owner shall employ passive water quality methods, such as bioswales, catch basins, or storm drain on the Real Property, or other measures specified in the Erosion Control Plan, to intercept all sediment and other potential pollutants

(including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) from the parking lot areas and other improved, hard-surfaced areas prior to discharge into the public storm drain system, including any creeks. All proposed methods shall be reviewed and approved by the Public Works Department and the Community Development Department. Maintenance of these facilities shall be provided by the Owner, as outlined in Condition ***, above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program. (W-3)

5. **Driveway Improvements.** The proposed driveway shall be constructed to the standards provided in the Subdivision Design and Improvement Standards and as approved by the Public Works Director.
6. **Disabled Accessibility.** Project circulation shall provide for disabled accessibility or equivalent facilitation in accordance with American Disabilities Act requirements. (T-3)
7. **Conditions on Plans/Signatures.** The final Planning Commission Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

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

G. **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. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) (and Project Environmental Coordinator's (PEC) name, contractor(s) and PEC'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. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone. (N-2)

2. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be salvaged and sent to the City Corporation Annex Yard.
3. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below: (look at longer or shorter hours and Saturday construction, depending on project location)

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Calle Cesar Chavez Day	March 31 st
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

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

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

4. **Construction Traffic.** The haul routes for all construction related trucks, three tons or more, entering or exiting the site, shall be approved by the Transportation Engineer. 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. and consider peak school traffic hours as well as surrounding area) to help reduce truck traffic and noise on adjacent streets and roadways. The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods. (T-1)

5. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows (T-2):
 - 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.
6. **Minimized Disturbed Area/Reduced Speed.** Minimize the amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less. (AQ-1)
7. **Water Sprinkling During Grading.** The following dust control measures shall be required, and shall be accomplished using recycled water whenever the Public Works Director determines that it is reasonably available (AQ-2):
 - a. Site grading and transportation of fill materials.
 - b. Regular water sprinkling; during clearing, grading, earth moving or excavation.
 - c. 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.
 - d. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.
 - e. 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.
8. **Tarping.** Trucks transporting fill material to and from the site shall be covered from the point of origin. (AQ-3)
9. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads. (AQ-4)

10. **Stockpiling.** If importation, exportation and stockpiling of fill material are involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. (AQ-5)
11. **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-6)
 - 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; and
 - d. other methods approved in advance by the Air Pollution Control District.
12. **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. (AQ-7)
13. **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. (AQ-8)
14. **Portable Construction Equipment.** All portable diesel powered construction equipment shall be registered with the state's portable equipment registration program OR shall obtain an APCD permit. (AQ-9)
15. **Fleet Owners.** Fleet owners are subject to sections 2449, 2449.2, and 2449.3 in Title 13, Article 4.8, Chapter 9, of the California Code of regulations (CCR) to reduce diesel particulate matter (and criteria pollutant emissions from in-use off-road diesel-fueled vehicles. See <http://www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf>. (AQ-10)
16. **Engine Size.** The engine size of construction equipment shall be the minimum practical size. (AQ-11)
17. **Equipment Numbers.** The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time. (AQ-12)
18. **Equipment maintenance.** All construction equipment shall be maintained in tune per the manufacturer's specifications. (AQ-13)
19. **Catalytic Converters.** Catalytic converters shall be installed on gasoline-powered equipment, if feasible. (AQ-14)
20. **Diesel Construction Equipment.** Diesel construction equipment meeting the California Air Resources Board (CARB) Tier 1 emission standards for off-road

- heavy-duty diesel engines shall be used. Equipment meeting CARB Tier 2 or higher emission standards should be used to the maximum extent feasible. (AQ-15)
21. **Engine Timing and Diesel Catalytic Converters.** Other diesel construction equipment, which does not meet CARB standards, shall be equipped with two to four degree engine timing retard or pre-combustion chamber engines. Diesel catalytic converters, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California shall be installed, if available. (AQ-16)
 22. **Diesel Replacements.** Diesel powered equipment shall be replaced by electric equipment whenever feasible. (AQ-17)
 23. **Idling Limitation.** Idling of heavy-duty diesel trucks during loading and unloading shall be prohibited; electric auxiliary power units shall be used whenever possible. (AQ-18)
 24. **Construction Equipment Mufflers and Shields.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices. Sound control devices and techniques, such as noise shields and blankets, shall be employed as needed to reduce the level of noise to surrounding uses. A noise control plan shall be submitted prior to any building permit issuance that shows how construction noise will be reduced for surrounding uses. The plan shall include, but not be limited to, the use of sound control devices and techniques, such as noise shields and blankets. (N-4)
 25. **Portable Equipment.** Where portable power generation or air compressors are required on the site, locate these noise sources as far away from the property line as possible. Where required because of proximity to residential areas, utilize a three or four sided enclosure which is lined with a sound absorbing material. Locate portable equipment where the noise shielding provided by remaining building structure will be beneficial. Another approach is to utilize very quiet power generation and air compressors, similar to those utilized in the motion picture industry on location. (N-5)
- H. **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 caused by construction (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. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility service undergrounding and installation of street trees.

3. **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 Certificate of Occupancy.
 4. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section D have been recorded.
 5. **Noise Measurements.** Submit a final report from a licensed acoustical engineer, verifying that interior and exterior living area noise levels are within acceptable levels as specified in the Noise Element. In the event the noise is not mitigated to acceptable levels, additional mitigation measures shall be recommended by the noise specialist and implemented subject to the review and approval of the Building and Safety Division and the Architectural Board of Review (ABR). (N-1)
- I. **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:

Pursuant to Section 28.44.230 of the Santa Barbara Municipal Code, work on the approved development shall commence within two years of the final action on the application, unless a different time is specified in the Coastal Development Permit. Up to three (3) one-year extensions may be granted by the Community Development Director in accordance with the procedures specified in Subsection 28.44.230.B of the Santa Barbara Municipal Code.



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: April 9, 2009
AGENDA DATE: April 16, 2009
PROJECT ADDRESS: 124 Los Aguajes Avenue (MST2004-00725)
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
Danny Kato, Senior Planner
Suzanne Johnston, Assistant Planner

I. PROJECT DESCRIPTION

The Planning Commission will review two project alternatives. Project alternative 1 consists of the demolition of an existing 884 square foot, single-family residence and 440 square foot detached garage, and the construction of three new residential condominium units in the Appealable Jurisdiction of the Coastal Zone. The proposed structure would be three stories with a maximum building height of 30' 2" consisting of 4,049 square feet of residential floor area above 1,172 square feet of garage floor area on a 6,000 square foot lot located adjacent to Mission Creek. The project includes two two-car garages and a one-car garage on the first floor, and a two-bedroom unit and two one-bedroom units. The proposed project proposes 25 cubic yards of cut and 135 cubic yards of fill outside the main building footprint. Grading under the main building footprint would involve 110 cubic yards of cut. The project also includes landscaping changes, bioswales and retention basin adjacent to the proposed residences. Project alternative 2 is a slightly larger three-story, three-unit project that has a portion of the second and third stories projecting into the Mission Creek Development Limitation area. Alternative 2 was previously reviewed by the Planning Commission on November 2, 2006.

II. REQUIRED APPLICATIONS

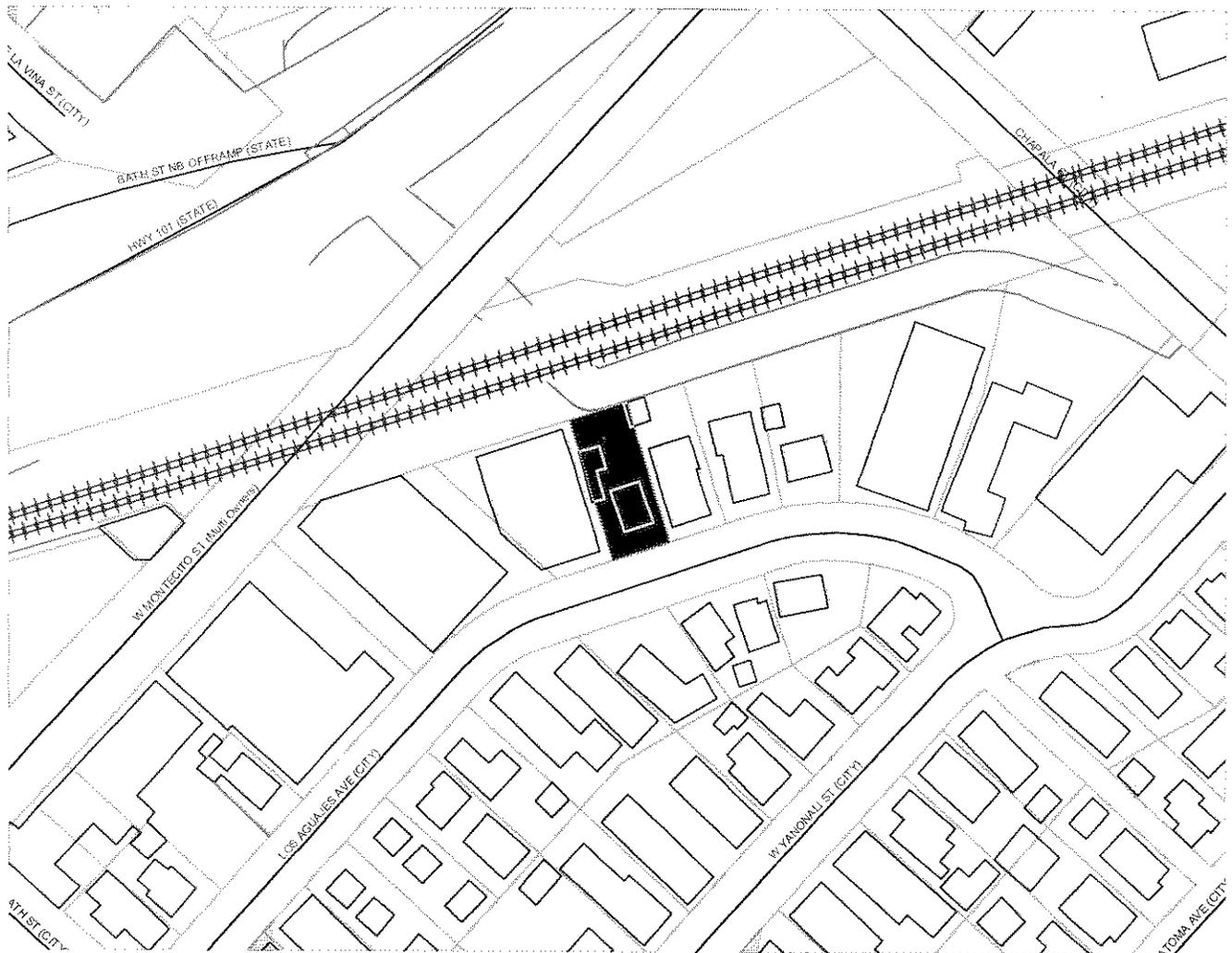
The discretionary applications required for this project are:

1. A Modification to allow the building to encroach into the front setback (SBMC §28.21.060 and §28.92.110.A.2);
2. A Modification to allow the building to encroach into the interior setback to the east (SBMC §28.21.060 and §28.92.110.A.2);
3. A Modification to allow the building to encroach into the other interior setback to the west. (SBMC §28.21.060 and §28.92.110.A.2);
4. A Coastal Development Permit (CDP2005-00021) to develop a three unit residential condominium project located in the Appealable Jurisdiction of the Coastal Zone. (SBMC §28.44.060)

5. A Tentative Subdivision Map for a one-lot subdivision to create three (3) residential condominium units (SBMC 27.07 and 27.13).

III. RECOMMENDATION

Alternative 1 conforms to the applicable the policies of the General Plan or Local Coastal Plan. Therefore, Staff recommends that the Planning Commission approve the Alternative 1, making the findings outlined in Section VIII of this report.



APPLICATION DEEMED COMPLETE:
DATE ACTION REQUIRED:

October 21, 2008
April 19, 2009

IV. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant/ Property Owner: Mark Edwards			
Parcel Number: 041-343-010	Lot Area:	6,000 square feet (sq. ft.)	
General Plan: Hotel and Residential	Zoning:	R-4/ SD-3	
Existing Use: Single-Family Residential	Topography:	~4% slope	
Adjacent Land Uses:			
North – Mission Creek and Union Pacific Railroad		East – Multiple-Family Residential	
South – Multiple- and Single-Family Residential		West - Commercial	

B. PROJECT STATISTICS

Alternative #1	Existing	Proposed Unit 1	Proposed Unit 2	Proposed Unit 3
Living Area (net sq. ft.)	887	1,543	1,432	1,092
Bedrooms	2	2	1	1
Garage (net sq. ft.)	400	464	412	321

Alternative #2	Existing	Proposed Unit 1	Proposed Unit 2	Proposed Unit 3
Living Area (net sq. ft.)	887	1,543	1,295	1,086
Bedrooms	2	2	1	1
Garage (net sq. ft.)	400	464	412	321

V. ZONING ORDINANCE CONSISTENCY

Standard	Requirement/ Allowance	Existing	Proposed
Setbacks			
-Front	15' for 3 story building*	20'	10' to floor area 8' entry element
-Interior	10' for 3 story buildings	2'- garage, 6'- house	6' to floor area 4' to architectural projections.
-Rear	6' – 1 st floor 10' – 2 nd , 3 rd floors	35'- garage, 64'- house	25' - all floors
*If the 3 rd story net floor area is less than 50% of the net first floor area, the 1 and 2 story portions of the building may have a 10' setback as long as the third story observes a 20 foot setback.			

Mission Creek Development Limitation Area	25' from top of either bank	> 25'	25' on 1st floor
Building Height	45'	Single-story	30'2"
Parking	3 covered, 2 uncovered	1 covered	5 covered
Lot Area Required for Each Unit (Variable Density)	1-Bdrm = 1,840 sq. ft. 2-Bdrm = 2,320 sq. ft.	2,320 sq. ft.	(1) 2,320 sq. ft. (2) 1,840 sq. ft. Total Rqd.: 6,000 sq. ft.
15% Open Space	900 sq. ft.	>900 sq. ft.	1100.5 sq ft
<i>Not Required</i> Private Outdoor Living Space	Unit 1 – 84 sq. ft. (2 nd floor) Units 2&3 – 72 sq. ft. (2 nd floor)	Not Required	Unit 1 – 119 sq. ft. Unit 2 – 126 sq. ft. Unit 3 – 65 sq. ft.
Lot Coverage			1,562 sq. ft.
-Building	N/A	1,320 sq. ft. 22%	26%
-Paving/Driveway	N/A	1,384 sq. ft 22%	2,065 sq. ft.
-Landscaping	N/A	3,356 sq. ft. 56%	34%
			2,373 sq. ft.
			40%

Except for the requested modifications to the front and interior setbacks, the proposed alternative 1 project complies with the requirements of the R-4, Hotel-Motel Multiple Residence Zone. The requested modifications are discussed in Section VI. The applicant has reduced the overall height of the building by one and a half feet.

Except for the requested modifications to the front yard setback and the interior setbacks, the proposed alternative 2 project complies with the requirements of the R-4, Hotel-Motel Multiple Residence Zone. Additionally, under SBMC §28.87.250, Development along Creeks, the Building Official allowed the second and third stories of the proposed development to encroach into the Mission Creek setback, as discussed in more detail below. The requested modifications are discussed in Section VI.

VI. ISSUES

A. DESIGN REVIEW

The Historic Landmarks Commission (HLC) reviewed and accepted a Historic Structures Report for Alternative 2 on April 13, 2005. This report is discussed in further detail in the Environmental Review section of the staff report.

Alternative 2 was the first project submitted to the City. Staff expressed concerns regarding neighborhood compatibility to the ABR. The ABR reviewed Alternative 2 on three separate occasions (see minutes attached an exhibit to the initial study). The minutes reflect that the

ABR initially had concerns about the mass, bulk, and scale, especially at the third floor, and how it would be viewed from the train station. At the first conceptual review, the ABR also felt that the architecture was too modern for the neighborhood. However, at the most recent conceptual review on February 27, 2006, the ABR stated that the majority of the board was comfortable with the contemporary style of the project and also found the size, bulk, and scale to be acceptable, stating it could be found compatible with the "industrial nature" of the neighborhood. The ABR also wanted to see the third floor facing Los Aguajes Avenue to be further reduced with an increased setback from the street. One board member was not in support of the project and felt the size, bulk, and scale, and contemporary style of the project were not consistent with the neighborhood.

The ABR supported the front yard modifications for the first and second floors as these are aligned with the front yard setbacks of the adjacent buildings. The board wanted to see more pedestrian friendly paving to the entries of the units, to make the entries more obvious. The board felt the landscaping was appropriate and that the stone base on the ground floor adds to the quality of materials of the building. With regard to the interior setback modifications, both the ABR and staff were assuming that setbacks were 6' for the first and second floors and 10' for the third floor at the time of review. Based on these assumed setbacks, the ABR was mixed with regard to their support and felt that small encroachments of the building could be supported (e.g., columns that extend to the ground but do not add floor area). It was later determined by staff that, due to the amount of floor area proposed on the third floor, the interior yard setbacks are actually 10' for the entire building. The ABR has not reviewed the project after this was determined.

The Planning Commission held a concept review hearing on Alternative 2 on November 2, 2006, wherein Staff expressed its concerns regarding neighborhood compatibility. The Planning Commissioners' consensus was that the Alternative 2 could be found compatible with the adjacent buildings on the north side of Los Aguajes Avenue. Alternative 2 has not changed from the November 2, 2006 Planning Commission review. The second and third floor has not been reduced further since the last ABR concept review, and a design change has not been proposed with regard to adding more pedestrian friendly paving to the unit entries.

Alternative 1 was submitted as a response to the Planning Commission direction at the November 2, 2006 hearing. The applicant relocated the second and third floors out of the 25' Mission Creek development limitation area and softened the architecture on the front elevation. Staff strongly suggested that the applicant return to ABR for further review and updated comments but the applicant has chosen to go forward to Planning Commission without ABR comments based on the direction in the November 2, 2006 Planning Commission hearing minutes (attached see an exhibit to the initial study).

B. DEVELOPMENT ALONG MISSION CREEK

Section 28.87.250 of the Zoning Ordinance, *Development Along Creeks*, was established for the purpose of controlling development adjacent to Mission Creek. The land area subject to limitation is defined as all land within the banks and located within 25' of the top of bank of Mission Creek. Any development proposed within such an area and subject to a building

permit, must be reviewed and approved by the Chief Building Official or the Planning Commission on appeal prior to the issuance of a building permit.

The intent of the development limitation is to prevent undue damage or destruction of developments by flood waters; prevent development of one parcel from causing undue detrimental impact on adjacent or downstream properties in the event of flood waters; and to protect the public health, safety and welfare. The Chief Building Official has reviewed Alternative 2, and approved the limited development within the 25 foot area for the purposes of SBMC §28.87.250 because the conceptual project meets the general legislative intent of the ordinance, which is related to protecting structures from flooding. Staff does not support Alternative 2 because the structure has not been relocated outside of the development limitation area.

On November 2, 2006 the Commission reviewed the alternative 2 proposal for development which included two support beams on the ground floor, which would be located approximately 12' from the creek top of bank. The floor area on the first floor is set back 25' from the top of bank, with the second story and third story deck located approximately 12' from the determined top of bank. Second story roof eaves are closest to the creek, at 10' away. The Planning Commission gave direction to the applicant to relocate the second and third floor to be located outside of the 25' development limitation area, and with that change, the Commission generally supported the proposed encroachments into the front setback.

Since the last review by the Planning Commission, on November 2, 2006, the applicant has submitted Alternative 1 which pulled the second and third floors twenty-five feet away from Mission Creek's top of bank; reduced the building height, and softened the front elevation. Alternative 1 was not forwarded to the Chief Building Official because development was not proposed to be located within the development limitation area. Staff supports Alternative 1 because it is consistent with city policies for development along creeks and with the General Plan policies within the Conservation and Open Space Element.

C. MODIFICATIONS

Interior Setback Modifications. In the R-4 Zone, the interior setback for three-story buildings is ten feet (10'). However, if a building is designed so that the total floor area of the third story is one half or less of the total floor area of the first floor, then the setback is 10' for the third story only and 6' for the first and second floors. The floor area proposed for the third floor of both alternatives is greater than half the floor area proposed for the first floor of the project; therefore, a setback of 10' is required for the entire building from both interior property lines. Both projects have been designed so that the interior floor area is setback 6' for the first and second floors and 10' for the third floor. Features on the first and second floors, which include shelf windows supported by columns that extend to the ground and second floor deck areas, are as close as 4' to the interior property lines. On the third floor, deck areas are proposed as close as 8' to the interior property line.

Although the third story is not less than half of the floor area of the first floor, it is reduced in comparison to the mass of the second floor. Staff also recognizes the site constraints of the property, with regard to its location adjacent to Mission Creek. For these reasons, staff could

support such interior setback modifications if the deck areas on the second floor were reduced to no closer than 6' to the interior property line and the deck areas for the third floor no closer than 10' from the interior property line for the purpose of reducing privacy impacts on adjacent neighbors. Staff could support such modifications only in Alternative 1, where the second and third stories are set back 25' from the creek top of bank, as this setback from the creek is recognized as a constraint on the property and justification for allowing minor interior yard encroachments.

Front Setback Modification. The front setback for three-story structures in the R-4 Zone is 15', unless the total floor area of the third story is one half or less of the total floor area of the first floor, then the setback is 10' for the first and second floors, and the setback for the third floor is 20'. Interior floor space is set back 10' on the first and second floors with a small architectural feature on the ground floor as close as 8 feet to the front lot line. The habitable space on the third floor is setback 15'; however, the useable deck area encroaches up to 10' from the front property line. The applicant has reduced the third story element based on feedback from the ABR; however, the ABR has directed that the third story be setback even further as seen from Los Aguajes Avenue. The first and second stories are consistent with buildings on the adjacent properties. Staff could support the front yard modification as proposed in Alternative 1, where the entire building is located 25' from the creek top of bank. This modification request could be supported due to the increased setback that would occur at the rear of the property to provide relief from the creek area, and due to the consistency with existing setbacks of buildings on adjacent properties.

The pattern of existing development shows a mixture of building types with setbacks of 0 – 15' from the front property line along the 100-200 blocks of Los Aguajes Avenue. Research revealed that most existing encroachments are due to existing legal non-conforming situations that may have been created by changes in zoning rules.

D. NEW CONDOMINIUM DEVELOPMENT

Section 27.13.060 discusses the required physical standards for new residential condominium developments such standards include parking, private storage space, separate utility metering, either private or common laundry facilities for all units, waiver of the right to protest a public improvement district, density requirements, minimum unit size and minimum outdoor living space requirements, and that a determination regarding the storage of recreational vehicles be made by the advisory agency at the time of approval. Both alternatives provide the required number of off-street parking spaces, separate laundry facilities, and separate utility metering for all units. The private storage space requirement is allowed to be waived if an enclosed garage is provided for that unit. Each of the proposed units is proposed to have its own garage space. The residential development would be subject to the density requirements of the R-3/R-4 Multiple Family Residential Zones, which allow 12 dwelling units to the acre. However, the General Plan Land Use and Housing Elements recognize that, in zones where variable density standards apply, development may exceed the limit of 12 units per acre without causing an inappropriate increase in the intensity of activities. Both proposed projects would result in a density of approximately 22 units per acre, which, based on the above discussion, would be consistent with the Land Use and Housing Elements of the General Plan.

E. COMPLIANCE WITH THE LOCAL COASTAL PLAN

The project site lies within the Coastal Zone. Development in the Coastal Zone must be consistent with the Local Coastal Plan (LCP) and the Coastal Act. The proposed project site is located in Component 3 of the LCP, also known as the West Beach neighborhood. Because the project site is located within 100' of Mission Creek, the site falls within the Appealable Jurisdiction of the Coastal Zone per SBMC §28.44.040.C.2 and Coastal Act §30603(2). This neighborhood includes hotels and motels, a mix of single- and multiple-family residences, and other commercial uses such as offices and restaurants. The project site is located in a land use area designated as Hotel and Residential, which allows for development of visitor-serving facilities and for residential use at a density of twelve units per acre. Coastal Act policy concerns within the West Beach neighborhood include: hazards from flooding of Mission Creek and potential soil liquefaction during earthquakes; protection of existing recreational facilities; provision of visitor serving uses, primarily hotel/motel related; protection of the unique West Beach residential neighborhood; problems of circulation and parking related to the waterfront area in general and, specifically, possible City College expansion.

The Chief Building Official has determined that the neither alternative would result in hazards from the flooding of Mission Creek. No public recreational facilities or visitor serving uses would be affected by the project. The Architectural Board of Review and the Planning Commission have stated that the architectural style could be found to be compatible with the West Beach neighborhood, citing that the buildings on the north side of Los Aguajes have a variety of architectural styles, and directed the applicant to reduce the mass, bulk and scale.

LCP Housing Policy 5.3 states that new development in and/or adjacent to existing residential neighborhoods must be compatible in terms of scale, size, and design with the prevailing character of the established neighborhood. Further, Policy 5.4 states that the part of the coastal zone bounded by the half blocks between Castillo and Bath Streets and Mason and Cabrillo Streets, Chapala, and the half block north of Los Aguajes Avenue, is recognized as a unique residential neighborhood, and shall be treated in a manner that strives to maintain this unique character. The LCP recognizes the predominant style in Component 3 as "Spanish flavor architecture typical of Santa Barbara". The existing residence is one-story and is described in a Historic Structures Report as predominantly Spanish Colonial Revival, with Craftsman style windows and distinct Mission Revival elements. The neighborhood is described as a mix of mostly small single-family Spanish Colonial Revival style homes, stucco residential apartment buildings, and three commercial buildings. Existing residential structures on Los Aguajes Avenue are all one and two stories, whereas the proposed structure is three stories. The Planning Commission directed the applicant to reduce the mass, bulk and scale of the development and stated that the architectural style could be found to be compatible with the adjacent buildings on the north side of Los Aguajes Avenue. The applicant has reduced the building height of project alternative 1 by approximately one and half feet. The Planning Commission must make the findings that the structure is compatible with the surrounding neighborhood in mass, bulk, and scale and architectural style to approve the project.

F. COMPLIANCE WITH THE GENERAL PLAN

Before a condominium project and a tentative subdivision map can be approved, both must be found consistent with the City's General Plan. The project site is located in the West Beach Neighborhood and has a General Plan designation of Hotel and Residential and is zoned C-2, Commercial. The West Beach Neighborhood is an area delineated in the City's General Plan by Cabrillo Boulevard and Shoreline Drive on the southeast, Santa Barbara City College on the western property line; Montecito Street, Castillo Street, and Highway 101 on the northwest; and Yanonali and Chapala Streets and Kimberly Avenue on the north east. This neighborhood is developed as a residential neighborhood in the eastern and northern sections with a mixture of single-family, duplexes, and higher-density multiple units interspersed through the neighborhood. On the west, as it merges into downtown, mixed residential and commercial uses appear.

Sometimes known as the Ambassador area, the West Beach neighborhood is characterized by a combination of Spanish-style motels along the ocean frontage, which merge into an attractive residential area of single- and multiple-family dwellings behind Cabrillo Boulevard. Although the residential population of West Beach increased in recent years as a result of new apartment construction, it is anticipated that substantial portions of existing residential areas will be converted into motel uses. Therefore, it will be likely that West Beach will experience a net loss in residential population. The General Plan reflects this trend by expanding the area designated for mixed hotel and residential development as far toward the ocean as Mason Street.

Approximately half the land area of the West Beach neighborhood is given over to City College, including a recent acquisition of a large undeveloped parcel between Oceano Avenue and Loma Alta Drive adjoining the existing campus at the west. In addition, the area contains Pershing Park, which is shared with City College for athletic facilities. West Beach also contains Ambassador Park, located within the motel strip on Cabrillo Boulevard, Plaza del Mar, and the Moreton Bay Fig Tree. The proposed three-unit condominium project is compatible with the predominantly residential/motel character of the West Beach neighborhood.

The neighborhood shopping facility located on Montecito Street serves the ocean-front residential and motel areas in the vicinity.

Conservation and Open Space Elements: The Conservation Element recognizes the creekside environment of Mission Creek as a contribution to meeting the spatial needs of the community by offering visual relief from the built environment. Further, it recognizes that, in the past, the absence of creek management, including some creekside construction activities, has severely detracted from the creek's visual value and indirectly contributes to degradation of the coastal environment as well. Additionally, the Open Space Element recognizes that creek corridors are important open spaces and that redevelopment should respect these open space areas. Planning Staff does support Alternative 2 due to the proposed placement of the second and third stories of the structure and ground floor support for the upper stories within 25' of the Mission Creek top of bank, and finds the project to be inconsistent with these General Plan policies within the Conservation and Open Space Elements. However, staff does find that Alternative 1 is

consistent with the General Plan policies within the Conservation and Open Space Elements which proposes to place all new construction 25' away from the top of Mission Creek.

Noise Element:

A review of the City's Noise Contour Map indicates that the project is located in an area in which the noise level exceeds 65 dBA L_{dn} (average A-weighted sound level over a 24-hour day). The noise level mapped for the site ranges from 65 to over 70 dBA. The General Plan Noise Element Land Use Compatibility Guidelines identify up to 60 dBA L_{dn} as the maximum compatible exterior noise level for residential uses and 45 dBA L_{dn} for interior noise levels.

The City's normal practice is to find compatibility with the Noise Element where the required outdoor living spaces are exposed to less than or equal to the 60 dBA noise level, and the interior areas are less than or equal to 45 dBA. For both Alternatives 1 and 2, the noise report identifies design measure that will ensure that the interior noise level is less than or equal to 45 dBA.

For both alternatives, the applicant is satisfying the open space requirements of the zoning code by providing common outdoor living space, wherein 15% of the lot (including setbacks) is open space. The common outdoor living space is provided between the building and Mission Creek (the backyard).

According to the noise report, the common outdoor living space is area would have an ambient noise level of 72 dBA L_{dn} , which cannot be reduced to 60 dBA. Normally, this would result in a finding of incompatibility with the Noise Element. However, the applicant is providing a private outdoor living space for each unit, and these decks have been designed to have noise levels that do not exceed 60 dBA per the noise study. Staff believes that these decks are the areas more likely to be used by the condominium owners as recreational space than the 15% open space, which overlaps with the Mission Creek setback.

The intent of the noise limits and policies in the Noise Element is largely to provide indoor residential areas with less than 45 dBA L_{dn} and ensure there are some recreational outdoor areas provided that do not exceed 60 dBA L_{dn} . With the design changes to address the sound mitigation on the proposed decks and indoor areas, staff believes that the project is consistent with the intent of the Noise Element policies. However, the Planning Commission must agree in order to make the General Plan Consistency findings.

Housing Element:

Santa Barbara has very little vacant or available land for new residential development. Therefore, City housing policies support build out of infill housing units in the City's urban areas. The City's Housing Element encourages construction of a wide range of housing types to meet the needs of various household types. The project would be consistent with the Housing Element as it will contribute four additional residential units to the City's existing housing stock.

Neighborhood Compatibility

In accordance with Housing Element Policy 3.3, which requires new development to be compatible with the prevailing character of the neighborhood, the proposed building would be compatible in scale, size and design with the surrounding neighborhood. The surrounding neighborhood is comprised of a mix of commercial and multi-family residential development, with a wide range of heights. Along the north side of Los Aguajes, the uses are a mixture of commercial and multi-family residential apartment complexes. The building height of the proposed three-story structure is consistent with adjacent commercial and apartment buildings on the northerly side of Los Aguajes Avenue. The building has comparable front yard setbacks to many of the structures that front Los Aguajes. Both the Architectural Board of Review and the Planning Commission have stated that the architectural style could be found to be compatible with the West Beach neighborhood, citing that the buildings on the north side of Los Aguajes have a variety of architectural styles, and directed the applicant to reduce the mass, bulk and scale.

Urban Design Guidelines

One of the goals of the Urban Design Guidelines is compatibility of new development with the character of the City, the surrounding neighborhood, and adjacent properties. The ABR considers the Urban Design Guidelines in reviewing development proposals. As discussed above, the ABR is supportive of the site plan, and the size, bulk and scale of the project.

VII. ENVIRONMENTAL REVIEW

An Initial Study was prepared for the proposed project because the California Environmental Quality Act (CEQA) requires that an environmental assessment be provided for a project that is proposing impacts on a structure which is listed as a potential historic resource. The environmental analysis determined that the proposed project could potentially have significant adverse impacts related to cultural resources and noise; however, mitigation measures described in the Initial Study and agreed to by the applicant would reduce potential impacts to less than significant levels. In addition, recommended mitigation measures were identified to further reduce less than significant impacts associated with cultural resources and noise impacts.

A Draft Mitigated Negative Declaration was prepared for the proposed project, and a public review period was held from February 4, 2009 to March 3, 2009. Two comment letters were received during the comment period. On February 19, 2009, the Planning Commission conducted a public hearing to accept testimony regarding the Draft Mitigated Negative Declaration, and provided its comments (minutes attached Exhibit D). The comment letters and the responses to the comments received regarding the Draft Mitigated Negative Declaration are attached to the Initial Study. The main issue areas discussed in the comments and response to comments are as follows:

1. Modification requests in relationship to the existing pattern of development in the neighborhood, as well as, site constraints.
2. Visual Aesthetics

3. Cultural Resources mitigations related to potential future historic districts.
4. Noise issues related to the train traffic.

Archaeological Resources: Based on a review of the City's Archaeology Resources Map, the project site is located within several cultural resource sensitivity zones (Prehistoric Watercourse, Hispanic-American Transition Period 1850-1870, American Period 1870-1900 and Early 20th Century 1900-1920). A Phase I Archaeology Report was prepared and accepted by the Historic Landmarks Commission. The report concluded that no prehistoric cultural resources were found to exist within the subject parcel. However, a recorded archaeological site is situated adjacent to the subject property, portions of an historical structure once existing within the property and remains could exist below the ground surface, and historical artifacts have been recovered along the borders of Mission Creek. Therefore, the report recommends that a qualified archaeologist and Native American representative monitor the removal of the structural footings following the demolition of the existing structures. Once the structures have been removed, an Extended Phase I test program would be required to determine if buried prehistoric and/ or historic cultural resources exist on-site. The project would be conditioned according to these recommendations.

Biological Resources: Due to the proximity of the project site to Mission Creek, a Biological Resources Study was required to be submitted by the applicant. The November 2005 report, prepared by Lawrence E. Hunt, is attached as an exhibit to the initial study. The report finds that the bed and banks of Mission Creek bordering the project site, and for hundreds of feet upstream and downstream of the subject property, do not meet riparian corridor criteria due to this portion being re-aligned, channelized, and lined with concrete and stone. The report concludes that there is no biological basis for designating a 25-foot wide area between the existing channel wall and the building footprint as a "riparian zone" because the subject property lacks two elements critical to a functioning riparian corridor: a) habitat connections between the creek and upland, and; b) habitat continuity.

Although the report concludes that the project poses no significant impacts to biological resources, it recognizes opportunities to improve habitat conditions for wildlife through landscape planting that restores foraging, roosting, and nesting. These recommendations have been incorporated into the project's landscape plan. The report also recognizes that design features, including a bioswale/ retention basin and retention reservoir, could possibly decrease existing levels of polluted runoff entering the creek. These features have also been incorporated into the project design, which would reduce the amount of storm water runoff that currently drains from the site.

City Creeks Staff have reviewed the proposed project and preliminary landscape plan and are not supportive of any proposed structure encroachments located within 25' of the creek because they feel this area should be improved habitat for wildlife with no building obstructions. Creeks Staff is also not supportive of the proposed king palms to be located within 25 feet from the creek, nor supportive of any lavender trumpet vine and potato vine being part of the landscape plan, as they are considered invasive species. If approved, staff would recommend conditioning the project to remove the invasive species from the landscape plan.

Historic Resources: A Historic Structures Report was provided for Alternative 2 in order to evaluate the significance of the existing single-family residence, including its relationship and contribution to the surrounding West Beach neighborhood, and to determine the potential impact of the proposed project on the property. The neighborhood is located about two blocks outside of the El Pueblo Viejo Landmark District, and is described as predominantly 1925 to 1930s Spanish Colonial Revival style single family homes, 1950s commercial and institutional buildings, and apartment buildings built in the 1960s and early 1970s. The existing predominantly Spanish Colonial Revival single-story residence was built in 1925 and is part of the original Ambassador Tract, established in 1924. The existing apartment buildings and commercial buildings on Los Aguajes Avenue were built after the early 1950s on empty lots, which the report indicates, "represented a marked departure from the architectural cohesion of the initial Tract development".

The Historic Structures Report concluded that the existing residence is eligible to be a designated Structure of Merit. It was determined that the demolition of the existing house would constitute a significant impact on a historic resource. However, the report concludes that given the limited historical information provided by the existing residence, mitigation measures could be implemented to allow demolition and reduce the impact to less than significant. Ten required mitigation measures are listed in the report, attached as an exhibit to the initial study, most of which include detailed documentation of the existing structure. Mitigation measure #10 states that, if house is fully demolished, the architecture of the new construction should be compatible and harmonious with the buildings of the West Beach neighborhood in both massing and architectural style. The report also included advisory, although not required, recommendations to further reduce impacts; that the building not be demolished and that it be preserved and new units added behind it. Indicating that the preservation of the house is desirable, the report also stated that for each advisory option, the architecture of the new construction should be compatible with the existing house and the predominant Spanish Colonial Revival style buildings of the West Beach neighborhood.

The Historic Structures Report was accepted by the HLC; however, the design of the project is subject to the purview of the ABR. Although, initially concerned with the massing and architectural style of the structure, the majority of the ABR later determined that the project could be found compatible with the surrounding neighborhood.

The City adopted a Demolition Review ordinance in 2004, which specifies a process for reviewing demolition of buildings that may qualify as either Structures of Merit or Landmarks. As part of that process, when the HLC accepts historic structures reports for projects being processed, in accordance with the City's Master Environmental Assessment (MEA), the HLC is supposed to state its intent to initiate the process for Structure of Merit or Landmark designation at the time the Historic Structures Report for the project is accepted. The HLC reviewed and accepted the report for Alternative 2, which concluded that demolition of the existing structure would result in a less than significant impact if certain measures were either incorporated into the project description or added as mitigation measures, in April 2005. The HLC did not initiate Structure of Merit designation, which leads to the conclusion that the structure is not sufficiently historic to warrant designation and, therefore, its demolition would

not result in a significant impact. The applicant incorporated nine of the 10 measures recommended by the Report into the project description and worked with the ABR to determine that the proposed project is “compatible and harmonious with the buildings of the West Beach neighborhood in both massing and architectural style.”

Noise Sources: A review of the City’s Noise Contour Map indicates that the project is located in an area in which the noise level exceeds 65 dBA L_{dn} (average A-weighted sound level over a 24-hour day). The noise level mapped for the site ranges from 65 to over 70 dBA. The environmental threshold for residential noise impacts are: 75 dBA for exterior noise levels, and 45 dBA for interior noise levels. A noise report prepared for the site indicated that all outdoor living areas would have levels of approximately 72 dBA L_{dn} if no mitigation was implemented. This ambient level is below 75 dBA L_{dn}, the noise level that the Noise Element indicates is clearly unacceptable and would make the outdoor environment intolerable for normal residential use. According to the noise report, the proposed residential units would achieve a maximum interior noise level of 45 dBA L_{dn} or less with special design measures used to insulate the buildings and by keeping windows closed. With the implementation of the design measures, Alternatives 1 and 2 would have less than significant noise impacts.

The Final Mitigated Negative Declaration has identified significant but mitigable impacts and no unavoidable impacts related to the proposed project. Pursuant to CEQA, prior to approving the project, the Planning Commission must adopt the Mitigated Negative Declaration. For each mitigation measure adopted as part of a Mitigated Negative Declaration, the decision makers are required to make the mitigation measures into conditions of project approval, and adopt a program for monitoring and reporting on the mitigation measures to ensure their compliance during project implementation (PRC Sec.21081.6). The mitigation measures described in the proposed Final Mitigated Negative Declaration have been incorporated into the recommended conditions of approval for this project. In addition, a mitigation monitoring and reporting program (MMRP) is included as an exhibit to the Initial Study.

VIII. FINDINGS

The Planning Commission finds the following:

A. FINAL MITIGATED NEGATIVE DECLARATION ADOPTION

1. The Planning Commission has considered the proposed Final Mitigated Negative Declaration, dated April 9, 2009 for the 124 Los Aguajes Avenue Project (MST2004-00725), and comments received during the public review process.
2. The Final Mitigated Negative Declaration has been prepared in compliance with California Environmental Quality Act requirements, and constitutes adequate environmental analysis of the project.
3. In the Planning Commission’s independent judgment and analysis based on the whole record (including the initial study and comments received), there is no substantial evidence that the Project will have a significant effect on the

environment. The Final Mitigated Negative Declaration, dated April 9, 2009, is hereby adopted.

4. Mitigation measures identified in the Mitigated Negative Declaration that would avoid or reduce all potentially significant impacts to less than significant levels have been included in the project or made a condition of approval. Additional mitigation measures minimize adverse but less than significant environmental effects have also been included as conditions of approval.
5. 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 Project and is hereby adopted.
6. The location and custodian of documents or other material which constitute the record of proceedings upon which this decision is based is the City of Santa Barbara Community Development Department, 630 Garden Street, Santa Barbara, CA 93101.
7. 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 is subject to the DFG fee, and a condition of approval has been included which requires the applicant to pay the fee within five days of project approval.

B. SETBACK MODIFICATIONS

The interior and front setback modifications are consistent with the purpose and intent of the Zoning Ordinance, and are necessary to secure an appropriate improvement on a lot, because the lot is small and constrained by Mission Creek to the rear, and the front setback is consistent with the adjacent structures.

C. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.060)

The project is consistent with the policies of the California Coastal Act, all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code, in that the land use is a replacement of an existing residential use in a residential neighborhood, the project is visually compatible with the character of the surrounding areas, the project is compatible with, and preserves the unique character of the West Beach neighborhood, and it would not have any effect on public access or public recreation. The project is consistent with Coastal Act Policy 30251, which requires new development to be visually compatible with the character of surrounding areas, as described in Section VI of the Staff Report.

D. THE TENTATIVE MAP (SBMC §27.07.100)

With the approval of the front and interior setback modifications, the Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the

City of Santa Barbara, in that all General Plan policies and zoning requirements are met, as described in Section V of the Staff Report. The site is physically suitable for the proposed development because it is compatible with the neighborhood, and is located a sufficient distance from Mission Creek, the project is consistent with the variable density provisions of the Municipal Code and the General Plan as described in Section V of the Staff Report and the proposed use is consistent with the vision for this neighborhood of the General Plan because it is a residential project in a predominantly residential neighborhood, as described in Section VI.F. of the Staff Report. The design of the project will not cause substantial environmental damage because it compatible with the surrounding residential neighborhood, and is located a sufficient distance from Mission Creek, and associated improvements will not cause serious public health problems because the building has been designed to meet interior and exterior maximum noise levels, as described throughout the Staff Report.

E. THE NEW CONDOMINIUM DEVELOPMENT (SBMC §27.13.080)

1. The project complies with all provisions of the City's Condominium Ordinance, as described in section VI of the Staff Report.
2. The proposed development is consistent with the General Plan of the City of Santa Barbara, as it is meets the land use, density, noise and other policies, as described in Section VII of the Staff Report.
3. The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources, in that the project is an infill residential project proposed in an area where residential development is a permitted use. The project is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts, and the project is compatible with the aesthetics of the neighborhood.

Exhibits:

- A. Conditions of Approval
- B. Final Mitigated Negative Declaration (available upon request or on the City's website at www.SantaBarbaraCa.gov/eir)
- C. November 2, 2006 Planning Commission Staff Report without attachments
- D. February 19, 2009 Planning Commission Minutes
- E. Los Aguajes Avenue Setback Chart



CITY OF SANTA BARBARA

**ADDENDUM MST2004-00725
TO MITIGATED NEGATIVE DECLARATION
(SCH#2009021005)**

**FOR 124 LOS AGUAJES AVENUE
COASTAL DEVELOPMENT PERMIT, MODIFICATIONS AND TENTATIVE
SUBDIVISION MAP PROJECT**

AUGUST 26, 2009

This Addendum is prepared in accordance with State CEQA Guidelines Section 15164, which provides that an addendum to an adopted negative declaration may be prepared if only minor changes or additions are necessary to make the prior document adequate for the current project.

An addendum to the MND has been prepared to address the project revisions to: 1) reduce the building footprint by 175 square feet or 1.2%, 2) reduce the buildings net square footage by 222 square feet or 4.3%, 3) increased the landscaped areas by 4.5%, and reduced the building height to 29' 7".

PRIOR ENVIRONMENTAL DOCUMENT

A Mitigated Negative Declaration (MND) [SCH# 2009021005] was prepared for. The MND concluded that, with application of identified mitigation measures, no significant effects on the environment would result from the project. The Draft MND was circulated for public review and comment, and the Final MND was adopted by the Planning Commission on April 16, 2009. Mitigation measures to reduce potentially significant impacts associated with cultural resources were incorporated into the project as conditions of approval. Recommended standard mitigation measures were also applied as conditions to minimize adverse but not significant impacts associated with noise, air and water quality, biological, and transportation issues.

REVISED PROJECT DESCRIPTION

The project consists of the demolition of an existing 884 square foot, single-family residence and 440 square foot detached garage, and the construction of three new residential condominium units in the Appealable Jurisdiction of the Coastal Zone. The proposed structure would be three

stories with a maximum building height of 29' 7", consisting of 3,856 square feet of residential floor area above 1,143 square feet of garage floor area on a 6,000 square foot lot located adjacent to Mission Creek. The project includes two two-car garages, a one-car garage, and one unenclosed covered parking space, a two-bedroom unit and two one-bedroom residential units. The project proposes 25 cubic yards of cut and 135 cubic yards of fill outside the main building footprint. Grading under the main building footprint would involve 110 cubic yards of cut. The project also includes landscaping changes, bioswales and retention basin adjacent to the proposed residences.

CHANGES IN ENVIRONMENTAL CIRCUMSTANCES

There have been no substantial changes in existing environmental conditions since preparation of the Mitigated Negative Declaration SCH# 2009021005.

PROJECT IMPACTS AND MITIGATIONS

The revised project provides residential development that is compatible within the existing urbanized neighborhood. The project was redesigned to reduce the building mass. The overall building square footage has been reduced from the prior design which would result in less of an impact than the original project. Mitigation measures identified in the Final Mitigated Negative Declaration would continue to apply to the revised project as conditions of approval, such that no significant impacts would result.

CEQA FINDING

Based on the above review of the project, in accordance with State CEQA Guidelines Section 15162, no Subsequent Negative Declaration or Environmental Impact Report is required for the current project, because new information and changes in project description, circumstances, impacts and mitigations are not substantial and do not involve new significant impacts or a substantial increase in the severity of previously identified impacts.

This Addendum identifies the current project changes. With application of identified mitigation measures, all project impacts will be less than significant. This addendum, together with adopted Final Mitigated Negative SCH# 2009021005, dated April 16, 2009, constitute adequate environmental documentation in compliance with CEQA for the current project.

Prepared by: *Suzanne Riegle* Date: 8/25/2009
Suzanne Riegle, Assistant Planner

Reviewed by: *Debra Andalaro* Date: 8/25/2009
Debra Andalaro, Environmental Analyst

Attachments

Site Plan and Elevations

III. NEW ITEMS:

ACTUAL TIME: 1:08 P.M.

A. APPLICATION OF PETE EHLEN, AGENT FOR MARK EDWARDS, 124 LOS AGUAJES AVENUE, APN 033-041-007, MULTI-FAMILY RESIDENTIAL/ COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: HOTEL AND RESIDENTIAL (MST2004-00725)

The Planning Commission will review two project alternatives. Project alternative 1 consists of the demolition of an existing 884 square foot, single-family residence and 440 square foot detached garage, and the construction of three new residential condominium units in the Appealable Jurisdiction of the Coastal Zone. The proposed structure would be three stories with a maximum building height of 30' 2" consisting of 4,049 square feet of residential floor area above 1,172 square feet of garage floor area on a 6,000 square foot lot located adjacent to Mission Creek. The project includes two two-car garages and a one-car garage on the first floor, and a two-bedroom unit and two one-bedroom units. The proposed project proposes 25 cubic yards of cut and 135 cubic yards of fill outside the main building footprint. Grading under the main building footprint would involve 110 cubic yards of cut. The project also includes landscaping changes, bioswales and retention basin adjacent to the proposed residences. Project alternative 2 is a slightly larger three-story, three-unit project that has a portion of the second and third stories projecting into the Mission Creek Development Limitation area. Alternative 2 was previously reviewed by the Planning Commission on November 2, 2006.

The discretionary applications required for this project are:

1. A Coastal Development Permit (CDP2005-00021) to develop a three unit residential condominium project located in the Appealable Jurisdiction of the Coastal Zone. (SBMC §28.44.060)
2. A Modification to allow the building to encroach into the front setback (SBMC §28.21.060 and §28.92.110.A.2);
3. A Modification to allow the building to encroach into the interior setback to the east (SBMC §28.21.060 and §28.92.110.A.2);
4. A Modification to allow the building to encroach into the other interior setback to the west. (SBMC §28.21.060 and §28.92.110.A.2); and
5. A Tentative Subdivision Map for a one-lot subdivision to create three (3) residential condominium units (SBMC 27.07 and 27.13).

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

Case Planner: Suzanne Johnston, Assistant Planner
Email: SJohnston@SantaBarbaraCA.gov

Suzanne Johnston, Assistant Planner, gave the Staff presentation.

Mark Edwards, Owner, gave the applicant presentation, joined by Pete Ehlen, Architect.

Chair Larson opened the public hearing at 1:30 P.M.

The following people spoke in support of the project:

1. Rich Untermann

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

1. Maureen M. Masson, Pearl Chase Society, read and submitted written comments stating the project is inconsistent with the area being considered as the West Beach Historic District.
2. Kellam de Forest felt that the project was massive and the style was not consistent with the neighborhood.
3. Robert Maxim feels that the project is an anomaly of extreme variance to existing surroundings in the neighborhood and submitted written comments.
4. Merced Villegas lives across the street and feels the project is too high and would create more traffic on Los Aguajes Street where parking is limited.
5. Marlene Belfone agrees with Mr. Maxim and Ms. Villegas and believes the project is too large for neighborhood.

With no one else wishing to speak, the public hearing was closed at 1:45 P.M.

Mr. Ehlen clarified the Applicant's request for approval of Alternative 2, the original proposal, whereas Staff recommended Alternative 1.

Staff clarified the Planning Commission's questions about the differences in front and rear setbacks as related to flood control; stated use of the 22 unit per acre variable density as an entitlement; clarified the square footage impact with and without modifications; stated that the area of development limitation adjacent to Mission Creek is not a zoning setback, and responded that the conservation issue is met on Alternative 1, but not Alternative 2.

Scott Vincent, Assistant City Attorney, responded to the Commission's questions providing clarification about the development limitation at Mission Creek as not being a setback and explained the differences between each. Setbacks are unobstructed from the ground to the sky; development limitations have restrictions regarding structures that could potentially create flooding problems. This development limitation even provides a process whereby the building official can approve structures within the 25'; in this case the proposed poles have been approved by the building official as not presenting a flood control issue.

Staff added that Alternative I met the standard of care on the Conservation Element of the Coastal Plan; Alternative 2 does not. In response to variances in wall height and potential flood issues, Staff responded that Santa Barbara County Flood Control has reviewed the project design and does not see any flood issues.

Mr. Ehlen responded that the square footage of the building changes with the options, but the massing remains the same. Mr. Edwards added that the project has been reviewed by the building official for each of the five exceptions that would allow development within the limitation area, and has been determined to have met each exception, with regard to the legislative intent of the ordinance.

The Commissioners made the following comments:

1. Commissioner White liked the design style; although different from the neighborhood, but felt strongly that the Mission Creek setback should be 25' or greater. Concerned with the front and rear modifications requested. Commissioner Larson concurred with the need for a 25' setback.
2. Commissioner Jacobs recognized the neighborhood's potential for becoming historic district and the multiple layers of use within the neighborhood. Would like to see more neighborhood compatibility. The proposed building would be the only 3 story building, and the tallest building, in the neighborhood and would stand out in size, height, and architecture. Could not make findings for Urban Design Guidelines and Tentative Subdivision Map. Commissioners Jacobs, Lodge, and Larson felt the project is not consistent with the neighborhood, too large for the lot, and could not support the project.
3. Commissioner Thompson supported the project and felt that the unit sizes are not exceptionally large. Does not see the 25' setback as a flood issue, given that this is not a typical creek-bank top. Feels the applicant solution is reasonable and satisfies the Conservation Element requirement.
4. Commissioner Jostes felt that the design was acceptable with neighborhood, but felt that the size and bulk was maxed out and would prefer to see something smaller on the site. The project is a bit too edgy for the neighborhood and does not quite fit in.

Mr. Kato confirmed the ground floor square footage calculation of the building footprint as approximately 3,100-3,200 square feet, with the top floor at between 1,300 and 1,500 square feet, leaving it at less than 50%, meaning the special setbacks for the side and front setbacks would apply.

MOTION: Thompson/

Approve the project, making the findings for the Coastal Development Permit outlined in the Staff Report, subject to the Conditions of Approval in Exhibit A.

Motion failed for lack of a second.

MOTION: Jostes/White

Continue the project requesting that the Applicant return to the Architectural Board of Review (ABR) with a non-modification project before returning to the Planning Commission, with consideration to the comments made by the Planning Commission for a less bulky project that may be compatible with the original design proposed.

Under discussion, Commissioner Thompson pointed out that a non-modification project would give the project a bulkier appearance and is not a better project for the site. Commissioner Jostes was confident that the applicant would take the Commission's comments into consideration.

Comments:

1. Commissioner White would support a modification that would not increase the bulk of the building.
2. Commissioner Larson would like to see a member of the ABR return when the project is heard by the Planning Commission again.
3. Commissioner Jacobs felt that while the architectural features may not count into net square footage, they still show up visually as bulk. Anticipates the upper floor shrinking, not the lower floor growing. The new proposal is larger than the original; unit two is now a 1,400 square foot one-bedroom unit. The project is too big for the neighborhood, especially considering it is replacing an 800 square foot residence. If the project is to return without modifications, it will need to have a different look when it returns. International style would be fine, but needs to look smaller and in keeping with the neighborhood. Suggested looking at Urban Design Guidelines.
4. Commissioner Lodge concurs with Commissioner Jacobs. Thinks the applicant can find ways to soften the project making it more compatible with the neighborhood.

This motion carried by the following vote:

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

II. ENVIRONMENTAL HEARINGS:

ACTUAL TIME: 1:03 P.M.

APPLICATION OF PETER EHLEN, EAST BEACH VENTURES, ARCHITECT FOR MARK EDWARDS, 124 LOS AGUAJES, 033-041-007, MULTI-FAMILY RESIDENTIAL/COASTAL OVERLAY (R-4/SD-3) ZONES, GENERAL PLAN DESIGNATION: HOTEL AND RESIDENTIAL (MST2004-00725)

The project consists of the demolition of an existing 884 square foot, single-family residence and 440 square foot detached garage, and the construction of three new residential condominium units in the Appealable Jurisdiction of the Coastal Zone. The proposed structure would be three stories with a maximum building height of 30' 2", consisting of 4,049 square feet of residential floor area above 1,172 square feet of garage floor area. The project includes two two-car garages and a one-car garage on the first floor, and a 1,525 square foot two-bedroom unit (Unit 1), a 1,432 square foot one-bedroom unit (Unit 2), and a 1,092 square foot one-bedroom unit (Unit 3) on the second and third floors. The proposed project proposes 25 cubic yards of cut and 135 cubic yards of fill outside the main building footprint. Grading under the main building footprint would involve 110 cubic yards of cut. A Coast Live Oak, measuring 2 inches in diameter at breast height (dbh), is proposed to be removed. The project also includes decks for each unit on the second and third stories and bioswales and a retention basin adjacent to the proposed residences. A 25-foot native riparian landscape area, with the exception of three king palm trees and trumpet vine, is proposed between Mission Creek and any proposed structures.

The proposed development would require the following discretionary applications:

1. A Coastal Development Permit (CDP2005-00021) to develop a three unit residential condominium project located in the Appealable Jurisdiction of the Coastal Zone. (SBMC §28.44.060)
2. A Modification to allow a three-story building to encroach into the front setback (SBMC §28.21.060 and §28.92.110.A.2);
3. A Modification to allow a three-story building to encroach into the interior setback to the east (SBMC §28.21.060 and §28.92.110.A.2);
4. A Modification to allow a three-story building to encroach into the other interior setback to the west. (SBMC §28.21.060 and §28.92.110.A.2);
5. A Tentative Subdivision Map for a one-lot subdivision to create three (3) residential condominium units (SBMC 27.07 and 27.13)

Case Planner: Suzanne Johnston, Assistant Planner
Email: sjohnston@santabarbaraca.gov

Suzanne Johnston, Assistant Planner, gave the Staff presentation joined by Melissa Hetrick, Project Planner.

Mark Edwards, Applicant, gave the applicant presentation joined by Bill Johnson, Technical Support; and Peter Ehlen, Project Architect. Mr. Edward's presentation included clarification of the project description.

Chair Larson opened the public hearing at 1:28 P.M. and, with no one wishing to speak, closed the hearing. Chair Larson also acknowledged a public comment letter of opposition received from Paula Westbury, Santa Barbara. Ms. Johnston added the prior letters has also been received from The Pearl Chase Society; Kellam de Forest; and Robert Maxim with concerns regarding neighborhood compatibility and demolition of the historic structure.

Staff answered the Planning Commission's questions about the Mission Creek Flood Control Project having no activity implications for the subject property; the property is adjacent to the boundaries of the proposed historic West Beach Neighborhood District for which the designation process is currently on hold; the rear setback requirement versus the development limitation within 25 feet from the top of Mission Creek's bank; city policies regarding non-native vegetation versus the city's native landscaping policy adjacent to creeks as a recommendation; reviewed CEQA requirements for historic structure of merit and archival mitigation; clarified the discrepancies between city ordinance, policy and CEQA thresholds for exterior noise thresholds; and reviewed the 15' front setback requirement due to the third floor square footage exceeding 50% of the first floors net floor area.

Commissioner Jostes requested Staff provide a review of all City noise thresholds to be given at a future lunch meeting.

Mr. Ehlen responded to the Commission's question regarding consideration given to recycling the existing home.

The Commissioners made the following comments:

1. Commissioner Jostes acknowledged the applicant's thorough response to the Mitigated Negative Declaration (MND).
2. Concern was expressed that there is a potential inconsistency with the Noise Element policies by placing outdoor living space in areas in excess of 65 dBA.
3. Within either the MND, or in the Staff Report, the physical site constraints relative to the property size should be discussed in order to make the findings for the modifications. Under land use compatibility discussion, would like to see documentation, such as a table, that shows all similar encroachments in the neighborhood with further clarification whether the structure(s) is (are) non-conforming or a modification was granted for comparative basis.
4. From visiting the project site, a Commissioner did not see that the subject property could be a part of the historic neighborhood. However, through the General Plan update (PlanSB), the neighborhood has a potential to become a historic district in preserving its 1-2 story appearance. The archival preservation should further provide information on how this site related to the potential historic neighborhood.

5. Would like clarification as to why the cultural resource mitigation did not include a requirement to incorporate architectural elements of the demolished building into the proposed structure.
6. Since this site is not a suburban creek area, does not see need to constrain the landscape architect to adhere to native landscaping.

Staff concluded by stating that the comment period began on February 2, 2009 and ends on March 3, 2009. Comments could be sent in writing to the City of Santa Barbara, Planning Division, Attention: Susan Johnston, Assistant Planner, P.O. Box 1990, Santa Barbara, CA 93102-1990 or emailed to SJohnston@SantaBarbaraCA.gov.

III. ADMINISTRATIVE AGENDA

ACTUAL TIME: 1:54 P.M.

A. Committee and Liaison Reports.

None were given.

B. Review of the decisions of the Staff Hearing Officer in accordance with SBMC §28.92.026.

None were requested.

Commissioner Larson reported on the Staff Hearing Officer's meeting held on February 11, 2009 and three project's modifications that were approved.

C. Action on the review and consideration of the Draft Minutes of January 8, 2009, continued from the meeting of February 12, 2009.

MOTION: White/Bartlett

Approve the minutes of January 8, 2009 as amended.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: As noted. Absent: 0

Commissioner Jostes abstained from Item IV.B of the Minutes of January 8, 2009.

Action on the review and consideration of the Draft Minutes of January 22, 2009.

MOTION: White/Lodge

Approve the minutes of January 22, 2009.

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

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

Chair Jostes announced the ten calendar day appeal period.

Chair Jostes announced a break at 4:07 P.M. The meeting reconvened at 4:27 P.M.

III. NEW ITEMS:

A. THE FOLLOWING ITEM HAS BEEN CONTINUED TO THE NOVEMBER 9, 2006 MEETING.

APPLICATION OF KEVIN DUMAIN OF DESIGNARC, ARCHITECT FOR MARCELA CACERES, 1617 & 1621 ANACAPA STREET, APN 027-182-008 & -009, R-3/R-O, LIMITED MULTIPLE FAMILY RESIDENCE AND RESTRICTED OFFICE ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL, TWELVE UNITS/ACRE (MST2005-00409) CONTINUED TO NOVEMBER 9, 2006

The project consists of a proposal to merge two existing lots and expand the existing 1,334 square foot Bright Start day care center currently located at 1617 Anacapa St. Enrollment would increase from 27 to 60 children. The existing 1,245 square foot apartment located on the first floor of 1621 Anacapa Street would be remodeled to accommodate the expanded day care center and the two second floor apartments would remain. The two required residential parking spaces would be provided onsite. Seven of the eleven parking spaces required for the day care center would be provided through an off-site parking agreement with First Church of Christ, Scientist. Four on street parking spaces along the frontage of the site would be green striped to provide for the loading and unloading of passengers. A new six foot high acoustical sound fence is proposed along the perimeter of the site.

The discretionary applications required for this project are:

4. Modification to allow encroachments into the required setbacks (SBMC§28.21.085);
5. Modification to allow a parking space to encroach into the required front yard setback (SBMC§28.90.001.9);
6. Modification to allow less than the required number of commercial parking spaces (SBMC§28.90.100.J.18.a);
7. Conditional Use Permit to allow the expansion of the existing day care center (SBMC§28.94.030.G); and
8. Development Plan Approval for 1,245 square feet (net) of new nonresidential square footage (SBMC§28.87.300).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15303 (conversion of small structures).

Case Planner: Kathleen Kennedy, Associate Planner
Email: kkennedy@SantaBarbaraCA.gov

ACTUAL TIME: 4:27 P.M.

B. APPLICATION OF MARK EDWARDS, PROPERTY OWNER, 124 LOS AGUAJES AVENUE, APN 041-343-010, R-4 HOTEL-MOTEL MULTIPLE RESIDENCE AND SD-3 COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: HOTEL AND RESIDENTIAL (MST2004-00725)

The project consists of the demolition of an existing single-family residence and detached garage and the construction of three new condominium units in the Appealable Jurisdiction of the Coastal Zone. The proposed structure would be three-stories with two two-car garages and a one-car garage on the first floor, and a 1,543 square foot two-bedroom unit, a 1,295 square foot one-bedroom unit, and 1,086 square foot one-bedroom unit on the second and third floors.

The discretionary applications required for this project are:

1. A Modification to allow the building to encroach into the front yard setback (SBMC §28.21.060 and §28.92.110.2);
2. A Modification to allow the building to encroach into the interior yard setback (SBMC §28.21.060 and §28.92.110.2);
3. A Modification to allow the building to encroach into the other interior yard setback (SBMC §28.21.060 and §28.92.110.2);
4. A Coastal Development Permit (CDP2005-00021) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.45.009); and
5. A Tentative Subdivision Map for a one-lot subdivision to create three (3) residential condominium units (SBMC 27.07 and 27.13).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303, New Construction of Small Structures.

Case Planner: Chelsey Swanson, Assistant Planner
Email: cswanson@SantaBarbaraCA.gov

Chelsey Swanson, Assistant Planner, gave the staff presentation, and mentioned that she received two letters in support of the project from Thomaso Falzone, and Rich Untermann, and one letter from Marylou and Susan Sherwin who expressed some concerns regarding the interior yard setback encroachment effects on their property.

Mr. Peter Ehlen gave a presentation with additional information for the Commission on the proposed project.

Mr. Lawrence Hunt, Biological Consultant, commented on the observations and conclusions regarding any project-related biological impacts.

Commissioners' comments and questions:

1. Requested clarification on Page 5 of the Staff Report regarding the setback modification, and that the third-floor requirement measured as half or less of the total square area of the first-floor requirements. Asked how the third floor setback is established.
2. Asked about the height of the highest structure.

Ms. Hubbell responded that the ordinance stipulates comparison to the first floor instead of the third floor.

Ms. Swanson clarified that the third floor setbacks depend on the floor area of the third floor in comparison to the first floor; however, the Zoning Ordinance will likely be amended to use the building footprint instead of the first floor area. Ms. Hubbell clarified that the project has requested modifications for the encroachments.

Mr. Ehlen responded that the proposed building will be 31.5 feet at its highest point.

Chair Jostes opened the public hearing at 5:03 P.M.

Mr. Robert Maxim, 123 W. Yanonali, expressed concern regarding the project's size and bulk, the third-story height visibility, the type of materials used on the project, the setback encroachment on all four sides of the property, the noise levels, and the compatibility of the structure to the neighborhood.

Mr. Terry Nunn, 205 Los Aguajes, commented on the incompatibility of the proposed design with regard to the setback and neighborhood, and that the project would set a precedent to allow a boxy building on a street with unique small Spanish style homes.

Mr. Merced Villegas, 119 Los Aguajes #B, commented on the overused and impacted parking situation of the neighborhood, and that the building would not belong in the neighborhood.

Ms. Marlene Bulfone, 119 Los Aguajes, commented on the size of the proposed structure as being too big, tall, and not compatible with the neighborhood.

The public hearing was closed at 5:13 P.M.

Commissioners' comments and questions:

1. Stated support for something similar to what exists and has difficulty with the setbacks as presented, and had difficulty supporting the modifications and creek setback encroachment.
2. Approves of the contemporary design and style of the architecture working well with the beach area, but the noise and creek setback requirement present problems. The creek setback is a burden to the property; however, the Commission has not previously allowed buildings to encroach into the creek setback. It may be possible to relax setback requirements on other points of the project as long as the creek

- setback is protected. The height of the project is too high and pushing the envelope at 31 feet and the garage should come down two feet with a one-foot reduction in ceiling height.
3. Approves of the style of architecture and didn't have a problem with the encroachment into the creek setback, but couldn't support the front yard modification as proposed, and had noise, health, and safety concerns.
 4. Requested staff comments on the noise study.
 5. Supports the 60 decibel noise level being honored, found difficulty with the encroachment into creek setback, and found difficulty in seeing a positive pedestrian experience with the size and scale.
 6. Found the design acceptable as an alternative to a Spanish design, but thought the building too inflated in bulk and scale, that the street façade presents a back-side and blank appearance, and the rear 25 foot creek setback encroachment is not supportable and would support a continuance.
 7. Stated the number of requested modifications is unsupportable; the project is incompatible with the General Plan and the LCP policies; cannot make the tentative map findings; the bulk and mass are too large, and would prefer a possible softening of the project to a smaller design with two units instead of three units, and wants to see a visual buffer and visual connections to other parcels along the creek.
 8. Asked for feedback from the applicant on a decision by the Commission.
 9. Asked for clarification from staff whether the applicant complied with the noise ordinance requirement or not.
 10. Commented that the contention seems to be the application of inconsistent decibel requirements in required and not required outdoor areas.
 11. Found the noise requirement acceptable as presented, suggested green materials be used, and asks for more compatible street façade design for the neighborhood.
 12. Agreed that required and not required outdoor areas should comply with the same noise standards.
 13. Would support the design, more concerned with setback, and should adhere to setback as much as possible adjacent to the creek, and concerned more with modification issue.
 14. Asked about elements of the project that the ABR still wanted to see addressed.

Ms. Hubbell explained the noise decibel requirement issue.

Mr. Ehlen commented on the constraints of the site and recognized that the request for the creek setback is visually based and not biologically based; he would also comply with requirement to adjustment of the height of the structure down to 8.6 foot ceilings; and he needs clear direction to comply with the noise ordinance and including input from the Commission on possibility of decks; and the rear yard setback can be adjusted.

Ms. Hubbell responded that the required outdoor living areas meet the 60 decibels with the incorporation of glass walls, but that the additional outdoor areas are easily utilized yet problematic as they exceed 70 decibels; therefore, it is difficult to make General Plan consistency findings.

Mr. Vincent commented that the Noise Element language has set standards for unacceptable levels and clarified that if the project does not have acceptable levels, the Commission reviews the entire project to determine if it is consistent with Noise Element requirements.

Ms. Hubbell requested direction from the Commission on the creek setback issue.

MOTION: Mahan/White

Continued indefinitely for restudy of design, to respect the 25 foot creek setback; reduce ceilings heights by 1 foot; lower the building 3 feet as discussed; reconsider other setback requests; and the proposed project shall soften the street façade and return with green building techniques, and meet the General Plan noise requirements.

This motion carried by the following vote:

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

Chair Jostes announced the ten calendar day appeal period.

IV. ADMINISTRATIVE AGENDA

A. Committee and Liaison Reports.

Commissioner Mahan reported that the Airport Terminal Design Subcommittee reviewed a proposal to move the historic existing terminal building to a more compatible location, and design a new Spanish approach with more discussion pending on the rotunda. The pavilion was introduced, and there will be discussion on the greening of the building with glazing of windows, etc., change of orientation of the terminal building, and discussion of the constrained building in the TSA safety zone, parking issues, the roundabout entrance, and other limitations that the project faces.

B. Review of the decisions of the Staff Hearing Officer in accordance with SBMC §28.92.080.

Commissioner Thompson questioned staff regarding the City's policy and requirements on project records retention and destruction. Ms. Hubbell stated that once the building and project has been constructed through design review, environmental reviews, etc., records can be destroyed unless otherwise requested, and unfortunately the one mentioned record retention request to keep the project records was somehow missed.

C. Action on the review and consideration of the following Draft Minutes and Resolutions:

1. Draft Minutes of October 5, 2006
2. Resolution 040-06
Airline Terminal Improvement Project – Recommendation to City Council.

CONCEPT REVIEW - CONTINUED ITEM**3. 124 LOS AGUAJES AVE****R-4/SD-3 Zone**

Assessor's Parcel Number: 033-041-007
 Application Number: MST2004-00725
 Owner: Mark Edwards
 Architect: Peter Ehlen

(Proposal to demolish an existing 887 square foot single-family residence and 400 square foot garage and construct three new residential condominiums consisting of two one-bedroom units (1,264 and 1,086 s.f.) and one two-bedroom unit (1,477 s.f.). The project will result in a three-story 3,827 square foot structure with 1,180 square feet in garages on a 6,000 square foot lot located in the Non-Appealable Jurisdiction of the Coastal Zone. A design waiver is requested to allow a garage to be located within three feet of the interior property line. The project requires Planning Commission review for a Tentative Subdivision Map, Coastal Development Permit, and requested zoning modifications to allow encroachments into the required interior and front setbacks.)

(Sixth Concept Review. Comments only; Project requires Environmental Assessment, Compatibility Analysis, and Planning Commission review for a Tentative Subdivision Map, a Coastal Development Permit, and requested zoning modifications.)

(4:42)

Present: Peter Ehlen, Architect; Mark Edwards, Owner; David Black, Landscape Architect; and Suzanne Riegle, Assistant Planner.

Public comment opened at 4:55 p.m.

Kellam de Forest, opposition (submitted written remarks): expressed concern regarding whether the project upholds City standards, and is in keeping with the preservation efforts for the City.

Robert Maxim, opposition: expressed concern regarding the size, bulk, and scale and the requested modification.

An opposition letter from Paula Westbury was acknowledged by the Board.

Public comment closed at 5:00 p.m.

Staff requested a Compatibility Analysis be made on the project, and further clarification on the modification comments be made by the Board.

Motion: Continued indefinitely to the Planning Commission with comments:

- 1) A majority of the Board felt that the applicant has sufficiently addressed the previous concerns regarding refinement of the front elevation; the mass, bulk and scale; the reduction of the modifications; and the refinement of the architectural style.
- 2) At least one Board member felt that further refinements should be made to create a more pedestrian-friendly residential experience and additional refinements to the hardscape and landscape.
- 3) A majority of the Board felt that the requested modifications do not pose a negative aesthetic impact and do not adversely add to the proposed project's mass, bulk, and scale or neighborhood compatibility.

Action: Aurell/Rivera, 5/2/0. Motion carried. (Mosel/Gross opposed, Manson-Hing absent).

EXHIBIT E

E. Subcommittee Reports.

Member Rivera reported on the Upper State Street Study will return for review before the ABR in August 2009.

CONCEPT REVIEW - CONTINUED ITEM**1. 124 LOS AGUAJES AVE****R-4/SD-3 Zone**

Assessor's Parcel Number: 033-041-007
Application Number: MST2004-00725
Owner: Mark Edwards
Architect: Peter Ehlen
Agent: Fermina Murray
Agent: Compass Rose

(Proposal to demolish an existing 887 square foot single-family residence and a 400 square foot garage and to construct three new condominiums consisting of a 1,454 square foot two-bedroom residential unit, a 1,310 square foot one-bedroom unit and a 1,087 square foot one-bedroom residential unit. The project will result in a three-story 3,851 square foot structure with 1,120 square feet in garages on a 6,000 square foot lot located in the Non Appealable Jurisdiction of the Coastal Zone. A design waiver is requested to allow a garage to be located within three feet of the interior property line. Modifications are requested to allow encroachments into the required interior and front setbacks.)

(Fifth Concept Review. Comments only; Project requires Environmental Assessment, Compatibility Analysis, and Planning Commission review for a Tentative Subdivision Map, a Coastal Development Permit, and zoning modifications.)

(3:14)

Present: Peter Ehlen, Architect; David Black, Landscape Architect; Mark Edwards, Owner; and Suzanne Riegle, Assistant Planner.

Public comment opened at 3:26 p.m.

Robert Maxim, opposition: expressed concerns regarding the size, bulk, and scale.

Kellam de Forest, opposition: expressed concerns regarding compatibility and size, bulk, and scale.

Public comment closed at 3:31 p.m.

Straw vote: How many of the Board feel that the project is ready to continue to the Planning Commission to resolve the requested modifications? 1/6 (failed).

Motion: Continued indefinitely to Full Board with comments:

- 1) The Board does not feel that the project has progressed enough for the project to move forward to the Planning Commission as some elements still needs to be resolved.
- 2) Refine the front elevation, the stairs at the first and second floor, and the glass pop-out elements at the third floor. The board felt that the floor area could be refined and reduced to be more efficient and therefore not need the second and third floor modifications.
- 3) Refine the stairway on the roof.
- 4) Minimize the trash bins.
- 5) Carry forward previous comments from the June 1, 2009 ABR motion: #3) The project needs further refinement of the architectural style, including reducing the amount of plaster on the front elevation, which is contributing to the front mass, bulk and scale; and #4) Create a more pedestrian-friendly street frontage.

Action: Zink/Rivera, 4/2/1. Motion carried. (Mosel/Manson-Hing opposed, Aurell abstained, Sherry absent).

CONCEPT REVIEW - CONTINUED ITEM**2. 421 E COTA ST****C-M Zone**

Assessor's Parcel Number: 031-160-010

Application Number: MST2009-00250

Owner: Transition House

Architect: Mark Wienke

(Proposal to demolish the existing 7,566 square foot two-story mixed-use building and construct a new 9,142 square foot two-story mixed-use building, comprising of 8 affordable residential apartments (six, two-bedroom and two, three-bedroom units, totaling 7,208 square feet) and a 1,934 square foot day care center. The existing 14,080 square foot, two-story mixed use building, comprised of 8 residential apartments (6,175 square feet) and 7,905 commercial square feet, will remain. A total of 715 cubic yards of grading is proposed. The parcel will result in two two-story mixed-use buildings, with a combined total of 16 affordable apartments (13,383 residential square feet) and 9,839 commercial square feet, on a 42,221 square foot lot. A total of 37 uncovered parking spaces are proposed. The project requires Staff Hearing Officer review for a requested zoning modification for a reduction of the required parking.)

(Second Concept Review. Comments only; project requires Environmental Assessment, Compatibility Analysis and Staff Hearing Officer review for a requested modification.)

(4:21)

Present: Mark Wienke, Architect; Chris Gilliland, Landscape Architect; and Dan Gullett, Associate Planner.

Public comment opened at 4:43 p.m. As no one wished to speak, public comment was closed.

DISCUSSION ITEM:**(3:20)**

(20 MIN)

Proposed City Charter Amendment to reduce ABR membership from 9 to 7 members.

City Staff Presenter: Jaime Limón, Senior Planner.

Time: 3:07 p.m.

Staff comments: This item was continued two weeks for the purposes of obtaining additional comments from absent Board members. Jaime Limón, Senior Planner, reviewed the current Charter Amendment proposal which involves the same City Charter composition requirements but a reduction from the current 9 member board to a 7 member Board. Mr. Limon explained that the Council has directed staff to focus a city wide 7 member board and commission memberships. It is believed that a 7 member board would have some benefits in increasing board efficiency.

Board comments:

1. Some members believe a reduced ABR size could be considered "dilution" of the strength of a 9 member Board.
2. It was strongly indicated that the composition of the board should maintain the requirement for 2 licensed landscape architects and the member-at-large position.
3. The composition of the Board should include 3 licensed architects instead of the proposed two licensed architects.
4. It was stated that the proposed projects are not any less important than those reviewed by the Single Family Design Board (SFDB), but rather the projects reviewed by the ABR are more complex.
5. One Board member mentioned the advent of "paperless" electronically posted documents and relevant materials have resulted in some members being less prepared for meetings when members do not have the time to print all the documents out for notations, and regretted the loss of past ABR packets hardcopies which were mailed to each Board member in the past.
6. One Board member stated that a reduced ABR membership would cause limitations in formations of subcommittees.

CONCEPT REVIEW - CONTINUED ITEM**1. 124 LOS AGUAJES AVE****R-4/SD-3 Zone**

Assessor's Parcel Number: 033-041-007

Application Number: MST2004-00725

Owner: Mark Edwards

Agent: Fermina Murray

Agent: Compass Rose

Architect: Peter Ehlen

(Proposal to demolish an existing 887 square foot single-family residence and a 400 square foot garage and to construct three new condominiums consisting of a 1,431 square foot two-bedroom residential unit, a 1,374 square foot one-bedroom unit and a 1,020 square foot one-bedroom residential unit. The project will result in a three-story 3,825 square foot structure with 1,190 square feet in garages on a 6,000 square foot lot located in the Non Appealable Jurisdiction of the Coastal Zone. A design waiver is requested to allow a garage to be located within three feet of the interior property line. Modifications are requested to allow encroachments into the required interior and front setbacks.)

(Fourth Concept Review. Comments only; Project requires Environmental Assessment, Compatibility Analysis, and Planning Commission review for a Tentative Subdivision Map, a Coastal Development Permit, and zoning modifications.)

(3:34)

Present: Peter Ehlen, Architect; Mark Edwards, Owner; and Suzanne Johnston, Planning Technician II.

Public comment opened at 4:07 p.m.

Robert Maxim, opposition: stated concerns with size, bulk, and scale; and request refinement and reduction of the front façade.

Kellam de Forest, opposition: stated the international style of the project is inappropriate for the neighborhood and not compatible with Spanish revival style of adjacent buildings.

An opposition letter from Paula Westbury was acknowledged by the Board.

Public comment closed at 4:12 p.m.

Straw vote: How many of the Board support the proposed modernist architecture style? 7/1 (passed, Mosel opposed).

Straw vote: How many of the Board feel that under the current proposal, they would support a modification at the one-story stairway on the east setback? 5/3 (passed, Mosel/Manson-Hing/Gross opposed).

Motion: Continued indefinitely to Full Board with comments:

ARCHITECTURE:

- 1) A majority of the Board supports the parking design waiver into the west setback (to allow a garage to be located within three feet of the interior property line).
- 2) Restudy the rainwater harvesting tank. The general consensus of the Board is that it should be relocated outside the setback or below ground.
- 3) The project needs further refinement of the architectural style, including reducing the amount of plaster on the front elevation, which is contributing to the front mass, bulk and scale.
- 4) Create a more pedestrian-friendly street frontage.
- 5) A majority of the Board feel that the only supportable modification would be a portion of the one-story stairway within the east setback.
- 6) Eliminate the elevator shaft projection as the fourth-story element and look for an alternative for roof access.

Action: Sherry/Gross, 7/1/0. Motion carried. (Mosel opposed, Blakeley absent).