City of Santa Barbara
California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 008-11
401 OLD COAST HIGHWAY
CONDITIONAL USE PERMIT
APRIL 7, 2011

APPLICATION OF SUZANNE ELLEDGE PLANNING AND PERMITTING SERVICES, ARCHITECT, FOR DAVID AND ANGIE MUÑOZ, 401 OLD COAST HIGHWAY, APN 015-291-011, C-P/R-2 RESTRICTED COMMERCIAL/TWO-FAMILY ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL12 UNITS/ACRE (MST2010-00267)

The project consists of a proposal for a Conditional Use Permit (CUP) to allow an existing automobile repair business to operate in the C-P/R-2 zone and to permit the as-built alterations consisting of three auto lifts, 561 square foot interior mezzanine, roll-up door, to provide ADA accessibility, improve fire-rated construction, and modify site landscaping. The proposal addresses unpermitted use and other violations in enforcement case ENF2009-01437. The 561 square feet of non-residential square footage would be allocated from the minor addition category under SBMC§28.87.300.

The discretionary applications required for this project are:

1. A Modification to provide less than the 100 linear feet of frontage required (SBMC §28.92.110.A.2 and 28.94.030.V.3); and
2. A Conditional Use Permit to legalize an existing, unpermitted automotive service station use in the C-P zone. (SBMC §28.94.030.V)

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301 (Existing Facilities).

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

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

1. Staff Report with Attachments, March 30, 2011.
2. Site Plans
3. Correspondence received in support of the project:
   a. William Pritchett, Santa Barbara, CA
   b. Eustacchio Guadagnini, Santa Barbara, CA
   c. Sivio Guadagnini, Santa Barbara, CA
   d. Barbara Chehami, Santa Barbara, CA
   e. John C. Coudray, Santa Barbara, CA

4. Correspondence received in opposition to the project:

   a. Paula Westbury, Santa Barbara, CA

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission:

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

A. **Street Frontage Modification**

The Modification of street frontage standard specified in SBMC§28.94.030.V is consistent with the purposes and intent of the zoning ordinance, and is necessary to prevent unreasonable hardship. The project has adapted the use of the existing structure and improvements to meet the needs of the auto service station, which has been operating on the site for approximately 30 years, as described in Section VII.C of this staff report.

B. **Conditional Use Permit Findings (SBMC § 28.94.30)**

The Planning Commission approves a Conditional Use Permit to allow an automobile repair business at 401 Old Coast Highway as provided in Section 28.94.030 making the following findings:

1. The project is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan because it provides for a desirable automobile repair amenity that has existed in this location since 1983 with only one complaint, in a neighborhood shopping center area that provides an array of small scale businesses for the community and is consistent with the use outlined in the land use element of the General Plan, as described in Section VII.E of the staff report.

2. Such uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved. The proposed use has been operating for over 31 years in the current location with only one recorded complaint about the legality of the use and not the impact on adjacent neighbors.

3. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development, that significant detrimental impact on surrounding properties is avoided, because the development observes the required setbacks with the exception of the legally non-conforming trash enclosure and the use has not generated nuisance or operation complaints in the 30 years that it has existed at the location. The proposed use is in keeping with the pattern of development and the desire for neighborhood shopping areas described in section VII.E of the staff report.

4. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time because the project provides sufficient access to the property for ingress and egress and the on-site parking meets the required parking demand for the use, as discussed in section VII.B. of the staff report.

5. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area as determined by the ABR, and discussed in Section VII.B.-C. above.

6. The project meets the required conditions, standards and limitations of the CUP, as outlined in SBMC § 28.94.030.V., and as discussed in section VII.D of the staff report..

C. **Conditional Use Permit Findings Specific to Automobile service station standards and limitations SBMC§28.94.030(V):**

The Planning Commission finds that the automobile service station meets the conditions, standards, and limitations as specified in SBMC§28.94.030.V. as discussed in Section VII.D of the staff report.

II. Said approval is subject to the following conditions:

A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

1. Obtain all required design review approvals.
2. Pay Land Development Team Recovery Fee.
3. Make application and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform rough grading. Comply with condition E "Construction Implementation Requirements."
4. Record any required documents (see Recorded Conditions Agreement section).
   a. Make application and obtain a Building Permit (BLD) for construction of approved development.
   b. Make application and obtain a Public Works Permit (PBW) for all required public improvements.

Details on implementation of these steps are provided throughout the conditions of approval.

B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, 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 / Staff Hearing Officer on **April 7, 2011** is limited to The development of the Real Property approved by the Planning Commission on April 7, 2011 is limited to a conditional use permit for an automobile service station and the improvements shown on the plans for the Conditional Use Permit signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara. The project consists of a proposal for a Conditional Use Permit under SBMC§28.94.030(V) to allow an existing automobile service station (defined as a retail business establishment supplying oil and services for motor vehicles which also sells other products,

merchandise or services that are related to the operation of motor vehicles.) in the C-P/R-2 zone. The project also includes permitting "as-built" alterations to the 3,148 square foot non-residential building that include a 561 square foot mezzanine addition, installation of three "as-built" hydraulic lifts, a separation wall to create two retail spaces, exterior door and window change, exterior lighting, as built changes to grade of parking lot, and landscaping alterations. The 561 square feet of non-residential square footage would be allocated from the minor addition category under SBMC§28.87.300.

2. **Use Limitations.** Due to potential parking impacts, uses other than as approved under this Conditional Use Permit are not permitted without further environmental and/or Planning Commission review and approval. Prior to initiating a change of use, the Owner shall submit a letter to the Community Development Director detailing the proposal, and the Director shall determine the appropriate review procedure and notify the Owner.

3. **Uninterrupted Water Flow.** The Owner shall provide for the continuation of any historic uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.

4. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.

5. **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, including any tree protection measures. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.

6. **Common Area Maintenance.** All common/shared areas/facilities/improvements shall be kept open, available and maintained in the manner in which it was designed and permitted.

7. **Areas Available for Parking.** All parking areas and access thereto shall be kept open and available in the manner in which it was designed and permitted.

C. **Design Review.** The project, including public improvements, is subject to the review and approval of the Architectural Board of Review (ABR). The ABR shall not grant project design approval until the following Planning Commission land use conditions have been satisfied

1. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.

   Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.

D. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.

1. **Public Works Department.**

   a. **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 prepares said agreement for the Owner's signature.

2. **Community Development Department.**

   a. **Recordation of Agreements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in condition B "Recorded Conditions Agreement" to the Community Development Department prior to issuance of any building permits.

   b. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the appropriate design review board and as outlined in Section C "Design Review," and all elements/specifications shall be implemented on-site.

   c. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are 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.

E. **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, including demolition and grading.

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) name, contractor(s) telephone number(s), 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.

2. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Transportation Manager with a Public Works permit.

3. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: 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 such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

   If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

   If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

   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 any certificate of occupancy for the project.

F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction 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.

G. **General Conditions.**

1. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.

2. **Approval Limitations.**

   a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.

   b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission.

   c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

3. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application.

4. **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 being notified of a lawsuit regarding 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 APPROVAL TIME LIMITS:

The Planning Commission / Staff Hearing Officer action approving the Conditional Use Permit, Modification, Performance Standard Permit, or Variance shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

NOTICE OF TIME LIMITS FOR PROJECTS WITH MULTIPLE APPROVALS (S.B.M.C. § 28.87.370):

If multiple discretionary applications are approved for the same project, the expiration date of all discretionary approvals shall correspond with the longest expiration date specified by any of the land use discretionary applications, unless such extension would conflict with state or federal law. The expiration date of all approvals shall be measured from date of the final action of the City on the longest discretionary land use approval related to the application, unless otherwise specified by state or federal law.

This motion was passed and adopted on the 7th day of April, 2011 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 0 ABSTAIN: 0 ABSENT: 2 (Larson, Schwartz)

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

Julie Rodriguez

Julie Rodriguez, Planning Commission Secretary

April 21, 2011

Date

PLEASE BE ADVISED:

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