



# City of Santa Barbara Planning Division

## PLANNING COMMISSION MINUTES

June 4, 2015

### CALL TO ORDER:

Chair Thompson called the meeting to order at 1:00 P.M.

### **I. ROLL CALL**

Chair Addison Thompson, Vice-Chair John P. Campanella, Commissioners Jay D. Higgins, Mike Jordan, Sheila Lodge, June Pujo, and Deborah L. Schwartz.

### **STAFF PRESENT:**

Renee Brooke, City Planner  
Beatriz Gularte, Senior Planner  
Susan Reardon, Senior Planner  
N. Scott Vincent, Assistant City Attorney  
Tony Boughman, Assistant Planner  
Julie Rodriguez, Planning Commission Secretary

### **II. PRELIMINARY MATTERS:**

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

None.

B. Announcements and appeals.

None.

C. Review, consideration and action on the following draft Planning Commission Minutes and Resolutions:

1. May 21, 2015

#### **MOTION: Jordon/Schwartz**

Approve the minutes as corrected.

This motion carried by the following vote:

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

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

Chair Thompson opened the public hearing at 1:04 P.M.

Kate Schwab, Downtown Santa Barbara Organization distributed First Thursday; brochures and encouraged the public to attend this evenings activities.

With no one else wishing to speak, Chair Thompson closed the hearing.

### III. DISCUSSION ITEM

#### ACTUAL TIME: 1:06 P.M.

#### DISCUSSION OF A PROPOSED PROCESS TO ALLOW MINOR ADMINISTRATIVE ZONING EXCEPTIONS

The purpose of this meeting is for the Planning Commission to discuss a proposal that would allow the Community Development Director to grant Minor Zoning Exceptions (MZE) in the case of a discrepancy or error in Zoning Information Reports (ZIRs). This new Minor Zoning Exception process was one of the recommendations of the ZIR Working Group for ZIR process improvements. The implementation of this proposed process would require an amendment to the Santa Barbara Municipal Code.

Contact: Susan Reardon, Senior Planner  
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Phone: (805) 564-5470, ext. 4555

Susan Reardon, Senior Planner, gave the Staff presentation.

Chair Thompson opened the public hearing at 1:58 P.M.

The following people commented on the project:

1. Adrienne Schuele, Realtor, has been a part of the ZIR working group and supports the Grand Jury Report and recommends that the ZIR reports be voluntary as the intent was in 1974. Having Staff approve Minor Exemptions would be helpful, however 75-80% of alleged violations are building and safety issues. It would be good if the new ordinance also encompasses something that the building department can do. The date of January 1, 1980 is used because that is when zoning reports began more accurate, but she thinks that it should be January 1, 1996. There is no appeal process proposed for the Minor Zoning Exceptions and a clear appeal process should be included.
2. Reyne Stapelmann, SBAOR, stated that we are treating the symptoms rather than the cause and gave an example of a ZIR done in 2012 and again recently by the same inspector that differed. The burden of proof still remains on homeowner and should be on the City. 75% of ZIR findings are building violations, not zoning violations. She echoed the request that ZIR reports be voluntary and not mandatory,
3. Bob Hart, SBAOR, stated that the focus of the reports should be on more accuracy, not correction of reports. Building issues need to be addressed, not just zoning

issues. A formal appeal process for the Minor Zoning Exceptions needs to be included. He said to look at root causes, not just symptoms and agrees with the Grand Jury Report that reports should be voluntary and not mandatory.

With no one else wishing to speak, the public hearing was closed at 2:07 P.M.

Commissioner's comments to City Ordinance Committee:

Commissioner Pujo:

- Commissioner Pujo is not necessarily supportive of an appeal process. We need to keep the administrative cost down and the timeframe short.
- Commissioner Pujo stated that the language needs to be made very clear that these are errors, discrepancies, omissions, and need language to what a ZIR might have meant, and not make it as narrow as possible, but broader on what circumstances comply with an administrative approval.
- She would like to see item No.1 looked at, item-by-item, for any possibility that could be moved down to the broader list that does not require establishing legal non-conforming status of the existing structure. Item No. 1 as written means that you have demonstrated that the structure or the use was conforming at the time that it was built and was not in violation at the time it was built. That is a higher test than saying there was a discrepancy in an older Zoning Information Report, but before a certain date.
- She stated that it was helpful to get clarification that the process would be open to anyone who had a prior zoning information report with discrepancies or omissions and could be applied for at any point prior to the date the ZIR was produced. This needs to be made clear in helping understand who can apply and when.
- This is one piece of the improvements recommended by the ZIR Working Group.

Commissioner Schwartz

- Commissioner Schwartz is interested in hearing from the Council on their thoughts of the Grand Jury report and comments they receive from the Board of Realtors. If ZIR's continue in some form, she would like the working group be reconvened to look over details rather than spending the Planning Commission and public's time to delve down into specifics as is being done today.
- Commissioner Schwartz still has some concerns on some of the language on Page 1 that is still too narrow, versus broad. The list should be comprehensive and as complete as possible. She referenced page 3, under Decisions and the notion of an appeal process, stating she is supportive of an appeal process. The public should always have the opportunity of an appeal process with their government.
- Commissioner Schwartz does not think she is a sufficient expert on determining whether 1980 or 1996 is the better period of accuracy and suggested Staff work with the Realtors to determine what date is a reasonable compromise.

Commissioner Jordan

- Commissioner Jordan gets the reasoning, but has difficulty with the date. Would prefer that this addresses the process going forward rather than using an arbitrary date that stacks in the city's favor. He prefers that we use a date starting from today and going forward, that if anything was on the ground before that date and qualified for something that is categorized as minor, and meets the list of findings, and is conditioned to give the Community Development Director latitude on adjusting to more neighborhood friendly, then that should be our focus, rather than when is the line in the sand going backward.
- Commissioner Jordan is in support of mandatory ZIR's and the protection it gives neighborhoods. The city has a responsibility to play fairly and accurately. This does not yet take responsibility of anything pre-1980 that is the city's mistake. The city or realtor industry need education or a structured handout for potential buyers on the ZIR process as it exists today.
- He believes that an appeal process is counterintuitive to minor and administrative. He supports only if an appeal process took place in-house so that the administrative decision was made at a lower level than the Community Development Director and the appeal would then go to the Community Development Director.
- He would like to see finding No. 5 on Page 3, reworded to remove the word setbacks.

Commissioner Schwartz left the dais at 2:35 and returned at 2:40 p.m.

Commissioner Lodge

- Commissioner Lodge thinks that as a mechanism to provide relief or the city has made an error, the city has done a good job and the work is appreciated.
- She agrees with Commissioner Jordan that someone should have the ability to condition an exception when there may be some impact. She agrees with Commissioner Jordan that it should not be appealable beyond the Community Development Department.

Commissioner Higgins

- Commissioner Higgins looks forward to the outreach work to be done by Staff.
- He would like to see the Planning Department's scope of work narrowed to what is not allowable. Things like windows that have been changed or moved in a front yard setback, elevation, etc., are ordinarily allowable. We need to lower the scope of building permit related exertions that are more painful than the zoning scope of work. He believes he can have a fountain or a pond without a zoning violation, so would like to see this come back before a working group and would like to participate.
- He sees an appeal process not to resolve disputes, but to encourage Staff to get to a decision point. A ZIR conflict may continue on beyond 60-90 days and having

some sort of administrative relief in the way of an appeals decision might add a little to the time process that gives some certainty to the homeowner and buyer.

- He supports a date that is a little bit closer to today's date.

Commissioner Lodge left the dais at 2:42 p.m. and returned at 2:47 p.m.

Commissioner Campanella

- Commissioner Campanella agreed with Commissioners Jordan and Lodge on appeal being done by the Community Development Director. He would like to see consistency which had been a problem in the past with interpretation.
- He would like the Community Development Director involved, either directly or by appeal, in this component of ZIR.
- He appreciates the comments made by the Realtors and the involvement of the Real Estate Community.
- Whether the ZIR becomes permanent, mandatory or voluntary, there needs to be some modifications to the process. Issues need to be addressed after City Council has reviewed the Grand Jury report.

Commissioner Thompson thanked the members of the Board of Realtors for their involvement.

IV. **NEW ITEM:**

**ACTUAL TIME: 2:46 P.M.**

**APPLICATION OF JOSEPH ALLEN, 3617 STATE STREET, APN: 051-051-005, C-P/SD-2 RESTRICTED COMMERCIAL/ SPECIAL DISTRICT 2 "UPPER STATE STREET AREA" ZONES, GENERAL PLAN DESIGNATION: COMMERCIAL/MEDIUM HIGH RESIDENTIAL (MST2014-00438)**

Proposal for a Medical Marijuana Storefront Collective Dispensary Permit. The dispensary would be located in an existing tenant space in Ontare Plaza. Interior improvements are proposed.

The discretionary application required for this project is a Storefront Collective Dispensary Permit (SBMC § 28.80.030).

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

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Phone: (805) 564-5470, ext. 4539

Commissioner Jordan, Planning Commission Liaison to the Staff Hearing Officer (SHO), explained his reasons for suspending the SHO approval of April 15, 2015 for review of the

application by the Planning Commission. During the course of the SHO review meeting there were significant changes to the operations and security plans, and the original operations plan did not adequately address potential impacts to neighboring businesses and the neighborhood, particularly impacts that may occur outside of the dispensary operation rather than inside.

Tony Boughman, Assistant Planner, gave the Staff presentation.

Joe Allen, Applicant, addressed the Planning Commission and was available to answer any questions.

Chair Thompson opened the public hearing at 2:58 P.M.

The following people spoke in objection of the project or with concerns:

1. Sarah Griffin, San Roque Gardens resident, expressed concerns about existing traffic and parking impacts to the single family residential neighborhood behind Ontare Plaza. If the project is approved, the patient agreement form, sections #6 and #8 that address loitering and medicating within 400 feet of the premises should include a 400 foot radius map included for patients since they would otherwise not know the prohibited area.
2. Gordon Hardy, Jeanine's Bakery Owner, submitted written comments and expressed concerns about the proximity to schools, and the extremely limited parking available. He referenced a former dispensary nearby that had a large group of smoking loiterers causing safety concerns to the adjacent business. He also expressed concerns with the restricted visibility of the dispensary, and with crime in the area.
3. William Schaal, San Roque Gardens resident, is opposed to this location and requests a location away from residential areas.

With no one else wishing to speak, the public hearing was closed at 3:11 P.M.

Commissioner Higgins left the dais at 3:47 p.m. and returned at 3:50 p.m.

Commissioner Schwartz left the dais at 4:07 p.m. and returned at 4:10 p.m.

**MOTION: Pujo/Campanella**

**Assigned Resolution No. 009-15**

Modify the SHO decision and approve the Storefront Collective Dispensary Permit, making the findings as outlined in the Staff Report dated April 8, 2015, subject to the Conditions of Approval in the Staff Hearing Officer Resolution 023-15 with the following revisions to the Conditions of Approval:

- A sign shall be displayed on the storefront that states the dispensary does not allow members under the age of 21.
- The exterior glass shall not be tinted because this may impede visibility into the dispensary.

- A minimum of two security guards shall be on duty to provide security during entirety of the dispensary's open hours. Security shall patrol the exterior of the property a minimum of once an hour.
- Staff shall review and correct any inconsistencies in the applicant's operations plan.
- The trash receptacle used by the dispensary shall be locked at all times.
- Caregivers for collective patients shall undergo the same background checks as collective members.
- The rear door shall be controlled for emergency egress only, but may be used for trash disposal as needed.
- In addition to the sign posted in the dispensary indicating that no patient, qualified caregiver or staff may consume, eat, or smoke cannabis on the premises, a map shall be provided for members to define the premises to consist of a 400 foot radius around the dispensary, as well as the neighborhood immediately to the south of Ontare Plaza. This map shall be attached to the Patient's Agreement Form and acknowledged in members' records. The restriction on use of cannabis would not apply to collective members who live within this mapped area to consume their cannabis in their own homes.
- The Applicant will amend their operations plan item related to SBMC §28.90.090.F.1, on page 19 of the Operations Plan from "The SBPCHC has no plans to sell specific products..." to "The SBPCHC will not sell specific products..."
- The Applicant will amend their operations plan item related to SBMC§28.90.080.G.3 on page 21 of the Operations Plan to strike the phrasing "unless the area devoted to the cultivation is secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry.", leaving only "No cultivation shall occur at the Property of the Collective."

This motion carried by the following vote:

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

Commissioner Pujo would also like to have the Commission review the status of the dispensary during a future lunch meeting in the next 6-12 months for the purpose of lessons learned during the course of its operations.

Commissioner Jordan wished the Applicant responsible success, but found his concerns about the location and operations are still not met.

Chair Thompson announced the ten calendar day appeal period.

V. ADMINISTRATIVE AGENDA

ACTUAL TIME: 4:42 P.M.

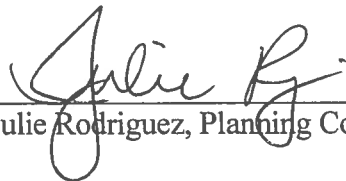
E. Committee and Liaison Reports

1. Staff Hearing Officer Liaison Report
  - a. Commissioner Jordan reported on the Staff Hearing Officer meeting of May 27, 2015.
2. Other Committee and Liaison Reports
  - a. Commissioner Higgins reported on the Parks and Recreation Commission meeting May 27, 2015.
  - b. Commissioner Lodge reported on the Historic Landmarks Commission meeting of June 3, 2015.
  - c. Commissioner Thompson reported on the Single Family Design Board's meeting of June 1, 2015.

VI. ADJOURNMENT

Chair Thompson adjourned the meeting at 4:45 P.M.

Submitted by,



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Julie Rodriguez, Planning Commission Secretary