



City of Santa Barbara California

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: September 16, 2009
AGENDA DATE: September 23, 2009
PROJECT ADDRESS: 110 West Sola Street (MST2007-00413)

TO: Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
 Danny Kato, Senior Planner *DK*
 Suzanne Riegle, Assistant Planner *SR*

I. PROJECT DESCRIPTION

Proposal to demolish an existing, one-story 15,730 square foot commercial office building, and construct a 19,871 square foot, three-story mixed-use building with a maximum height of 39'-6". The project is comprised of four (4) three-bedroom residential condominium units on the second and third floor ranging in size from 2,088 square feet to 2,639 square feet, and three (3) ground floor commercial condominium units totaling 2,399 square feet. Fifteen covered parking spaces, which include four (4) residential two-car garages, will be provided on the ground level of this 15,883 square foot parcel. There will be approximately 140 cubic yards of grading on the site.

II. REQUIRED APPLICATIONS

The discretionary applications required for this project are:

1. A Modification to allow the three-story structure to encroach into the required interior yard setback at the westerly property line; and
2. A Tentative Subdivision Map for a one-lot subdivision to create four (4) residential and three (3) commercial condominium units (SBMC §27.07 & § 27.13).

III. RECOMMENDATION

With the requested Modification and recommended conditions, the proposed project conforms to the City's Zoning Ordinance regulations and General Plan policies. In addition, the size and massing of the project are consistent with the surrounding neighborhood. Therefore, staff recommends that the Staff Hearing Officer adopt the Final Mitigated Negative Declaration and approve the project, making the findings outlined in Section V of this report, and subject to the conditions of approval in Exhibit A.

IV. DISCUSSION

The Staff Hearing Officer reviewed the project on May 20, 2009 and directed the applicant to study increased setbacks and changes to the northerly elevation adjacent to the driveway for the World Institute of Culture.

A. SETBACKS

The applicant has responded with changes to the plans resulting in increased setbacks adjacent to the driveway for Upham Hotel trash and back of house operations and the further setback of the second story patios along the driveway adjacent to the World Institute of culture's driveway. The setbacks changed as follows:

	Required	May 20 th Review	Current	Increased Setback
Interior Setback				
Westerly Property Line	19' 9" (½ building height adjacent to residentially zoned property)			
- 1 st floor		5'	10'	+5'
- 2 nd floor		5'	10'	+5'
- 3 rd floor		17'	20'	+3'
Northerly Property Line	0' for mixed use			
- 1 st floor		0'	0'	0'
- 2 nd floor		0'	0-10'	0-10'
- 3 rd floor		5'	10'	5'

B. FLOOR PLANS

The project changes resulted in a reduction in unit sizes as shown in the table below:

	May 20 th Review	Current Plan	Net Reduction
Unit 1	2,504 sf	2,405 sf	99 sf
Unit 2	2,719 sf	2,380 sf	339 sf
Unit 3	2,240 sf	2,088 sf	152 sf
Unit 4	3,430 sf	2,639 sf	791 sf
Total	10,913 sf	9,512 sf	1381 sf

Ground floor:

The increased setbacks resulted in changes to the floor plans including the reduction in width of the entry/exit driveway into the parking level of the structure on the ground, increased landscaping at grade, a reduction in paving, and the elimination of one unassigned parking space. The requirement for an emergency stair from the second floor northern property line has been eliminated. The elimination of the stair resulted in additional landscaping on the ground.

Second and third floors:

The second floor plan has been revised, by reducing floor area of the units, to provide for the increased setbacks from the north and western property lines. As described above the emergency exit stair was eliminated at the northerly property line.

Units 2 & 3

The floor plans of Units 2 & 3 have been revised placing the more passive uses along the shared driveway with the property at the northerly property line. The patios have been reduced and located off the master bedroom for each unit. The required outdoor space on the roof has been further defined and their main floor level activity uses are facing Sola Street. A small patio off the master bedrooms is maintained and is setback 10' to the patio (was 0'). It will be enclosed by a low tile topped wall (probably 30" high) and roof will be between this wall and the property line.

Unit 4

Unit 4 has been redesigned to have a courtyard on the main living level facing the northerly neighbor's parking lot. It will be set back 6', and have a six or seven foot enclosing wall.

C. LOT COVERAGE

	May 20 th Review		Current Plan		Net Change
Lot Coverage					
-Building	11,493 sf	72%	11,449 sf	72%	- 44 sf
-Paving/Driveway	1,456 sf	9%	206 sf	1%	-1,250 sf
-Landscaping	2,934 sf	19%	4,228 sf	27%	+1,294 sf

D. INCLUSIONARY HOUSING ORDINANCE

On May 12, 2009 the City's Inclusionary Housing Ordinance (IHO) was revised to apply to residential subdivision projects of 2 through 9 units. Prior to this revision, the IHO only applied to projects of 10 or more units. The new requirements apply to all ownership housing projects and lot subdivisions of 2 – 9 units or lots that receive approval from the Staff hearing

Officer or Planning Commission after May 12, 2009. Condominium conversion projects are subject to the IHO but apartment projects (where the units may not be sold separately) are not.

All residential subdivision projects of 2 through 9 units or lots (including condominium conversion projects) must pay an inclusionary housing fee. Unlike the inclusionary requirements for projects of 10 or more units, there is no requirement that these smaller projects provide an affordable unit, and there is no entitlement to a density bonus if an affordable unit is included by choice as an alternative to paying the inclusionary housing fee.

Partial Exemption: For new construction projects of 2, 3 or 4 units, 1 unit is exempt from the inclusionary fee requirement. Also, in order to further reduce the financial impact on these smaller projects, the inclusionary housing fee is not due until just prior to issuance of the Certificate of Occupancy. Projects that will construct 1, 2 or 3 new units and include one existing unit that is remain on site are eligible for this partial exemption.

The inclusionary housing fee for smaller projects is currently \$18,000 per unit or lot. This is equal to 5% of the "in-lieu fee" specified in the IHO. This project is subject to the partial exemption described above. An inclusionary housing fee of \$54,000 (3 x \$18,000) must be paid prior to the Certificate of Occupancy. This fee amount will be in effect until it is recalculated in March, 2010.

V. FINDINGS

A. INTERIOR SETBACK MODIFICATION (SBMC §28.92.110)

The requested interior setback modification for the garage, second and third story of the proposed building is consistent with the purposes and intent of the Zoning Ordinance and necessary to secure an appropriate improvement on the lot.

The project is set back five feet from the front property line along Sola Street, and fifteen feet from the front property line on Chapala Street, even though the C-2 zone has no front setback requirement. In exchange for these voluntary setbacks, the applicant is requesting a modification to allow the garage and second story of the proposed building to encroach 9 feet 9 inches into the 19 foot 9 inch interior setback to the west. The western property line of the project site abuts the 18 foot wide driveway for the Upham Hotel, a City Landmark. Because the Upham Hotel is located on a residentially zoned parcel, an increased setback is required. However, the adjacent parcel is not used for residential purposes and a redevelopment of the site to residential use is unlikely due to it's landmark status. The hotel driveway in conjunction with the ten foot setback of the building from the property line meets the intent of the zoning ordinance to provide a visual buffer distance between non-residential and residential zoned lots. HLC stated that the subject setback modification would not result in a negative aesthetic impact. The interior setback modification may be granted because it is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot.

B. TENTATIVE SUBDIVISION MAP (SBMC §27.07.100)

As conditioned and with all other approvals, the Tentative Subdivision Map complies with all requirements and conditions imposed by the Subdivision Map Act and the City's Municipal Code (see May 20, 2009 Staff report). As discussed in Section VI.B of May 20, 2009 staff report, the proposed map is consistent with the City's General Plan. The site is physically suitable for the type and density of the proposed development.

C. NEW RESIDENTIAL CONDOMINIUM DEVELOPMENT (SBMC §27.13.080)

1. There is compliance with the provisions of Municipal Code Chapter 27.13 (Residential Condominium Development).

With the proposed modification, the project complies with all provisions of the City's Condominium Ordinance including the Physical Standards for Condominiums contained in SBMC §27.13.060. Each unit includes laundry facilities, separate utility metering, adequate unit size and storage space, and the required private outdoor living space. The proposed conditions are consistent with the requirements contained in SBMC §27.13.050.

2. The proposed development is consistent with the General Plan of the City of Santa Barbara.

The project is consistent with policies of the City's General Plan including the Land Use, Housing, and Noise Elements as discussed in Section VI.B of this staff report. The project will provide infill residential development that is compatible with the surrounding neighborhood.

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.

The project is an infill residential project proposed in an area where multiple-family residential development is a permitted use. As discussed above, the project, as conditioned, is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts. The design has been reviewed by the City's Historic Landmark Commission, which indicated that the architecture and site design were appropriate for the neighborhood.

Exhibits:

- A. Conditions of Approval
- B. May 20, 2009 Staff Hearing Officer Staff Report (w/o attachments)
- C. May 20, 2009 Staff Hearing Officer Minutes
- D. Site Plan (under separate cover)

STAFF HEARING OFFICER CONDITIONS OF APPROVAL

110 WEST SOLA STREET
TENTATIVE SUBDIVISION MAP AND MODIFICATION)
SEPTEMBER 23, 2009

In consideration of the project approval granted by the Staff Hearing Officer 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. **California Department of Fish and Game Fees Required.** Pursuant to Section 21089(b) of the California Public Resources Code and Section 711.4 et. seq. of the California Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified Department of Fish and Game fees are paid and filed with the California Department of Fish and Game within five days of the project approval. The fees required are \$2,768.25 for projects with Environmental Impact Reports and \$1,993.00 for projects with Negative Declarations. Without the appropriate fee, the Notice of Determination cannot be filed and the project approval is not operative, vested, or final. The fee shall be delivered to the Planning Division immediately upon project approval in the form of a check payable to the California Department of Fish and Game.
- B. **Design Review.** The project is subject to the review and approval of the Historic Landmarks Commission (HLC). HLC shall not grant preliminary approval of the project until the following Staff Hearing Officer land use conditions have been satisfied.
 1. **Useable Common Open Space.** Adequate usable common open space shall be provided in a location accessible by all units within the development.
 2. **Crime Analyst Plan Review.** The Developer shall meet with the City Police Department Crime Analyst prior to Preliminary Approval to determine how lighting, locking mechanisms, egress, and fencing can be designed and installed to reduce the potential number of calls for police service from occupants of the Real Property.
 3. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.
- C. **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 Staff Hearing Officer on May 20, 2009 is limited to approximately 21,190 square feet of building area four (4) residential condominium units and 2,399 square feet of commercial floor area that can be divided into as many as three (3) commercial condominiums and the improvements shown on the Tentative Subdivision Map signed by the Staff Hearing Officer 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 Historic Landmarks Commission (HLC). Such plan shall not be modified unless prior written approval is obtained from the HLC. 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 HLC, the owner is responsible for its immediate replacement. The following tree protection measures shall be incorporated:
 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 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.
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. **Gates.** Any gates that have the potential to block access to any designated commercial space shall be locked in the open position during business hours.
 - f. **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. **Use Limitations.** Due to potential traffic and parking impacts, the conversion of residential units to commercial floor area is not permitted without further environmental and/or Staff Hearing Officer 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 Applicant.
 - 8. **BMP Training.** Employee training shall be provided on the implementation of Best Management Practices (BMPs) in order to prevent or reduce the discharge of pollutants to storm water from buildings and ground maintenance. The training shall include using good housekeeping practices, preventive maintenance and spill prevention and control at outdoor loading/ unloading areas in order to keep debris from entering the storm water collection system.
 - 9. **Residential Permit Parking Program.** Residents shall not participate in the Residential Permit Parking Program.
- D. **Public Works Submittal Prior to Final 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. **Final Map.** The Owner shall submit to the Public Works Department for approval, a Final Map prepared by a licensed land surveyor or registered Civil Engineer. The Final Map shall conform to the requirements of the City Survey Control Ordinance.

2. **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.
3. **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. If the private covenants required pursuant to Section A above have not yet been approved by the Department of Real Estate (DRE), a draft of such covenants shall be submitted.
4. **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.
5. **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.
6. **West Sola Street Public Improvement Plans.** The Owner shall submit C-1 public improvement or building plans for construction of improvements along the property frontage on West Sola Street. Public Works C-1 plans shall be submitted separately from plans submitted for a Building Permit. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: eight (8) foot sidewalk, four (4) foot parkway, driveway apron modified to meet Title 24 requirements, curbs, gutters, access ramp(s), asphalt concrete, concrete pavement on aggregate base, crack seal to the centerline of the street along entire subject property frontage and 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 drainage pipe, curb drain outlets, drop inlet, and storm drain stenciling, coordinate with City staff to retire light standard on existing utility pole at the intersection of West Sola and Chapala Streets, supply and install one commercial City standard street light, style to be determined by the Public Works Department and the HLC,

preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs per 2006 CA MUTCD, install new street trees and tree grates per approval of the City Arborist and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit as well as review and approval by the HLC.

7. **Chapala Street Public Improvement Plans.** The Owner shall submit C-1 public improvement or building plans for construction of improvements along the property frontage on Chapala Street. Public Works C-1 plans shall be submitted separately from plans submitted for a Building Permit. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: eight (8) foot sidewalk, four (4) foot parkway, driveway apron modified to meet Title 24 requirements, curbs, gutters, access ramp(s), asphalt concrete, concrete pavement on aggregate base, crack seal to the centerline of the street along entire subject property frontage and 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 drainage pipe, curb drain outlets, drop inlet, and storm drain stenciling, coordinate with City staff to retire light standard on existing utility pole at the intersection of West Sola and Chapala Streets, supply and install one commercial City standard street light, style to be determined by the Public Works Department and the HLC, preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs per 2006 CA MUTCD, install new street trees and tree grates per approval of the City Arborist and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit as well as review and approval by the HLC.
 8. **Land Development Agreement.** The Owner shall submit an executed *Agreement for Land Development Improvements*, prepared by the Engineering Division, an Engineer's Estimate, signed, and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement.
 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. **Upgrade of MTD Fixtures.** Applicant to upgrade the existing MTD bus stop on Chapala Street to meet current MTD bus stop standards, as determined by the Public Works Director and MTD.
- E. **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 Final 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.
 3. **Solid Waste Management Plan.** Owner shall submit a solid waste management plan that identifies feasible measures to address the construction and operation of the parking lot, bicycle station and office uses which may include, but are not limited to, the following:
 - a. Provision of space and/or bins for storage of recyclable materials within the project site. This information shall be shown on the building plans and installed as a part of the proposed project's improvements.
 - b. Development and implementation of a plan for collection of recyclable materials on a regular basis.
 - c. Development of source reduction measures, indicating the method and amount of expected reduction.
 - d. Implementation of a program to purchase recycled materials used in association with the proposed project (paper, newsprint, etc.). This could include requesting suppliers to show recycled material content.
 - e. Implementation of a monitoring program (quarterly, bi-annually) to attain and maintain a 35-50% minimum participation in recycling efforts.
 - f. Implementation of a composting landscape waste reduction program.
 4. **Traffic Control Plan.** A traffic control plan shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines. Traffic Control Plans are subject to approval by the Public Works Director/Transportation Manager. Construction and storage in the public right-of-way is prohibited during Fiesta in the affected areas (around McKenzie Park, Downtown and Waterfront) and during the Holiday Shopping Season (between Thanksgiving Day and New Years Day) in all commercial shopping areas, including but not limited to Upper State Street, the Mesa shopping area, Downtown and Coast Village Road.
 5. **Shower and Locker Facilities.** Male and female employee shower and locker facilities shall be provided. These facilities should be located close to employee bicycle storage and/or employee office areas, and are subject to review and approval by the Public Works Director/Transportation Manager.
- F. **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 monthly reports during demolition, excavation, grading and footing installation and monthly 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 twenty (20) days prior to commencement of construction, the contractor shall provide written notice to all property owners, businesses, and residents within 300 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.
 3. **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.
 4. **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 Dudek, dated October 2008. The contract shall be subject to the review and approval of the Planning Division.

The archaeologist's monitoring contract shall include the following provisions: If 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 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, preparation of further site studies and/or mitigation.

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 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, the Owner shall retain 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.

5. **Park Commission Tree Removal Approval.** Submit to the Planning Division verification of approval from the Park Commission for the removal of any street tree(s).
 6. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment that states that, prior to disturbing any part of the project site for any reason and after the Building permit has been issued, the General Contractor shall schedule a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, the assigned Building Inspector, the Planning Division, the Property Owner, the Archaeologist, the Architect, the Project Environmental Coordinator, the Contractor and each subcontractor.
- G. **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 Historic Landmarks Commission, outlined in Section B 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. **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.
4. **Emergency Evacuation Plan.** Provide an emergency evacuation plan subject to approval by the Fire Department.
5. **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.
6. **Project Directory.** A project directory, (including map and parking directional signs) listing all units on-site shall be indicated on the project plans. This directory shall be lit sufficiently for readability for site visitors and placed in a location or locations acceptable to the Fire Department, shall meet current accessibility requirements, and is subject to Sign Committee Approval.
7. **Conditions on Plans/Signatures.** The final Staff Hearing Officer 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. _____

H. **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. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions; Building Division, Planning Division, the Property Owner, Archaeologist, Architect, Project Engineer, Project Environmental Coordinator, Mitigation Monitors, Contractor and each Subcontractor.
2. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met.
3. **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.
4. **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
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.

5. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows:
 - 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. **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.
7. **Tarping.** Trucks transporting fill material to and from the site shall be covered from the point of origin. (AQ-3)
 8. **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)
 9. **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)
 10. **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:
 - 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.
 11. **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)
 12. **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)
 13. **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)

14. **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)
15. **Engine Size.** The engine size of construction equipment shall be the minimum practical size. (AQ-11)
16. **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)
17. **Equipment maintenance.** All construction equipment shall be maintained in tune per the manufacturer's specifications. (AQ-13)
18. **Catalytic Converters.** Catalytic converters shall be installed on gasoline-powered equipment, if feasible. (AQ-14)
19. **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)
20. **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)
21. **Diesel Replacements.** Diesel powered equipment shall be replaced by electric equipment whenever feasible. (AQ-17)
22. **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)
23. **Asbestos Demolition/Renovation Notification.** The applicant must notify Santa Barbara County Air Pollution Control District (SBAPCD) 10 business days prior to the commencement of demolition of a regulated structure by completing the "Asbestos Demolition/Renovation Notification" form and submitting to SBAPCD. (AQ-19)
24. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
25. **Mitigation Monitoring Compliance Reports.** The PEC shall submit monthly reports during demolition, excavation, grading and footing installation and monthly

reports on all other construction activity regarding MMRP compliance to the Community Development Department.

26. **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.
 27. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.
- I. **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. **Inclusionary Housing Fee.** Evidence shall be submitted that the Owner has paid the required inclusionary housing fee to the Community Development Department. The City's Inclusionary Housing Ordinance requires that Residential Development projects of greater than one unit and less than ten units are required to pay an inclusionary housing fee. As of the date of project approval the inclusionary housing fee is \$18,000 for each unit in the project. For new construction projects of two, three or four units, the first unit is exempt from the fee requirement (condominium conversion projects are not entitled to this exemption). For this project, the number of units in the project is 4, the number of units subject to the inclusionary fee is 3, and the required inclusionary fee is \$54,000.
 4. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
 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 Historic Landmarks Commission (HLC).

6. **Existing Street Trees.** Submit a letter from a qualified arborist, verifying that the existing street tree(s) have been properly pruned and trimmed.
 7. **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 or Final Inspection, whichever is earlier.
 8. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11” board and submitted to the Planning Division.
 9. **Mitigation Monitoring Report.** Submit a final construction report for mitigation monitoring.
 10. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section D have been recorded.
- J. **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 TENTATIVE SUBDIVISION MAP TIME LIMITS:

The Staff Hearing Officer’s action approving the Tentative Map shall expire three (3) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110.



City of Santa Barbara California

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: May 13, 2009
AGENDA DATE: May 20, 2009
PROJECT ADDRESS: 110 W Sola Street (MST2007-00413)

TO: Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
 Danny Kato, Senior Planner *DJK*
 Suzanne Johnston, Assistant Planner *SJ*

I. PROJECT DESCRIPTION

Proposal to demolish an existing, one-story 15,730 square foot commercial office building, and construct a 21,370 square foot, three-story mixed-use building with a maximum height of 39'-6". The project is comprised of four (4) three-bedroom residential condominium units on the second and third floor ranging in size from 2,243 square feet to 3,430 square feet, and three (3) ground floor commercial condominium units totaling 2,399 square feet. Sixteen covered parking spaces, which include four (4) residential two-car garages, will be provided on the ground level of this 15,883 square foot parcel. There will be approximately 140 cubic yards of grading on the site.

II. REQUIRED APPLICATIONS

The discretionary applications required for this project are:

1. A Modification to allow the three-story structure to encroach into the required interior yard setback at the westerly property line; and
2. A Tentative Subdivision Map for a one-lot subdivision to create four (4) residential and three (3) commercial condominium units (SBMC §27.07 & § 27.13).

III. RECOMMENDATION

With the requested approvals and recommended conditions, the proposed project conforms to the City's Zoning Ordinance regulations and General Plan policies. In addition, the size and massing of the project are consistent with the surrounding neighborhood. Therefore, staff recommends that the Staff Hearing Officer adopt the Final Mitigated Negative Declaration and approve the project, making the findings outlined in Section VII of this report, and subject to the conditions of approval in Exhibit A.

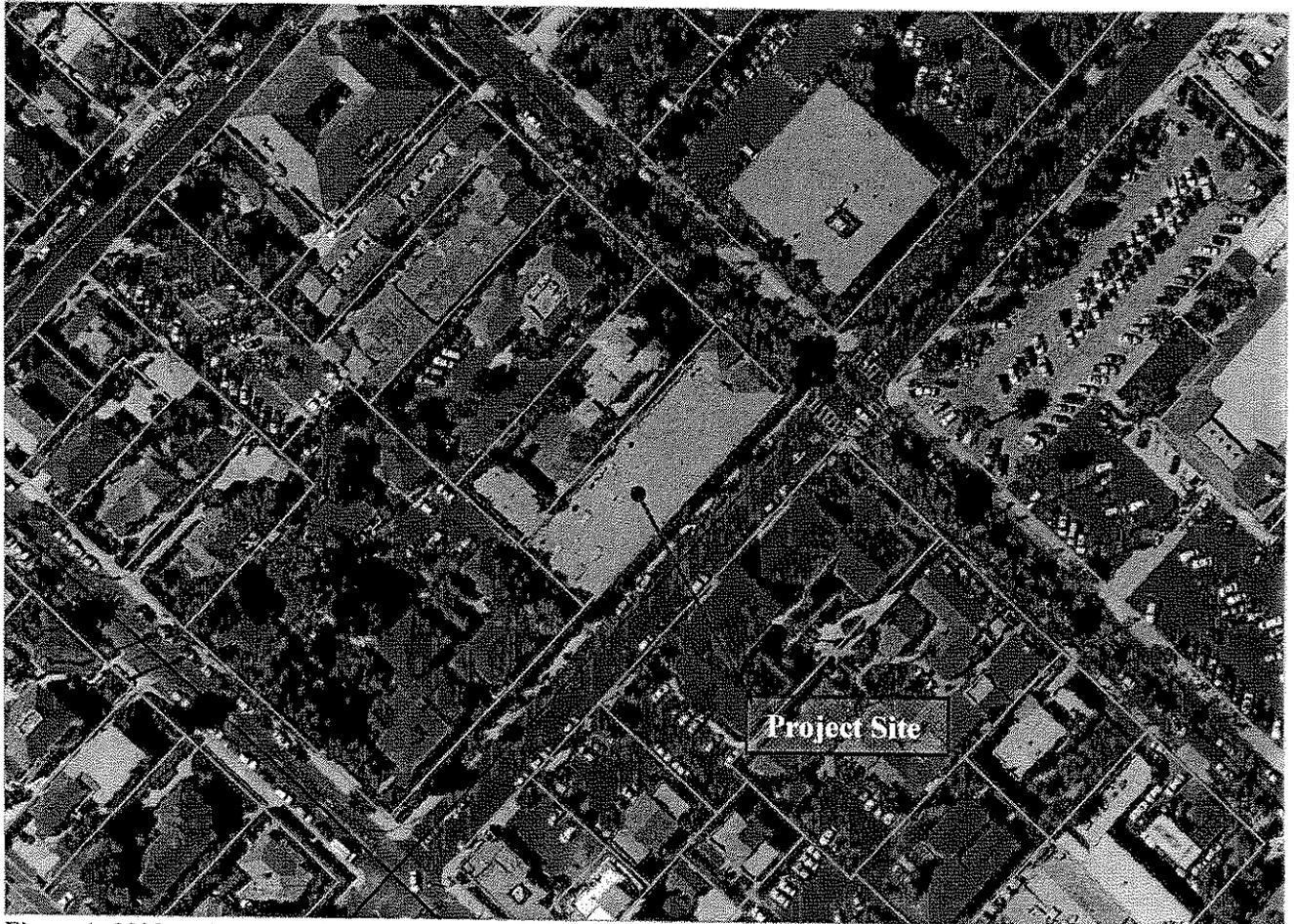


Figure 1: 2008 aerial photo showing project vicinity

APPLICATION DEEMED COMPLETE: May 5, 2009
DATE ACTION REQUIRED PER MAP ACT: June 24, 2009

IV. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant: Jeff Gorrell, Lenvik & Minor Architects	Property Owner: McManus/Carneros
Parcel Number: 039-062-010	Lot Area: 15,883 sf (0.36 acre)
General Plan: Residential 12 units/acre	Zoning: C-2 (Commercial Zone)
Existing Use: Commercial	Topography: 4%, flat
Adjacent Land Uses:	
North – Commercial	East – Commercial
South – Multi-Family Residential	West – Bed & Breakfast

B. PROJECT STATISTICS

	Unit 1	Unit 2	Unit 3	Unit 4	Unit A	Unit B	Unit C	Total
Ground Floor	102 sf			148 sf	557 sf	694 sf	661 sf	2,162 sf
Second Floor	2,041 sf	2,167 sf	1,795 sf	2,764 sf				8,767 sf
Third Floor	361 sf	552 sf	448 sf	518 sf				1,879 sf
Garage	497 sf	459 sf	459 sf	466 sf		6,264 sf		8,145 sf
Commercial Entry						237 sf		237 sf
Total Floor Area	3,001 sf	3,178 sf	2,702 sf	3,896 sf		8,663 sf		21,190 sf

V. ZONING ORDINANCE CONSISTENCY

Standard	Requirement/ Allowance	Existing	Proposed
Setbacks -Front	N/A	N/A	5 ft Sola St 15 ft Chapala St
-Interior (Adjacent to residentially zoned lot to west)	19.75 ft (10ft or ½ the building height whichever is greater)	N/A	5' ft
-Rear	N/A	N/A	0' ft
Building Height	45 ft	30' approx	39'6"
Parking	4 residential/ 6 commercial	0	16 covered (8 residential, 8 commercial)
Lot Area Required for Each Unit (Variable Density)	3 bedroom unit: 2,800 sf	N/A	3 bedroom unit: 2,320 sf (x4) TOTAL: 9,280 sf*
Private Outdoor Living Space	3 bedroom unit require 96 sf/unit if located on 2 nd story or above	N/A	Unit 1 – 926 sf Unit 2 – 999 sf Unit 3 – 833 sf Unit 4 – 1,098 sf
Open Space	10% of lot area located outside setbacks	N/A	3,001 s.f.
Common Open Area	15' x 15'	N/A	15' X 15'
Lot Coverage			
-Building	n/a	15,730 sf 99%	11,493 sf 72%
-Paving/Driveway	n/a	153 sf 1%	1,456 sf 9%
-Landscaping	n/a	-	2,934 sf 19%

The proposed project would meet all applicable requirements of the Zoning Ordinance, with the exception of the interior setback modification. A discussion of the required modification is provided in Section VII.

VI. ISSUES

A. DESIGN REVIEW

This project was reviewed by the Historic Landmarks Commission (HLC) on three occasions, September 5, 2007, December 12, 2007, and January 7, 2009 (meeting minutes are attached as Exhibit D). On January 7, 2009, the HLC made the following statements: 1) The majority of the Commission finds that the setback modification is aesthetically acceptable. 2) A nine foot plate height is too high, but the Commission would support a maximum plate height of eight feet, six inches. 3) Regarding the privacy relationship on the north elevation: raise the height of the wall, and study providing texture and openings instead of open railings. 4) There should be more flair and variation, such as the commercial versus residential. 5) Suggestions were made regarding the use of landscape on the north wall, such as the use of a creeping vine.

In addition, HLC indicated that the requested modification for the interior setback encroachment for the building and the garages below would not pose a negative aesthetic impact and that the building setback from the property line in conjunction with the adjacent Upham Hotel driveway meets the intent of the setback requirement.

B. COMPLIANCE WITH THE GENERAL PLAN

Land Use Element

The project site is located in the Oak Park neighborhood and has a General Plan designation of Residential 12 units per acre. The Oak Park neighborhood is bounded on the north by Mission Creek; on the south by Sola Street; on the east by State Street; and on the west by Highway 101. This neighborhood is developed with older homes that are gradually being replaced by multi-family developments. The development of the northern part of the neighborhood, above Mission Street, has been influenced by Cottage Hospital and the surrounding medical complexes. This area has seen continual transition from residential to office and multi-family uses. The project site is located within walking distance to restaurants and stores along De La Vina and State Streets. The residential development would be subject to the requirements of the C-2 Commercial Zone. Density for residential units is determined by following the R-4 Multi-Family Residential Zone which allows for 12 units per acre. The proposed project would result in a density of approximately 10 units per acre, which, based on the above discussion, would be consistent with the Land Use and Housing Elements of the General Plan.

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.

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 office, residential and commercial buildings, with a wide range of heights and architectural styles. The proposed three-story building has been broken up to reduce the verticality of the structure. The units share a common driveway. The building has been set back from De La Vina Street to provide a new landscaped buffer between the back of sidewalk and the building. The residential units have individual pedestrian entries from Sola Street that provide relief to the streetscape and additional opportunities for landscaping. Although, a setback modification is required as discussed below, the proposed setback is consistent with the surrounding development.

Circulation Element:

The Circulation Element of the General Plan contains goals and implementing measures to reduce adverse impacts to the City's street system and parking by reducing reliance on the automobile, encouraging alternative forms of transportation, reviewing traffic impact standards, and applying land use and planning strategies that support the City's mobility goals.

The project proposes access off of Sola Street. The project would be conditioned to include roadway improvements along Sola Street to ensure proper sight visibility from the driveway. Please refer to discussion in section 11 of this study for additional detail.

Urban Design Guidelines:

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

C. MEASURE E

The project site is currently recognized as a 15,730 square foot commercial building. The project proposes to demolish the entire structure and rebuild 2,399 square feet of commercial floor area. Therefore, the lot would have a balance of 13,331 square foot of existing development rights. This remaining square footage could be used to convert residential units to commercial square footage in the future or be transferred to another site for development.

D. 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 April 16, 2009 to May 5, 2009. The City received one email during the public comment period from the Santa Barbara Air Pollution Control District (APCD) regarding the requirement to notify APCD of the demolition of a building which may contain asbestos 10 business days before commencement of constructions. The requirement has been added to the conditions of approval.

Archaeological Resources:

The City Master Environmental Assessment (MEA) *Cultural Resources Sensitivity Map* identifies that the project site is located within four of the cultural sensitivity zones. A Phase I Archaeological Investigation was prepared by David Stone, M.A. RPA, Dudek, for the site and accepted by the HLC on November 12, 2008. The report determined that the site was located in an area of low sensitivity for the potential presence of prehistoric resources. It is highly unlikely that any resources would be found would result in significant, unavoidable impacts that would require project redesign. However, as the site is developed lot line to lot line, it was impossible to complete a surface archaeological survey to confirm the absence of archaeological resources. The site, therefore, still has the potential for archaeological resources. The applicant proposes to have an archaeological monitor available during the foundation demolition and excavation. The Phase I report concludes that project impacts to archaeological resources are therefore, potentially significant but mitigable. (see CR-1-3).

Historic Resources:

The site is developed with a commercial building, which was reviewed by the Historic Landmarks Commission and determined to potentially be eligible as a historic resource. A Historic Structures Report was provided for this project in order to evaluate the significance of the existing commercial building, including its relationship and contribution to the surrounding neighborhood, and to determine the potential impact of the proposed project on the property.

The Historic Structures Report concluded that the existing building is eligible to be a designated Structure of Merit. It determined that the demolition of the existing building would potentially constitute a significant impact on a historic resource; therefore, mitigation measures are required to reduce the impact to less than significant.

The City's Demolition Review Ordinance 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. In December 2007, the HLC reviewed and accepted the report for this project, which concluded that demolition of the existing structure would result in a less than significant impact if certain measures (described below)

were either incorporated into the project description or added as mitigation measures. The HLC did not initiate Structure of Merit designation. The report and HLC action also demonstrated that the building did not contain enough historical value for the demolition to result in an unavoidable significant impact. However, documentation of the building and its surrounding was found to be necessary with the mitigation, in compliance with the City's standards for *Required Documentation Prior to Demolition (see CR-4)*, as outlined in the report the project impacts are found to be significant, but mitigable.

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 Staff Hearing Officer 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.

VII. FINDINGS

The Staff Hearing Officer finds the following:

A. **FINAL MITIGATED NEGATIVE DECLARATION ADOPTION**

1. The Planning Commission has considered the proposed Final Mitigated Negative Declaration, dated May 12, 2009 for the 110 West Sola Street Project (MST2007-00413), 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 May 12, 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. INTERIOR SETBACK MODIFICATION (SBMC §28.92.110)

The requested interior setback modification for the garage, second and third story of the proposed building is consistent with the purposes and intent of the Zoning Ordinance and necessary to secure an appropriate improvement on the lot.

The project is set back five feet from the front property line along Sola Street and fifteen feet from the front property line on Chapala Street even though the C-2 zone has no front setback requirement. In exchange for these voluntary setbacks, the applicant is requesting a modification to allow the garage and second story of the proposed building to encroach 14 feet 9 inches into the 19 foot 9 inch interior setback to the west. The western property line of the project site abuts the 18 foot wide driveway for the Upham Hotel, a City Landmark. Because the Upham Hotel is located on a residentially zoned parcel, an increased setback is required. However, the adjacent parcel is not used for residential purposes and a redevelopment of the site to residential use is unlikely due to it's landmark status. The hotel driveway in conjunction with the five foot setback of the building from the property line meets the intent of the zoning ordinance to provide a visual buffer distance between non-residential and residential zoned lots. HLC stated that the subject setback modification would not result in a negative aesthetic impact. The interior setback modification may be granted because it is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot.

C. TENTATIVE SUBDIVISION MAP (SBMC §27.07.100)

As conditioned and with all other approvals, the Tentative Subdivision Map complies with all requirements and conditions imposed by the Subdivision Map Act and the City's Municipal Code (see Section V. above). As discussed in Section VI.B of this staff report, the proposed map is consistent with the City's General Plan. The site is physically suitable for the type and density of the proposed development.

D. NEW RESIDENTIAL CONDOMINIUM DEVELOPMENT (SBMC §27.13.080)

1. **There is compliance with the provisions of Municipal Code Chapter 27.13 (Residential Condominium Development).**

With the proposed modification, the project complies with all provisions of the City's Condominium Ordinance including the Physical Standards for Condominiums contained in SBMC §27.13.060. Each unit includes laundry facilities, separate utility metering, adequate unit size and storage space, and the required private outdoor living space. The proposed conditions are consistent with the requirements contained in SBMC §27.13.050.

2. **The proposed development is consistent with the General Plan of the City of Santa Barbara.**

The project is consistent with policies of the City's General Plan including the Land Use, Housing, and Noise Elements as discussed in Section VI.B of this staff report. The project will provide infill residential development that is compatible with the surrounding neighborhood.

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.**

The project is an infill residential project proposed in an area where multiple-family residential development is a permitted use. As discussed above, the project, as conditioned, is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts. The design has been reviewed by the City's Historic Landmark Commission, which indicated that the architecture and site design were appropriate for the neighborhood.

Exhibits:

- A. Conditions of Approval
- B. Draft Final Mitigated Negative Declaration (available upon request or on the City's website at www.SantaBarbaraCa.gov/eir)
- C. Applicant's letter to the Staff Hearing Officer, dated August 27, 2008
- D. HLC Minutes from September 5, 2007, December 12, 2007 and January 7, 2009

ACTION:

Assigned Resolution No. 038-09

Approved the subject application making the findings that the Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The proposed Modification will allow for the construction of a new, fire resistant enclosure of the water supply system in its previous location adjacent to water supply and generator controls.

Said approval is subject to the condition that a landscape plan be prepared and approved by the Architectural Board of Review, to screen the accessory building from the public right-of-way.

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

ACTUAL TIME: 9:30 A.M.

D. APPLICATION OF JEFF GORRELL, LENVIK & MINOR, ARCHITECT FOR CARMAC & ASSOCIATES LLC, 110 WEST SOLA STREET, APN 039-062-010, C-2 COMMERCIAL ZONE, GENERAL PLAN DESIGNATION: COMMERCIAL AND RESIDENTIAL 12 UNITS/ACRE (MST2007-00413)

Proposal to demolish an existing, one-story 15,730 square foot commercial office building and construct a 21,370 square foot, three-story mixed-use building with a maximum height of 39'-6". The project is comprised of four (4) three-bedroom residential condominium units on the second and third floor ranging in size from 2,243 square feet to 3,430 square feet, and three (3) ground floor commercial condominium units totaling 2,399 square feet. Sixteen covered parking spaces, which include four (4) residential two-car garages, will be provided on the ground level of this 15,883 square foot parcel. There will be approximately 140 cubic yards of grading on the site. The discretionary applications required for this project are:

1. A Modification to allow the three-story structure to encroach into the required interior yard setback at the westerly property line. (SBMC §28.63.060 & §28.92.110); and
2. A Tentative Subdivision Map for a one-lot subdivision to create four (4) residential and three (3) commercial condominium units (SBMC §27.07 & §27.13)

The Staff Hearing Officer will consider approval of the Negative Declaration prepared for the project pursuant to the California Environmental Quality Act Guidelines Section 15074.

Suzanne Johnston, Assistant Planner, gave the Staff presentation and recommendation. Ms. Johnston explained that a Mitigated Negative Declaration

report was prepared due to potential class 2 impacts to a potential historic structures, which were mitigated to less than significant.

Present: Jeff Gorrell, Lenvik & Minor Architects; Trish Allen, Agent; John McManus, Owner; Stacy Wilson, Transportation Planning City of Santa Barbara; Bettie Weiss, and Danny Kato

The Public Hearing was opened at 10:00 a.m.

Kirk Gradin, representing World Institute, concerned about impacts to Cook House driveway; noise and privacy impacts to both condo and commercial users. Questioned whether outdoor living spaces could be relocated. Smaller units would provide more flexibility and distance from lot line. Study reducing wall at zero lot line overlooking Institute. Proposal is disappointing to the Institute. Encouraged mitigation measures for wall height.

Joyce Johnson, World Institute Board Member, not opposed to the project but expressed the Boards concerns for the two story project and impacts to the driveway, particularly impacts to driveway during construction.

The Public Hearing was closed at 10:09 a.m.

Ms. Wilson, explained that although that the General Plan does not provide a parking maximum for the downtown area, the Circulation Element recommends one covered parking space per residential unit in the downtown area.

Bettie Weiss, City Planner, explained that the findings for subdivisions requires that the project be consistent with the General Plan. Ms. Weiss stated that the front yard setback modification request is significant given recent discussion of building height, mass, and design in downtown area and the Plan Santa Barbara recommended policy for careful consideration of the setback standard, particularly in regard to a strong separation at commercial and residential zones and added that smaller size units are generally desired as they can reduce the building mass and for meeting diverse housing needs of the community. The setback modification and overall design and setback considerations are important but would not contradict staffs recommendation for approval.

Ms. Reardon announced that she read the Staff Report and visited the site and surrounding neighborhood.

Ms. Reardon, expressed concern with the project's consistency with the Circulation Element and how it relates to the setback modification request, and privacy issues. Mr. Gorrell responded that a natural buffer between the subject site and the Upham Hotel is created by the driveway and trash location, creating a reasonable setback; he stated that an additional four foot buffer might be created by redesigning the patios.

Ms. Allen stated that the HLC studied the massing, amount of development, and neighborhood compatibility, and was comfortable with the site planning.

The meeting recessed at 10:43 and reconvened at 10:49 a.m. Discussion of Item D was continued to the end of the meeting to allow the applicant team to discuss their options and to allow Item E to be heard.

Discussion of Item D, 110 W. Sola, resumed at 11:27 a.m.

Mr. Gorrell reported that the owner has agreed to study reducing the size of the units, study redesigning the units, and pull the private patios away from the shared north property line, study having one car garages for two of the units, and eliminating one or two commercial parking spaces, and restudy the amount of building encroachment into the interior setback.

Ms. Reardon announced that she read the Staff Report and visited the site and surrounding neighborhood.

ACTION: **Assigned Resolution No. 039-09**
Continued indefinitely back to the Staff Hearing Officer to allow the applicant to return with a redesigned project, and Adopted the Final Mitigated Negative Declaration.

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

ACTUAL TIME: 10:49 A.M.

**E. APPLICATION OF MARUJA CLENSAY OF SUZANNE ELLEDGE
PLANNING & PERMITTING SERVICE, AGENT FOR PAIGE
PATTERSON WILSON, COLLEEN KELLY AND ALFRED RAMIREZ, 825
WEST VICTORIA STREET & 1229 GILLESPIE WAY, APN 039-141-003, R-
2 TWO-FAMILY RESIDENTIAL ZONE, GENERAL PLAN
DESIGNATION: RESIDENTIAL 12 UNITS/ACRE (MST2008-00549)**

The project consists of a one-lot subdivision for the purposes of converting two existing single-family residences (825 W. Victoria and 1229 Gillespie Streets) to condominiums on an 8,000 square foot lot. Parking is provided in a one-car garage and two uncovered parking spaces. No changes are proposed to the existing site plan or structures.

The discretionary applications required for this project are:

1. A Tentative Subdivision Map for a one-lot subdivision to create two (2) residential condominium units (SBMC 27.07 and 27.13);