



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 8, 2014

TO: Mayor and Councilmembers

FROM: Engineering Division, Public Works Department

SUBJECT: Approval Of License Agreement With Santa Barbara Certified Farmers Market, Inc.

RECOMMENDATION:

That Council approve and authorize the City Administrator to execute a new License Agreement with the Santa Barbara Certified Farmers Market, Inc., for the operation of the Downtown Farmers Market located in the Cota Commuter Parking Lot at 119 East Cota Street, the Old Town Farmers Market located in the 500-600 Blocks of State Street, and the Coast Village Road Farmers Market located in the 1100-1200 Blocks of Coast Village Road.

DISCUSSION:

Pursuant to various agreements, the Downtown Farmers Market has operated at the City's Cota Street Commuter Lot site since 1978, at the Old Town Farmers Market on State Street site since 1989, and at the Coast Village Road Farmers Market site since 1994.

Old Town Farmers Market and Downtown Farmers Market

On January 8, 2009, the City of Santa Barbara's Planning Commission adopted a resolution, which approved a Conditional Use Permit (CUP) and established specific guidelines relating to both the Old Town Farmers Market on Tuesdays, and the Downtown Farmers Market on Saturdays.

Coast Village Road Farmers Market

On July 20, 2006, the Planning Commission adopted a resolution, approving a CUP, a Coastal Development Permit (CDP), and establishing specific guidelines relating to the periodic operation of the Coast Village Road Farmers Market. The market at this location was allowed to operate on Fridays on a four-zone weekly rotational basis in the public street right of way fronting the 1100 and 1200 blocks of Coast Village Road.

On October 3, 2013, the Planning Commission adopted a resolution (Attachment 1), requiring the approval of a new Coastal Development Permit to allow the Santa Barbara Certified Farmers Market, Inc. (Farmers Market) to operate on the 1100 and 1200 blocks of Coast Village Road. A CUP was also required to allow continued operations of the State Street, Cota Commuter Lot, and Coast Village Road locations as the previous CUP expired after five years. Minor revisions to the Conditions of Approval were made by the Planning Commission (see Attachment 2).

New License Agreement

As a condition of the 2013 Resolution, a new License Agreement was required and is proposed to replace the current License Agreement.

No operational changes are proposed in the new License Agreement. The important existing provisions that were retained, and the new conditions proposed in the License Agreement per the Resolution, are as follows:

- The operation of the Old Town Farmers Market and the Downtown Farmers Market shall pay the City Parking and Business Improvement Area (PBIA) assessment related to downtown parking.
- The operation of the Coast Village Road Farmers Market, in addition to any statutory sales tax revenue to the City, shall also pay a percentage of its gross sales to the City in the same manner and at the same time as the PBIA assessment being paid by the Old Town Farmers market and the Downtown Farmers Market.
- All Farmers Market operations shall be responsible for all traffic and parking controls including, but not limited to, detour and parking control signs, flaggers, setup, take down, and maintenance of any barricades used.
- The Farmers Market has submitted a Traffic Diversion and Pedestrian Safety Plan (Plan) for each site for a Public Works permit. The Plan has been approved by Transportation Planning staff, Public Works Engineering Land Development staff, and the Supervising Transportation Engineer. The Plan will provide for the Farmers Markets to be operated and maintained in a manner that protects the public, market patrons, and participants from unsafe traffic or vehicular risks associated with the licensed use of the City property to the fullest extent as reasonably possible.
- Additionally, an important provision being proposed in the new License Agreement is that the insurance clause is being expanded with greater requirements to conform to the higher current standards of insurance required by the City's Risk Manager. The new License Agreement includes all three market operations under one License Agreement.

The new License Agreement shall remain in force concurrently and indefinitely with the Planning Commission Resolution and the allowed permit uses, for all Farmers Market operations, as stated above, as long as the licensing conditions are maintained in good standing. The City may revoke the License Agreement in whole or part with fifteen days written notice to the Farmers Market.

ATTACHMENT(S): 1. Planning Commission Resolution No. 013-13.
2. Planning Commission Minutes, October 3, 2013.

PREPARED BY: John Ewasiuk, Principal Civil Engineer/DT/kts

SUBMITTED BY: Rebecca J. Bjork, Public Works Director

APPROVED BY: City Administrator's Office



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 013-13

STATE STREET, COTA COMMUTER LOT, AND COAST VILLAGE ROAD FARMER'S MARKETS
COASTAL DEVELOPMENT PERMIT, CONDITIONAL USE PERMIT AMENDMENT
OCTOBER 3, 2013

APPLICATION OF SANTA BARBARA CERTIFIED FARMER'S MARKET ASSOCIATION, 500 & 600 BLOCKS OF STATE STREET (NO APNS), 119 EAST COTA STREET (APN 031-151-018), 1100 & 1200 BLOCKS OF COAST VILLAGE ROAD (NO APNS) (MST2013-00149 & CDP2013-00006)

The project consists of permitting the Santa Barbara Certified Farmer's Market Association's continued operations of the existing Certified Farmer's Markets on the 500 and 600 blocks of State Street, at the Cota Commuter Lot (119 E. Cota St.), and on the 1100 and 1200 blocks of Coast Village Road. No operational changes are proposed.

The discretionary applications required for this project are:

1. A Coastal Development Permit (CDP2013-00006) to allow the Farmer's Market to operate on the 1100 and 1200 blocks of Coast Village Road in the Non-Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44.150); and
2. A Conditional Use Permit Amendment to allow the continued operations of the State Street, Cota Commuter Lot, and Coast Village Road Farmer's Markets (SBMC §28.94.030.O).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15304(e) [Minor Alterations to Land – Minor Temporary Use of Land].

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

WHEREAS, no one appeared to speak in favor of the application, and 1 person appeared to speak with concerns thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, September 26, 2013.
2. Site Plans
3. Correspondence received in support of the project:
 - a. Paula Westbury, Santa Barbara
 - b. Brenda D. Jones, Santa Barbara, CA

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

- I. Approved the subject application making the following findings and determinations:
 - A. **COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)**
 1. The project is consistent with the policies of the California Coastal Act

The project is consistent with the policies of the California Coastal Act. The Coastal Act requires that lower-cost visitor-serving facilities, such as the Coast Village Road Farmer's Market, are protected and encouraged. The Coast Village Road Market is located in an existing developed commercial area with adequate services for the use. The Coast Village Road Farmer's Market does not inhibit public beach access, recreation, or detrimentally affect any environmentally sensitive habitat area.

2. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code

The project is consistent with the City's Local Coastal Program. The Coast Village Road Farmer's Market is a public amenity in the Coastal Zone that provides a low-cost visitor-serving experience, which Local Coastal Plan Policy 4.3 protects and encourages. The Coast Village Road Farmer's Market is a temporary use that is harmonious with the surrounding commercial area.

B. CONDITIONAL USE PERMIT (SBMC §28.94.020)

1. Any such use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan.

The Farmer's Markets provide desirable, convenient locations for the public to purchase fresh agricultural products and a marketplace for local farmers and fishermen to sell their goods at a fair market price. The Farmer's Markets have been operating at these locations for many years without major issues. As discussed in Section VI above, the General Plan refers to the benefits of the Farmer's Market to the buyers, sellers, and surrounding area and describes the desirable conjunctive use of the Cota Commuter Lot with the Saturday Farmer's Market.

2. Such uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved.

The operation of the Markets is accommodated by available public parking spaces including within City Parking Lots 10, 11, and 12 and within surrounding neighborhoods. The Farmer's Market and the City make efforts to minimize the disruption in City traffic patterns through implementation of traffic diversion plans and encouraging use of public parking. The Market also provides restroom facilities and recycling and trash receptacles for customers.

3. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided.

The location of the Market vendors has been carefully considered to avoid conflicts with businesses in the area, provide emergency access, and allow for use of existing driveways. Placement of barricades does not block traffic on any cross streets. Clean-up of the site following the close of each Market is required and has been completed in a satisfactory manner in the past.

4. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time.

During the times of each of the Markets, there is adequate parking in surrounding City parking lots and on City streets to accommodate the patrons of the Farmer's Markets. The Markets inform patrons of available parking in proximate City parking lots with signage. Additionally, the project provides bicycle parking within the Cota Commuter Lot during the Saturday market to encourage and facilitate bicycle use.

5. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area. The Planning Commission shall have the authority to approve the design of open space. Design shall mean size, shape, location and usability for proposed private, public, or quasi-public purposes and development. Approval of such open spaces may be expressly conditioned upon an offer of conveyance by the owner to the City of Santa Barbara of the development rights, the right to prohibit the construction of additional buildings, or other property rights, necessary to achieve the purpose set forth in this title.

The appearance and character of the Markets are compatible with the commercial nature of the surrounding areas. The Markets are a temporary use with no permanent physical change necessary for their accommodation.

6. Compliance with any additional specific requirements for a conditional use permit.

The Zoning Ordinance limits Certified Farmer's Markets to Commercial Zones. All Market locations are zoned commercial. No other specific Conditional Use Permit requirements apply to the use.

II. Said approval is subject to the following conditions:

- A. **The following conditions shall be imposed on the continued use of the operation of the three Farmer's Markets authorized by this Conditional Use Permit (CUP). Updated copies of all of the agreements and information required below shall be submitted to City Staff within 30 days of the approval of this CUP:**

1. **Certified Status.** The Santa Barbara Certified Farmers Market Association (herein after, the "Market") shall maintain its status as a Certified Farmers Market as defined, authorized and permitted in accordance with Title 3, Sections 1392- 1392.12 of the California Code of Regulation and Sections 47,000 through 47,026 of the California Food and Agriculture Code collectively known as the Direct Marketing Law, as such may be amended from time to time. The Market shall submit to the Community Development Department a copy of its Certificate issued by the County Agriculture Commissioner each year as it is renewed.
2. **License Agreement.** The Market shall provide and maintain in good standing for the duration of the allowed use a signed License Agreement with the City of Santa Barbara. Said Agreement shall be submitted for approval by the City Council.

3. **Products for Sale.** The products for sale at the Market shall be limited to Agricultural Products (Certified and Non-Certified) as defined in the Direct Marketing Law and Non-agricultural Food Products such as: ocean fish, pesto, hummus, nut brittle, and whole pies. In addition, the Market may sell promotional items with the Farmers Market logo such as bags and caps. No handcrafted items are allowed.
 - a. **Non-agricultural Food Products.** The sale of Non-agricultural Food Products shall be limited to no more than 10% of the participants at each market place. The sellers of value-added products must also sell the raw agricultural product at the same market.
 - b. **Wine Sales.** Certified wine may be sold in conjunction with the Market, and no more than two such booths shall be allowed at any individual market place.
4. **Non-agricultural Sales.** Each person selling non-agricultural goods shall at all times maintain and display the certificate required pursuant to Municipal Code Section 5.32.035.C.2.(ii). The certificate shall be placed in a location that is clearly visible to all persons purchasing permitted non-agricultural goods and at a distance not greater than five feet from the non-agricultural goods being sold pursuant to the certificate.
5. **Environmental Health Services Standards.** All foods must be produced, prepared, packaged, stored, transported, and marketed in compliance with County Environmental Health Standards.
6. **Health Permits.** The Market shall maintain in good standing all necessary health permits for the operation of the market and shall be responsible for requiring all vendors be in possession of necessary health permits for all products sold.
7. **Food Preparation.** No food preparation will be allowed at the Market, with the exception of cooking demonstrations, providing free raw cut samples to customers, and the portioning of raw produce for sale, in accordance with the County Health and Safety Code.
8. **Fire Department Regulations.** The Market shall meet all current and future Fire Department regulations and conditions including:
 - a. Maintain a minimum 16 foot wide fire access lane,
 - b. Maintain adequate access to fire hydrants, and
 - c. Maintain required exit areas from businesses in operation during the hours of the Market's operation.
9. **Traffic Diversion and Pedestrian Safety Plan.** The Market shall submit to the City Engineer a Traffic Diversion and Pedestrian Safety Plan for each site for review and approval. Submit the Plan to the Public Works Department for a permit. The Plan shall provide that the Market will be operated and maintained in a manner that appropriately protects the public, Market patrons, and Market participants from any and all unsafe traffic or vehicular risks which may occur in connection with using the licensed City property to the fullest extent reasonably possible. The Market shall operate at all times in accordance with the Plan, except for modifications to the Plan pre-approved in

writing by the City Engineer. A copy of the approved Plan shall also be provided to the City's Risk Manager.

10. **Barricades and Detour Signs.** The Market shall be responsible for the set-up, take down and maintenance of any barricades and detour signs used.
11. **Access Maintenance.** The Market shall avoid blockage of curb ramps and any other path of travel that specifically provides access for the disabled community.
12. **Private Parking Lots.** The Market shall provide proof of owner authorization for any private parking lot used by the Market.
13. **Towing.** If the towing of vehicles is deemed necessary, the Market shall comply with procedures for towing vehicles in accordance with applicable California Vehicle Code requirements, to ensure that a Police Officer of the City authorizes such towing.
14. **Waste Management and Maintenance.** The Market shall be fully responsible for providing recycling bins and necessary trash receptacles and disposal of such trash as required by County Environmental Health Services and the City. The Market shall comply with the terms of a standard reimbursement contract for cleaning services in the event that the site is not properly cleaned.
15. **Site Cleanup.** All cleanup methods must prevent wash water and any trash or other pollutants from entering the street and/or storm drains/drop inlets. Wash water must be properly disposed of to the sanitary sewer or adjacent landscaping.
16. **Oil Spots.** The Market shall be responsible for the cleaning of oil spots left by Market vehicles.
17. **Utility Equipment.** All equipment that is used within the Farmers Market designated area that provide utility services, such as generators, compressors for refrigeration, etc., shall meet all Federal, State, County and City regulations, codes and ordinances regarding operation and use during the Farmers Market operational hours.
18. **Signs.** The Market shall have no authority to place or erect any sign anywhere within the City except as permitted by the Sign Ordinance.
19. **Restrooms.** The Market shall provide separate men's, women's, and handicapped restroom facilities on site during the operation of the Farmers Market if the Community Development Director deems that there is a need.
20. **Complaint Brochure.** The Market shall publish and distribute an informational brochure on how to submit a complaint regarding the operation. It shall include contact information for the Market and City Planning Division. The brochure shall be subject to the review and approval by City Planning Staff. The brochure shall be distributed to all adjacent businesses and shall be available at each Market location.
21. **State Street Market Conditions.** The following conditions apply only to the State Street Market.
 - a. **Times and Location.** The Market shall be allowed to operate on Tuesdays in the street public right-of-way of the 500 and 600 blocks of State Street, between Haley and Ortega Streets, between the hours of 3:30 p.m. and 7:30 p.m. when

Daylight Savings Time is in effect, and between the hours of 2:30 p.m. and 6:30 p.m. the remainder of the year. Street closure shall be allowed between the hours of 3:00 p.m. and 8:30 p.m. when Daylight Savings Time is in effect, and between the hours of 2:00 p.m. and 7:30 p.m. the remainder of the year.

- b. **Alternating Vendor Orientation.** The Market shall alternate the orientation of the grower sales tables and parking on a weekly basis between the tables facing east with the trucks on the west side; and the tables facing west with the trucks on the east side.
 - c. **Sidewalks and Crosswalks.** The Market shall limit its operation to the street public right-of-way of the 500 and 600 blocks of State Street on Tuesdays. No sidewalk sales are permitted. The sidewalks and mid-block crosswalk access to the sidewalks on State Street shall remain open and unobstructed, and the Market shall not block pedestrian traffic.
 - d. **Cota Street.** The cross-street (Cota Street) that bisects the Market shall remain open to pedestrian and vehicle traffic.
 - e. **City Parking Lots.** The Market shall encourage patrons to utilize the following parking areas, or such other locations as the Transportation and Parking Manager may designate, in the Markets' advertising efforts:
 - (1) Parking Lot 10--corner of Ortega and Anacapa Streets
 - (2) Parking Lot 11--corner of Anacapa and Haley Streets
 - (3) Parking Lot 12--corner of Gutierrez and State Streets
 - f. **Lighting.** The Market shall pay for any additional lighting determined to be necessary by the Police Chief. If additional lighting is determined to be necessary, a lighting plan must be reviewed and approved in writing by the Building Official and be found consistent with the existing Outdoor Lighting Design Guidelines.
22. **Cota Commuter Lot Market Conditions.** The following conditions apply only to the Santa Barbara Certified Farmers Market insofar as it has been authorized to operate on Saturdays at the 119 E. Cota St. parking lot.
- a. **Time and Location.** The Market shall be allowed to operate on Saturdays at 119 East Cota Street, the Cota Commuter parking lot, between the hours of 8:30 a.m. and 1:00 p.m. Parking lot closure shall be allowed between the hours of 6:00 a.m. and 1:30 p.m.
 - b. **Sidewalks.** The Market shall limit its operation to the Cota Commuter parking lot at 119 East Cota Street on Saturdays. No sidewalk sales are permitted. The sidewalks on Cota and Santa Barbara Streets shall remain open and unobstructed, and shall not be blocked by the Market to pedestrian traffic during the Saturday morning Market.
 - c. **Bicycle Parking.** The Market shall provide bicycle parking within the Cota Commuter parking lot or adjacent parkway.

- d. **Adjacent Parking Lot.** The Market shall provide proof of owner authorization for public use of the parking lot at 130 E. Ortega Street during Market operational hours.
 - e. **City Parking Lots.** The Market shall encourage patrons to utilize the following parking areas, or such other locations as the Transportation and Parking Manager may designate, in the Markets' advertising efforts:
 - (1) Parking Lot 10--corner of Ortega and Anacapa Streets
 - (2) Parking Lot 11--corner of Anacapa and Haley Streets
 - (3) Parking Lot 12--corner of Gutierrez and State Streets
23. **Coast Village Road Market.** The following operational conditions apply only to the Coast Village Road Market.
- a. **Locations and Times.** The Market shall be allowed to operate on Fridays on a 4-zone weekly rotational basis in the street public right-of-way of the 1100 and 1200 blocks of Coast Village Road. The Market shall have the discretion to define the specific hours of their operation, as long as the street closure hours are strictly adhered to. Street closure shall be allowed between the hours of 6:00 a.m. and 11:45 a.m.

The boundaries of each zone are as follows:

 - Zone A - The 1100 Block of Coast Village Road public right-of-way and median strip adjacent to Coast Village Circle (westernmost zone).
 - Zone 1 – The 1100 Block of Coast Village Road public right-of-way and median strip adjacent to Paseo Mariposa and Coast Village Plaza.
 - Zone 3 – The 1200 Block of Coast Village Road public right-of-way and median strip adjacent to Olive Mill Plaza.
 - Zone 4 – The 1200 Block of Coast Village Road public right-of-way and median strip adjacent to Coast Village Square (easternmost zone).
 - b. **Holiday Restrictions.** There shall be no Market held on Christmas Eve, Christmas Day, New Year's Eve, and New Year's Day Holidays.
 - c. **View Corridor.** There shall be a 12-foot wide view corridor from the road to the shops facing Coast Village Road in each zone.
 - d. **High Profile Vehicles.** Box trucks and trucks with high profile campers (taller than seven feet) shall be prohibited from the Market.
 - e. **Sidewalks.** The Farmers Market shall limit its operation to the street public right-of-way of the 1100-1200 blocks of Coast Village Road on Fridays. No sidewalk sales are permitted. The sidewalks on Coast Village Road shall remain open, and the Market shall not block pedestrian traffic during the Friday Market. There shall be no vehicle parking, stopping, or standing on the curbs, sidewalks, parking medians, City parkways or street medians.

- f. **Parking Signage.** The Market shall provide directory signage advising of the Market and available parking opportunities. "No Farmers Market Parking" signage shall be placed at all access points of the adjoining private lots, where allowed, during the Market with the day and times listed. Additional signage shall be placed on the permanent 90-minute parking signs in each corresponding zone. These permanent signs will rotate with the operation and be installed no earlier than the Saturday prior to the Friday Market.
- g. **Restroom Access Agreement.** The Market shall provide the Community Development Director a written agreement showing that the surrounding merchants will provide access to adequate restroom facilities for vendors participating in the Market.

B. General Conditions.

- 1. **Prior Conditions.** These conditions shall supersede the conditions identified in Planning Commission Resolutions 031-06 and 001-09.
- 2. **Compliance with Requirements.** All requirements of the City of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
- 3. **Approval Limitations.**
 - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
 - b. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
- 4. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become

null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

III. NOTICE OF CONDITIONAL USE PERMIT APPROVAL TIME LIMITS:

The validity of a Planning Commission action approving the Conditional Use Permit shall terminate if the use authorized by the approval is discontinued, abandoned, or unused for a period of six (6) months following two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360. For purposes of abandonment, each Market site shall be evaluated individually. Therefore, if any individual Market site should cease operation for a period of six (6) months or more while other the Market site(s) continue to operate, only the individual Market site that ceased operation shall be deemed abandoned.

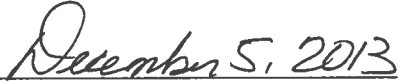
This motion was passed and adopted on the 3rd day of October, 2013 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 0 ABSTAIN: 0 ABSENT: 2 (Campanella, Thompson)

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



Julie Rodriguez, Planning Commission Secretary



Date

PLEASE BE ADVISED:

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



City of Santa Barbara

Planning Division

PLANNING COMMISSION MINUTES

October 3, 2013

CALL TO ORDER:

Chair Jordan called the meeting to order at 1:04 P.M.

I. ROLL CALL

Chair Mike Jordan, Vice Chair Deborah L. Schwartz, Commissioners Bruce Bartlett, Sheila Lodge, and June Pujo.

Absent: Commissioners Campanella and Thompson.

STAFF PRESENT:

Paul Casey, Community Development Director
 Bettie Weiss, City Planner
 Renee Brooke, Senior Planner
 Danny Kato, Senior Planner
 Susan Reardon, Senior Planner
 N. Scott Vincent, Assistant City Attorney
 Stacey Wilson, Associate Transportation Planner
 Allison De Busk, Project Planner
 Andrew Bermond, Associate Planner
 Dan Gullett, Associate Planner
 Julie Rodriguez, Planning Commission Secretary

II. PRELIMINARY MATTERS:

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

1. Draft Minutes of September 5, 2013

Chair Jordan announced that Item II.A.1 would be moved to 2:45 P.M.

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

None.

C. Announcements and appeals.

Ms. Brooke announced that the Planning Commission meetings of October 10 and 17, 2013 would be cancelled.

- D. Comments from members of the public pertaining to items not on this agenda. Chair Jordan opened the public hearing at 1:04 P.M. and, with no one wishing to speak, closed the hearing.

III. RECOGNITION:

ACTUAL TIME: 1:05 P.M.

PLANNING COMMISSION 90TH ANNIVERSARY

The Planning Commission was created by Ordinance 1170 on August 27, 1923, and held its first meeting on September 28, 1923. To commemorate this anniversary Staff provided a brief presentation of the milestones achieved since the Commission's inception and recognized Past and Current Planning Commissioners and Staff in attendance. A light reception followed during a meeting break.

Planner: Bettie Weiss, City Planner

Email: BWeiss@SantaBarbaraCA.gov

Phone: (805) 564-5470, ext. 5509.

Bettie Weiss, City Planner, gave the presentation. Steve Wiley, City Attorney, acknowledged all present and returning Staff by name. Mayor Helene Schneider and Chair Mike Jordan recognized each returning Planning Commissioner with a certificate of appreciation for their service.

Six decades of returning Commissioners included Kenneth Kruger (1963) and Ernest Watson (1964). From the 1970's: Tomas Castelo, Jeanne Graffy, Sheila Lodge (also on current Commission), Judith Orias, Gerry DeWitt, Michael Hall Gray, and Virginia Robinson. From the 1980's: James Craig Johnson and Elinor Langer. From the 1990's: Marty Blum, Anita Perez Ferguson, Gregg A. Hart, Dr. Dan Secord, Irma Unzueta, Maurie McGuire, Carole Echt, Brian Barnwell, Barbara Chen Lowenthal, Bendy White, Bill Mahan and Grant House. From 2000 to present: Peter Ehlen, Charmaine Jacobs, Stella Larson, George Myers, Bruce Bartlett, Michael Jordan, Deborah L. Schwartz, and June Pujo.

City Attorney Steve Wiley acknowledged all returning Staff that included Community Development Directors Paul Casey and Dave Davis; City Attorneys Steve Amerikaner, Cynthia Goena, and Kathleen Weinheimer.

Returning Senior Planners included Jan Hubbell, Stephanie Lawson-Diaz, Liz Limon and Danny Kato. Past Planning Commission Secretaries attending were Mitzi Clayton, Mary Louise Days, Susan Gantz, Pamela Gartin, and Anita Leskie.

All Commissioners met on the dais for a group photograph before the Chair adjourned the meeting at 2:00 P.M for a light reception. City TV-18 interviewed some of the returning Commissioners.

Chair Jordan reconvened the meeting at 2:45 P.M.

ITEM II.A.1. was heard:

- A. Action on the review of the following Draft Minutes and Resolutions:
1. Draft Minutes of September 5, 2013

MOTION: Pujo/Bartlett

Approved the Minutes of September 5, 2013 as earlier revised.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 0 Absent: 2 (Campanella, Thompson)

IV. NEW ITEM:

ACTUAL TIME: 2:47 P.M.

APPLICATION OF SANTA BARBARA CERTIFIED FARMER'S MARKET ASSOCIATION, 500 & 600 BLOCKS OF STATE STREET (NO APNS), 119 EAST COTA STREET (APN 031-151-018), 1100 & 1200 BLOCKS OF COAST VILLAGE ROAD (NO APNS) (MST2013-00149 & CDP2013-00006)

The project consists of permitting the Santa Barbara Certified Farmer's Market Association's continued operations of the existing Certified Farmer's Markets on the 500 and 600 blocks of State Street, at the Cota Commuter Lot (119 E. Cota St.), and on the 1100 and 1200 blocks of Coast Village Road. No operational changes are proposed.

The discretionary applications required for this project are:

1. A Coastal Development Permit (CDP2013-00006) to allow the Farmer's Market to operate on the 1100 and 1200 blocks of Coast Village Road in the Non-Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.44,150); and
2. A Conditional Use Permit Amendment to allow the continued operations of the State Street, Cota Commuter Lot, and Coast Village Road Farmer's Markets (SBMC §28.94.030.O).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15304(e) [Minor Alterations to Land – Minor Temporary Use of Land].

Case Planner: Daniel Gullett, Associate Planner

Email: DGullett@SantaBarbaraCA.gov

Phone: (805) 564-5470, ext. 4550.

Daniel Gullett, Associate Planner, gave the Staff presentation.

Sam Edelman, Farmers Market General Manager, provided appreciatory comments to the Commission.

Chair Jordan opened the public hearing at 2:54 P.M.

Mark Sheridan, resident, offered recommendations for revised conditions of approval, such as clarification of non-agricultural products, market staffing for pedestrian safety, and physically blocking vehicles from entering the State Street market.

With no one else wishing to speak, the public hearing was closed at 2:57 P.M.

MOTION: Pujo/Bartlett

Assigned Resolution No. 013-013

Approved the project, making the findings with a reference to fair market pricing, for the Coastal Development Permit and Conditional Use Permit Amendment, as outlined in the Staff Report, dated September 26, 2013, subject to the Conditions of Approval in Exhibit A of the Staff Report with the following revisions to the Conditions of Approval:

1. Amend Condition I.A.1 to include corrected legal references and the clause “as laws are amended.”
2. Amend Condition I.A.3 to list non-agricultural sales separately.
3. Remove individual references to ‘Non-Agriculture Products,’ ‘Non-Agricultural Sales,’ and ‘Wine Sales’ from Conditions I.A.21, 22, and 23 and move to the general condition section (I.A.) with wording similar to the Cota and State Street Markets.
4. Delete Condition I.A.23.d., “Prohibition of Alcohol Sales.”
5. Amend Condition II to clarify that if the use of one market site is discontinued for a period of six months, then only the approved use of the one site would expire, not all market sites.

Commissioners Bartlett and Jordan stated that the cessation of operations for two weeks leading to expiration of the license agreement was an inappropriately short period that should be longer and also consider natural disasters.

Commissioner Jordan suggested that the City consider providing more permanent safety improvements, such as bollards, at the North and South entrances of the State Street Market.

Commissioner Pujo asked that the license agreement include a requirement for periodic reporting to City staff on compliance with Conditional Use Permit conditions and that Commissioners comments be forwarded to City Council at the time of license agreement renewal.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 0 Absent: 2 (Campanella, Thompson)

Chair Jordan announced the ten calendar day appeal period.

Chair Jordan called a recess at 4:12 P.M and reconvened at 4:21 P.M.

V. **DISCUSSION ITEM – CONTINUED:**

ACTUAL TIME: 4:21 P.M.

ZONING INFORMATION REPORTS

The purpose of this discussion is for the Planning Commission to hear from staff and the public regarding issues that arise during the preparation of Zoning Information Reports and make suggestions to the City Council on possible Ordinance amendments and changes in the process to address these issues.

Case Planner: Susan Reardon, Senior Planner
Email: SReardon@SantaBarbaraCA.gov

Phone: (805) 564-5470, ext. 4555

Chair Jordan provided an introduction stating that Public Comment had already been heard on September 19, 2013, and instructed Staff to summarize the next steps.

Susan Reardon, Senior Planner, gave the Staff presentation that included an ordinance amendment timeline.

Steve Wiley, City Attorney, commented on discrepancies between ZIRs that in his experience, 9 times out of 10 the perceived discrepancy is due to unpermitted work having been done between the time the two ZIRs were prepared.

Bob Hart, speaking on behalf of the Santa Barbara Realtors Association, stated that Realtors encounter the attitude of having to prove innocence, and instead of being found innocent when something is not known by the city. Gave example of a neighboring city where if no permit records can be found, then it is deemed OK. Whereas in Santa Barbara, if supporting permit records cannot be found, then it is deemed wrong and in violation.

Laurel Abbot added that often realtors are met by counter staff saying that a report cannot be done within the contingency period and that an expedite fee must be paid. Clarification was given between the 17 day contingency period and the escrow period. The escrow period is longer than the contingency period. If the report is received after the contingency period, it could launch a new contingency period.

The Association appreciated the idea of a formal appeal process but was concerned with added cost to a client and suggested a nominal fee structure. The Association was open to participating in any future community forum for an exchange of dialogue.

Commissioners Comments:

- Commissioner Lodge understood the realtor's concerns about the properties not being sold within a year and suggested that consideration be given to extending the expiration of the ZIR to 18 months or 2 years to allow the applicant a longer window of time. Believes the ZIR's serve a useful purpose for the seller and the

- buyer. Staff is doing a good job and should continue in the direction they are going. Did agree that ZIR's should not be optional
- Commissioner Jordan reiterated Commissioner Thompson's comments of support for an appeal process; concerned with timeline and cost. Support of administrative approval process. Agreed that ZIR's should not be voluntary or optional; either have them or not. Concerned with unintended consequences on the current housing stock.
 - Commissioner Pujo agreed with many of Commissioner Lodge's comments regarding ZIR report value and extended expiration date. Supportive of retaining the ZIR system, just needs processing improvements. Supports a future workshop. Appreciated Thompson's comments, including a formal appeal process with quick turnaround, but not in favor of an appeal process that goes up the chain of appeal, perhaps include an administrative level. In the area of process improvement needs, found: 1) Non-conformities. (legal non-conforming). Need to deal with errors in older reports that were not correctly tagged as legal non-conforming, possibly due to not having the tools. Should be treated differently from each other. Both categories need attention at different levels. For example, buyer could go one step further and ask for determination of what that means if it is in an error category. Strongly supportive of SHO administrative approval, as described in the staff slides. Does not necessarily mean that it goes to a SHO hearing, can be handled administratively. 2) Forms and Submittals: Information about what to expect, timing of reports, clarification on what reports are and are not, could be greatly improved. 3) Fees: Perhaps a break could be given on fees if the new owner volunteers to fix violations that are found.
 - Commissioner Bartlett stated that we want to encourage people to go through a streamlined process to meet compliance. Supported an appeal process, including an administrative appeal that is not overly costly for applicant. Keeping things at the SHO level as much as possible is good. Clarifying what ZIR reports are and are not is critical. There should be a different process considered in the case of a voluntary ZIR where an owner wants to get an early look at what they may have, instead of a ZIR that comes back to hurt them when they sell. Fees need to be representative with the time allocation needed to prepare them. Fees need to be looked at double or nothing if not on time. Regarding timing, realtors should be more proactive, especially with increasing market. Support increasing the life of the ZIR. Suggested normal fee if applying early, others can pay the expedite fee if applying later. Believes we should keep ZIR as a requirement. It is a good process that serves a valuable purpose, just needs streamlining.
 - Commissioner Schwartz referenced a memo by Mayor Schneider and Councilman Francisco and sees potential amendments to the city's zoning ordinance. Also sees the need for a companion piece for what is not covered by the ordinance, such as human resource allocation, fees associated with the process, and the ZIR. Referenced the PowerPoint that Staff took to Council on August 13, 2013. If a municipality is to have zoning ordinances and code, we need tools to monitor and enforce them. Not sure what to do about existing ZIR reports that buyer and

seller once relied on that gave a clean bill of health and later issues are found. The City needs to take responsibility for the content and accuracy of the ZIR reports. To resolve discrepancies, suggested grandfathering inaccurate information, missing information, etc. at the point of contact with buyer/seller transaction, so that the city problem is not passed on to someone else. Not fair for it to be the burden of the community. Cost and Timeframe: Not sure what the remedy is for not delivering our product on time. Suggested that Realtors request reports early as possible. Supported extending the reports 18-24 months. Supported retaining ZIR's as required, if improvements are made. The Commission has periodically discussed illegal dwelling units and still has not had a robust working session on this reoccurring topic. Supports a streamlined administrative process that does not drag down the process. Commissioner Schwartz did her own research asking contractors and home inspectors with what fees they would charge and found they are in line with what the city charges now. If we maintain full cost recovery fees, we should be able to staff up/staff down to follow the markets fluctuations. Concurred with Commissioner Bartlett that we need to find processes and legal language that helps the city and real estate industry come together to find common ground to improve the ZIR process. Extended appreciation to staff and the real estate industry that has put four years into a collective benefit.

- Commissioner Jordan reiterated that there is little traction for a voluntary report versus mandatory report. Encouraged the Board of Realtors to get past that and engage their resources on suggestions for process improvements. Believes ZIR's should be mandatory and not optional. Will look for process expediencies and fee reductions in instances where we can and when it is shown that staff made a mistake. Supports the Staff Hearing Officer administrative stream as the way to go. There is a burden on the city to repair the good will that has been lost in this process. Felt that cleaning up P3 performance evaluations to match up goals with the ordinance should be done. Supports Commissioner Thompson's suggestion of a workshop.

Ms. Weiss thanked the Commission for its comments and acknowledged the work that has been done over the last four years. Work will continue with the Association and the Council.

VI. ADMINISTRATIVE AGENDA

ACTUAL TIME: 6:30 P.M.

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

None was given.

3. Other Committee and Liaison Reports

- a. Commissioner Jordan announced that it was First Thursday.

VII. ADJOURNMENT

Chair Jordan adjourned the meeting at 6:30 P.M.

Submitted by,



Julie Rodriguez, Planning Commission Secretary