CITY OF SANTA BARBARA
CITY COUNCIL

Marty Blum
Mayor
Dale Francisco
Mayor Pro Tempore
Das Williams
Ordinance Committee Chair
Roger L. Horton
Finance Committee Chair
Iya G. Falcone
Grant House
Helene Schneider

James L. Armstrong
City Administrator

Stephen P. Wiley
City Attorney

City Hall
735 Anacapa Street
http://www.SantaBarbaraCA.gov

OCTOBER 13, 2009
AGENDA

ORDER OF BUSINESS: Regular meetings of the Finance Committee and the Ordinance Committee begin at 12:30 p.m. The regular City Council meeting begins at 2:00 p.m. in the Council Chamber at City Hall.

REPORTS: Copies of the reports relating to agenda items are available for review in the City Clerk's Office, at the Central Library, and http://www.SantaBarbaraCA.gov. In accordance with state law requirements, this agenda generally contains only a brief general description of each item of business to be transacted or discussed at the meeting. Should you wish more detailed information regarding any particular agenda item, you are encouraged to obtain a copy of the Council Agenda Report (a "CAR") for that item from either the Clerk's Office, the Reference Desk at the City's Main Library, or online at the City's website (http://www.SantaBarbaraCA.gov). Materials related to an item on this agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office located at City Hall, 735 Anacapa Street, Santa Barbara, CA 93101, during normal business hours.

PUBLIC COMMENT: At the beginning of the 2:00 p.m. session of each regular City Council meeting, and at the beginning of each special City Council meeting, any member of the public may address the City Council concerning any item not on the Council's agenda. Any person wishing to make such address should first complete and deliver a "Request to Speak" form prior to the time that public comment is taken up by the City Council. Should City Council business continue into the evening session of a regular City Council meeting at 6:00 p.m., the City Council will allow any member of the public who did not address them during the 2:00 p.m. session to do so. The total amount of time for public comments will be 15 minutes, and no individual speaker may speak for more than 1 minute. The City Council, upon majority vote, may decline to hear a speaker on the grounds that the subject matter is beyond their jurisdiction.

REQUEST TO SPEAK: A member of the public may address the Finance or Ordinance Committee or City Council regarding any scheduled agenda item. Any person wishing to make such address should first complete and deliver a "Request to Speak" form prior to the time that the item is taken up by the Finance or Ordinance Committee or City Council.

CONSENT CALENDAR: The Consent Calendar is comprised of items that will not usually require discussion by the City Council. A Consent Calendar item is open for discussion by the City Council upon request of a Councilmember, City staff, or member of the public. Items on the Consent Calendar may be approved by a single motion. Should you wish to comment on an item listed on the Consent Agenda, after turning in your "Request to Speak" form, you should come forward to speak at the time the Council considers the Consent Calendar.

AMERICANS WITH DISABILITIES ACT: In compliance with the Americans with Disabilities Act, if you need special assistance to gain access to, comment at, or participate in this meeting, please contact the City Administrator's Office at 564-5305 or inquire at the City Clerk's Office on the day of the meeting. If possible, notification at least 48 hours prior to the meeting will enable the City to make reasonable arrangements in most cases.

TELEVISION COVERAGE: Each regular City Council meeting is broadcast live in English and Spanish on City TV Channel 18 and rebroadcast in English on Wednesdays and Thursdays at 7:00 p.m. and Saturdays at 9:00 a.m., and in Spanish on Sundays at 4:00 p.m. Each televised Council meeting is closed captioned for the hearing impaired. Check the City TV program guide at www.citytv18.com for rebroadcasts of Finance and Ordinance Committee meetings, and for any changes to the replay schedule.

ORDER OF BUSINESS

1:00 p.m. - Special Finance Committee Meeting, David Gebhard Public Meeting Room, 630 Garden Street
2:00 p.m. - City Council Meeting

SPECIAL FINANCE COMMITTEE MEETING - 1:00 P.M. IN DAVID GEBHARD PUBLIC MEETING ROOM, 630 GARDEN STREET (120.03)

Subject: Property Tax Securitization Program

Recommendation: That the Finance Committee:

A. Hear a report from staff on the California Communities' Proposition 1A Securitization Program, which allows cities to receive upfront the property tax revenues being borrowed by the State of California in connection with the adoption of its Fiscal Year 2010 budget; and

B. Forward to City Council staff's recommendation to participate in the Securitization Program.

REGULAR CITY COUNCIL MEETING – 2:00 P.M.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CEREMONIAL ITEMS

1. Subject: Proclamation Declaring October 2009 As Breast Cancer Awareness Month (120.04)

CHANGES TO THE AGENDA

PUBLIC COMMENT

CONSENT CALENDAR

2. Subject: Minutes

Recommendation: That Council waive the reading and approve the minutes of the regular meetings of September 22, and September 29, 2009.

3. Subject: Approval Of Funding For Downtown Parking Garage Lighting Project (550.05)

Recommendation: That Council:

A. Increase the Downtown Parking estimated revenues in the amount of $96,363.31 in the Downtown Parking operating reserve for amounts to be reimbursed by Southern California Edison; and

B. Appropriate $121,271.16 from operating reserves in the Downtown Parking Capital Program to cover the cost of installing new fluorescent light fixtures in four of the City's downtown parking garages.

CONSENT CALENDAR (CONT'D)

4. Subject: Purchase Order For Drafting Services For The Fiscal Year 2010 Water Main Improvement Project (540.06)

Recommendation: That Council authorize the General Services Manager to issue a Purchase Order to O'Brien & Wall (O'Brien) in the amount of $38,665 for drafting services on the Water Main Improvement Project, Fiscal Year 2010 (Project), and change order authority of up to $3,935 to cover any cost increases that may result from extra services.

5. Subject: Agreements For Afterschool Recreation Programs (570.06)

Recommendation: That Council:

A. Authorize the Parks and Recreation Director to enter into two annual program operation agreements with the Santa Barbara School Districts (SBSD) for the Recreation Afterschool Program (RAP) and Afterschool Opportunities for Kids! (A-OK!);

B. Authorize the Parks and Recreation Director to enter into an annual program operation agreement with the Santa Barbara School Districts and Police Activities League (PAL) for the Junior High Afterschool Sports Program; and

C. Increase estimated revenues and appropriations by $32,432 in the Parks and Recreation Department Fiscal Year 2010 General Fund budget for the Recreation Afterschool Program and Afterschool Opportunities for Kids! Program.

NOTICES

6. The City Clerk has on Thursday, October 8, 2009, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.

7. Cancellation of the regular Redevelopment Agency meeting of October 13, 2009, due to a lack of business.

This concludes the Consent Calendar.

REPORT FROM THE FINANCE COMMITTEE

CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS

CITY ADMINISTRATOR

8. Subject: Central Coast Water Authority Board Member Assignment (540.03)

Recommendation: That Council designate a Councilmember to serve as the City's Representative on the Central Coast Water Authority (CCWA) Board for the remainder of the year.

FINANCE DEPARTMENT

9. Subject: Establishment Of Purchasing Debarment Procedures (340.02)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Establishing the Grounds and Procedures for the Debarment of Nonresponsible Contractors Who Seek Contracts with the City.

PUBLIC WORKS DEPARTMENT

10. Subject: Joint Participation Agreement For Cachuma Operation And Maintenance Board Bond Issuance To Finance Improvements To The South Coast Conduit (540.03)

Recommendation: That Council:

A. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Authorizing the Execution and Delivery of a Joint Participation Agreement with the Cachuma Operation and Maintenance Board, and Authorizing Certain Other Actions Related Thereto; and

B. Authorize the City Administrator to execute an Indemnification Agreement by and between the Cachuma Operation and Maintenance Board, Goleta Water District, City of Santa Barbara, Carpinteria Valley Water District, and the Santa Ynez Water Conservation District, Improvement District No. 1 (ID No. 1), provided the agreement is in a form acceptable to the City Attorney.

11. Subject: Public Hearing Regarding Proposed Solid Waste Rate Changes (630.01)

Recommendation: That Council hold a public hearing, as required by State law, regarding proposed changes to rates for the collection of recyclables, greenwaste, foodscraps and trash for businesses within the City of Santa Barbara.

PUBLIC HEARINGS

12. Subject: Appeal Of The Planning Commission Denial Of The 1642 & 1654 Calle Cañon/2418 Calle Montilla Subdivision (640.07)

Recommendation: That Council deny the appeal of Joseph and Carolyn Maguire, thereby upholding the Planning Commission denial of the proposed six-lot subdivision and associated modifications and waivers.

COUNCIL AND STAFF COMMUNICATIONS

COUNCILMEMBER COMMITTEE ASSIGNMENT REPORTS

ADJOURNMENT

File Code 120.03

CITY OF SANTA BARBARA

FINANCE COMMITTEE

SPECIAL MEETING AGENDA

DATE: October 13, 2009
TIME: 1:00 p.m.
PLACE: David Gebhard Public Meeting Room
630 Garden Street

Roger L. Horton, Chair
Helene Schneider
Iya Falcone

James L. Armstrong
City Administrator

Robert Samario
Interim Finance Director

ITEM TO BE CONSIDERED:

Subject: Property Tax Securitization Program

Recommendation: That the Finance Committee:

A. Hear a report from staff on the California Communities' Proposition 1A Securitization Program, which allows cities to receive upfront the property tax revenues being borrowed by the State of California in connection with the adoption of its Fiscal Year 2010 budget; and

B. Forward to City Council staff's recommendation to participate in the Securitization Program.

File Code No. 120.03

CITY OF SANTA BARBARA

FINANCE COMMITTEE AGENDA REPORT

AGENDA DATE: October 13, 2009

TO: Finance Committee

FROM: Administration Division, Finance Department

SUBJECT: Property Tax Securitization Program

RECOMMENDATION:

That the Finance Committee:

A. Hear a report from staff on the California Communities' Proposition 1A Securitization Program, which allows cities to receive upfront the property tax revenues being borrowed by the State of California in connection with the adoption of its Fiscal Year 2010 budget; and
B. Forward to City Council staff's recommendation to participate in the Securitization Program.

DISCUSSION:

On July 28, 2009, Governor Arnold Schwarzenegger signed the Fiscal Year 2010 California State budget, pursuant to which cities, counties, and special districts will be required to lend property tax revenues to the State. The amount being borrowed by the State is equal to 8% of the property taxes collected and allocated in Fiscal Year 2009. For the City of Santa Barbara, this amounts to an estimated $2.2 million. Repayment is due by the State in three years.

The borrowing by the State is authorized by Proposition 1A, a ballot measure approved by California voters in 2004. Proposition 1A amended the California Constitution and provided certain protections from State raids on local government revenues. It also provided that, in cases of fiscal emergencies as declared by the Governor and approved by 2/3's of the legislature, the State could "borrow" from local governments.

The State's budget bills included a provision allowing local governments to receive the monies being borrowed in advance through a securitization program. California Communities, a joint powers authority sponsored by the League of California Cities and California State Association of Counties is working to implement this program.

Some of the key features of the program include:

- Participating agencies will receive 100% of the amount of the property taxes being borrowed.

- California Communities will issue tax-exempt bonds and provide each local agency with the cash proceeds in two equal installments, on January 15, 2010 and May 3, 2010, coinciding with the dates that the State will be shifting property tax from local agencies.

- Participating local agencies will incur no costs of issuance and have no obligation on the bonds or credit exposure to the State.

Clean-up legislation is needed to implement the securitization program. Senate Bill 67, a clean-up bill recently failed; however, California Communities expects legislation to be approved prior to funding the program. However, if the clean-up legislation is not enacted in time, the program will collapse and all agencies will have to wait three years for repayment.

Local governments have the option of not participating in the securitization program offered by California Communities and thus simply waiting for the State to repay the loan. Some of the considerations for not participating in the securitization program include the impact on General Fund available reserves, the interest rate payable on the loan relative to the interest that would otherwise be earned by the City; and the risk of non-payment by the State.

Choosing to not participate in the securitization program would in fact reduce the amount of General Fund cash reserves available to respond to emergencies that may arise. However, cash reserves are available in other funds and, if necessary, could be used temporarily to respond to a natural disaster.

The loan would be repaid in approximately three years with interest calculated at 2% per year. By way of comparison, the interest rates on three-year investments typically purchased by the City currently range from approximately 1.5% to 1.7%. Therefore, the rate to be paid by the State is slightly better than what would be available in the current investment environment for the same term. However, it is likely that interest rates will increase over the next year, which would allow the City to invest the securitized funds at a higher rate if and when actually received.

Although the amounts borrowed by the State are legal obligations of the State and repayment is protected by the California Constitution, it is possible that the State may delay payment. There is still considerable uncertainty over the economy and the State has yet to completely address their budget shortfalls and structural imbalance.

Staff recommends participation in the securitization program primarily based on the fact that 100% of the funds will be received with no financial commitments or obligations associated with the bonds to be issued by California Communities. It also removes the risk of non-payment by the State.

On October 20, staff will be requesting that Council approve certain documents required for participation in the securitization in the program. These documents include the proposed Proposition 1A Receivables Sale Resolution, which essentially authorizes the sale of the City of Santa Barbara's Proposition 1A Receivable to California Communities for 100% of its receivable; and the Proposed Purchase and Sale Agreement, which spells out the terms and conditions for the sale of the Proposition 1A Receivable to California Communities.

SUBMITTED BY: Robert Samario, Interim Finance Director

APPROVED BY: City Administrator's Office

City of Santa Barbara

PROCLAMATION

Breast Cancer Awareness Month
October 2009

WHEREAS, *October2009 is National* ***Breast Cancer Awareness Month****; and*

WHEREAS, *an estimated 192,370 new cases of female breast cancer will be diagnosed in women in 2009, while an estimated 1,900 new cases of male breast cancer will be diagnosed in 2009 and that mammography is recognized as most effective method of detecting breast changes that may be cancer long before physical symptoms can be seen or felt; and*

WHEREAS, *about 40,170 women will die from breast cancer and about 440 men will die from breast cancer in 2009 and;*

WHEREAS, *early detection and prompt treatment can significantly reduce suffering and deaths caused by this disease, and*

WHEREAS, *the Soroptimist* ***Workplace Campaign for Breast Cancer Awareness*** *are ongoing Soroptimist efforts to promote awareness, advocacy and action; and that Soroptimists are in a position worldwide to educate everyone, especially women; and*

WHEREAS, *Soroptimist, is an international volunteer organization for business and professional women who work to improve the lives of women and girls, in local communities throughout the world has launched a Region-wide campaign called "COLOR ME PINK" (for breast cancer) to provide information about breast cancer; and*

NOW, THEREFORE, I, MARTY BLUM, *by virtue of the authority vested in me as Mayor of the City of Santa Barbara, California, do hereby proclaim October as* ***BREAST CANCER AWARENESS MONTH*** *with special recognition to Soroptimists International of Santa Barbara for their various contributions to many communities for dissemination of information and celebrate successes and memorialize lost battles.*

IN WITNESS THEREOF, *I have hereunto set my hand and caused the Official Seal of the City of Santa Barbara, California, to be affixed this 1st day of October, 2009.*

Marty Blum
MARTY BLUM, MAYOR

CITY OF SANTA BARBARA
CITY COUNCIL MINUTES

REGULAR MEETING
September 22, 2009
COUNCIL CHAMBER, 735 ANACAPA STREET

CALL TO ORDER

Mayor Marty Blum called the meeting to order at 2:00 p.m. (The Finance and Ordinance Committees, which ordinarily meet at 12:30 p.m., did not meet on this date.)

PLEDGE OF ALLEGIANCE

Mayor Blum.

ROLL CALL

Councilmembers present: Iya G. Falcone, Dale Francisco, Roger L. Horton, Grant House, Helene Schneider, Das Williams, Mayor Blum.
Councilmembers absent: None.
Staff present: Assistant City Administrator Joan M. Kent, City Attorney Stephen P. Wiley, City Clerk Services Manager Cynthia M. Rodriguez.

CEREMONIAL ITEMS

1. Subject: Proclamation Declaring September 26, 2009, As Mesothelioma Awareness Day (120.04)

   Action: Proclamation presented to Program Associate Jeni Piccolo, Mesothelioma Foundation.

PUBLIC COMMENT

Speakers: Phil Walker, Eastside Resident; Kate Smith; David Daniel Diaz; Gert Walter; Maria Lane Ross, Synergy Entertainment Group; Jina Carvalho.

CONSENT CALENDAR (Items Nos. 2 - 7)

The title of the ordinance related to the Consent Calendar was read.

Motion:

Councilmembers Horton/Williams to approve the Consent Calendar as recommended.

Vote:

Unanimous roll call vote.

2. Subject: Minutes

Recommendation: That Council waive the reading and approve the minutes of the special meeting of September 3, 2009.

Action: Approved the recommendation.

3. Subject: Adoption Of Ordinance Pertaining To Amendments To Municipal Code Title 17 Regarding Waterfront Policies (570.03)

Recommendation: That Council adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Title 17 Sections 17.20.005, 17.20.220, and 17.20.265 Pertaining to Operations at the Waterfront.

Action: Approved the recommendation; Ordinance No. 5500.

4. Subject: Approval Of Benefit Plans Effective January 1, 2010 (430.06)

Recommendation: That Council:

A. Approve renewal of the Aetna and Kaiser Permanente medical plans; Delta Dental Plans; Vision Service Plan; Employee Assistance Program (EAP); Flexible Spending Accounts; Hartford Life and Disability Insurance Plans; Allstate Voluntary Disability Plans; and Aliquant for benefits administration services; and

B. Authorize the Administrative Services Director to execute any necessary contracts or amendments to agreements or contracts.

Action: Approved the recommendations; Agreement Nos. 23,195 - 23,197 (September 22, 2009, report from the Administrative Services Director).

5. Subject: Set A Date For Public Hearing Regarding Appeal Of Fire And Police Commission Renewal Of Dance Permit For Velvet Jones At 423 State Street (520.01)

Recommendation: That Council:

A. Set the date of October 27, 2009, at 2:00 p.m. for hearing the appeal filed by Craig Jenkins of the Fire and Police Commission renewal of a Dance Permit with conditions for Velvet Jones, located at 423 State Street; and

B. Set the date of October 26, 2009, at 1:30 p.m. for a site visit to the property located at 423 State Street.

Action: Approved the recommendations (September 9, 2009, letter of appeal).

6. Subject: Set A Date For Public Hearing Regarding Appeal Of Planning Commission Approval For 226 And 232 Eucalyptus Hill Drive (640.07)

Recommendation: That Council:

A. Set the date of November 17, 2009, at 2:00 p.m. for hearing the appeal filed by June Sochel, representing neighboring property owners, of the Planning Commission approval of an application for property owned by Cynthia Howard and located at 226 and 232 Eucalyptus Hill Drive, Assessor's Parcel No. 015-050-017 and -018, A-2 One-Family Residence Zone, General Plan Designation: Residential, Two Units per Acre. The proposed project involves a Lot Line Adjustment to allow adjustment of the property line between two existing parcels, Street Frontage Modifications to allow less than the required 100 feet of frontage on a public street for each parcel, and Performance Standard Permits to allow an additional dwelling unit on each parcel. Parcel 1 would include a 6,129 square-foot residence with an attached 743 square-foot garage, a 1,150 square-foot residence with a 320 square-foot garage, and a detached 430 square-foot garage. Parcel 2 would include a 3,700 square-foot residence with an a 747 square-foot attached garage, and a 1,250 square-foot residence with a 352 square-foot subterranean garage; and

B. Set the date of November 16, 2009, at 1:30 p.m. for a site visit to the property located at 226 and 232 Eucalyptus Hill Drive.

Action: Approved the recommendations (August 25, 2009, letter of appeal).

NOTICES

7. The City Clerk has on Thursday, September 17, 2009, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.

This concluded the Consent Calendar.

CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS

COMMUNITY DEVELOPMENT DEPARTMENT

8. Subject: Trust For Historic Preservation - Downtown Campus Update (640.06)

Recommendation: That Council receive a report from the Santa Barbara Trust for Historic Preservation on the status of their Downtown Campus.

Documents:
- September 22, 2009, report from the Community Development Director.
- September 22, 2009, PowerPoint presentation prepared and made by Santa Barbara Trust for Historic Preservation.

Speakers:
- Staff: Housing and Redevelopment Manager Brian Bosse.
- Trust for Historic Preservation: Executive Director Dr. Jerry Jackman.
- Metaphor Ltd.: Principal Steven Greenberg.
- Members of the Public: Kate Smith.

By consensus, the Council received the report.

9. Subject: Funding Allocation Of The City Of Santa Barbara Community Promotion Grants And Contract With The Santa Barbara County Arts Commission For Fiscal Year 2010 (230.02)

Recommendation: That Council:
A. Review and approve the City of Santa Barbara Arts Advisory Committee grant recommendations for Fiscal Year 2010; and
B. Authorize the Community Development Director to execute a $485,523 contract with the Santa Barbara County Arts Commission as approved in the Fiscal Year 2010 budget.

Documents:
September 22, 2009, report from the Community Development Director.

Speakers:
- Staff: Administrative Services Manager Michele DeCant.
- County Arts Commission: Executive Director Ginny Brush.
- Members of the Public: Karen Putnam, Art from the Heart; Kate Smith.

Councilmember Horton stated that due to a conflict of interest related to the Trust for Historic Preservation and City at Peace, both of which he serves as a Board member, he would not participate in voting on these grants.

(Cont'd)

9. (Cont'd)

Motion:

Councilmembers Schneider/House to: approve the grant recommendations (recommendation A) with the exception of the grants to 1) Trust for Historic Preservation, and 2) City at Peace; and approve Contract No. 23,198 (recommendation B).

Vote:

Unanimous voice vote.

Motion:

Councilmembers Schneider/Williams to approve the grants for the Trust for Historic Preservation and City at Peace.

Vote:

Unanimous voice vote (Abstention: Councilmember Horton).

10. Subject: Introduction Of Mills Act Historic Preservation Incentive Ordinance (640.06)

Recommendation: That Council:

A. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Chapter 22.22 of the Municipal Code to Establish a Process for Historic Property Preservation Contracts Between the Owners of City Historic Properties and the City Pursuant to the Authority of the State Mills Act;

B. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara to Adopt Administrative Rules and Procedures for the Implementation of the State Mills Act Program; and

C. Recommend that Staff return to Council after three years with a status report on the City's Mills Act Program.

Documents:

- September 22, 2009, report from the Community Development Director.
- Proposed Ordinance.
- Proposed Resolution.
- September 22, 2009, PowerPoint presentation prepared and made by staff.

The titles of the ordinance and resolution were read.

Speakers:

- Staff: Senior Planner Jaime Limon, Associate Planner Jake Jacobus.
- Historic Landmarks Commission: Commissioner Louise Boucher.
- Members of the Public: Kellam de Forest.

(Cont'd)

10. (Cont'd)

Motion:
Councilmembers Horton/Falcone to approve the recommendations; Resolution No. 09-078.
Vote:
Unanimous roll call vote.

ADJOURNMENT

Mayor Blum adjourned the meeting at 3:44 p.m.

SANTA BARBARA CITY COUNCIL

SANTA BARBARA
CITY CLERK'S OFFICE

_____ATTEST:_____

MARTY BLUM
MAYOR

CYNTHIA M. RODRIGUEZ, CMC
CITY CLERK SERVICES MANAGER

CITY OF SANTA BARBARA
CITY COUNCIL MINUTES

REGULAR MEETING
September 29, 2009
COUNCIL CHAMBER, 735 ANACAPA STREET

CALL TO ORDER

Mayor Marty Blum called the joint meeting of the Council and Redevelopment Agency to order at 2:00 p.m. (The Ordinance Committee met at 11:00 a.m. The Finance Committee met at 1:00 p.m.)

PLEDGE OF ALLEGIANCE

Mayor Blum.

ROLL CALL

Councilmembers present: Iya G. Falcone, Roger L. Horton, Grant House, Helene Schneider, Mayor Blum.
Councilmembers absent: Dale Francisco, Das Williams.
Staff present: City Administrator James L. Armstrong, City Attorney Stephen P. Wiley, Deputy City Clerk Brenda Alcazar.

CEREMONIAL ITEMS

1. Subject: Proclamation Declaring September 28, 2009, As Family Day (120.04)

   Action: Proclamation presented to Jennifer Cabrera on behalf of Santa Barbara's Fighting Back Coalition and the Council on Alcoholism and Drug Abuse.

PUBLIC COMMENT

Speakers: David Daniel Diaz, Hans Kistner.

CONSENT CALENDAR (Item Nos. 2 – 8 and 11 - 14)

The titles of the ordinance and resolutions related to Item Nos. 5 and 6 were read.

Councilmember Williams entered the meeting at 2:07 p.m.

Motion:

Councilmembers Horton/House to approve the Consent Calendar as recommended.

Vote:

Unanimous roll call vote (Absent: Councilmember Francisco).

2. Subject: Minutes

Recommendation: That Council waive the reading and approve the minutes of the special meeting of September 8, 2009, the regular meeting of September 8, 2009 (cancelled), and the regular meeting of September 15, 2009.

Action: Approved the recommendation.

3. Subject: Fiscal Year 2010 Interim Financial Statements For The Month Ended July 31, 2009 (250.02)

Recommendation: That Council accept the Fiscal Year 2010 Interim Financial Statements for the Month Ended July 31, 2009.

Action: Approved the recommendation (September 29, 2009, report from the Interim Finance Director).

4. Subject: August 2009 Investment Report (260.02)

Recommendation: That Council accept the August 2009 Investment Report.

Action: Approved the recommendation (September 29, 2009, report from the Interim Finance Director).

5. Subject: Adoption Of Mills Act Historic Preservation Incentive Ordinance (640.06)

Recommendation: That Council adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Chapter 22.22 of the Municipal Code to Establish a Process for Historic Property Preservation Contracts Between the Owners of City Historic Properties and the City Pursuant to the Authority of the State Mills Act.

Action: Approved the recommendation; Ordinance No. 5501.

6. Subject: Introduction Of Ordinance And Resolutions For The 2030 Las Canoas Road Annexation (680.04)

Recommendation: That Council:

A. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Chapter 28.12 (Zone Map) of Title 28 of the Municipal Code Pertaining to the Zoning of Certain Real Property Upon Annexation to Assessor's Parcel Number 021-030-039 located at 730 Las Canoas Place;

B. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Requesting Initiation of Proceedings for a Reorganization of Boundaries, Annexation to the City of Santa Barbara, and Detachment from the Santa Barbara County Fire Protection District, for Certain Real Property Presently Located at 2030 Las Canoas Road, Assessor's Parcel Number 021-010-061;

C. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Amending the General Plan Map of the City of Santa Barbara Pertaining to the Designation of Certain Real Property Upon Annexation to Assessor's Parcel Number 021-030-039 Located at 730 Las Canoas Place; and

D. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Amending the Hillside Design District Map of the City of Santa Barbara Pertaining to the Designation of Certain Real Property Upon Annexation to Assessor's Parcel Number 021-030-039 Located at 730 Las Canoas Place.

Action: Approved the recommendations; Resolution Nos. 09-079 - 09-081 (September 29, 2009, report from the Community Development Director; affidavit of publication; proposed ordinance; proposed resolutions).

7. Subject: Fiscal Year 2009 Community Development Block Grant Reprogrammed Capital Funding Recommendations (610.05)

Recommendation: That Council:

A. Approve the funding recommendations of the Community Development and Human Services Committee (CDHSC) for Fiscal Year 2009 Community Development Block Grant (CDBG) reprogrammed capital funds in the amount of $150,000; and

B. Authorize the Community Development Director to negotiate and execute agreements implementing the funding recommendations, subject to the review and approval of the City Attorney.

Action: Approved the recommendations; Agreement Nos. 23,199 - 23,202 (September 29, 2009, report from the Community Development Director).

8. Subject: State Of California Office Of Traffic Safety Grant (520.04)

Recommendation: That Council:

A. Accept the State of California Office of Traffic Safety Grant of $194,855 for a driving under the influence (DUI) alcohol enforcement and education program, and authorize the Chief of Police to execute the grant agreement; and

B. Appropriate the grant allocation of $194,855 to the Miscellaneous Grants Fund.

Action: Approved the recommendations; Agreement No. 23,203 (September 29, 2009, report from the Police Chief).

Item Nos. 9 and 10 appear in the Redevelopment Agency minutes.

NOTICES

11. The City Clerk has on Thursday, September 24, 2009, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.

12. Receipt of correspondence advising of the resignation of Access Advisory Committee member James Marsten and Historic Landmarks Commissioner Kenneth Curtis; the vacancies will be included in the current advisory group recruitment.

13. City Advisory Groups Recruitment

A. The City Clerk's Office will accept applications through Friday, October 23, 2009, at 5:00 p.m., to fill scheduled vacancies on various City Advisory Groups, and the unscheduled vacancies resulting from resignations received in the City Clerk's Office through Wednesday, October 7, 2009;

B. The City Council will conduct interviews of applicants for vacancies on various City Advisory Groups on Tuesday, November 10, 2009, at 4:00 p.m. (Estimated Time), Tuesday, November 17, 2009, at 6:00 p.m., and Tuesday, November 24, 2009, at 4:00 p.m.;

C. The City Council Subcommittee will conduct interviews of applicants for the Franklin Center, Lower Westside Center and Westside Center Advisory Committees, and applicants for the Downtown Neighborhood position on the Community Development & Human Services Committee on Thursday, November 12, 2009, at 7:00 p.m. at the Westside Community Center, 423 W. Victoria Street; and

D. The City Council will make appointments to fill vacancies on various City Advisory Groups on Tuesday, December 15, 2009.

14. A City Council site visit is scheduled for Monday, October 5, 2009, at 1:30 p.m. to the property located at 2105 Anacapa Street, which is the subject of an appeal hearing set for October 6, 2009, at 2:00 p.m.

This concluded the Consent Calendar.

REPORT FROM THE ORDINANCE COMMITTEE

Ordinance Committee Chair Das Williams reported that the Committee met to continue discussion on the Medical Cannabis Dispensary Ordinance, and stated that the Committee will need to meet at least one more time before forwarding recommendations to Council.

REPORT FROM THE FINANCE COMMITTEE

Finance Committee Chair Roger L. Horton reported that the Committee met to discuss the Interim Financial Statements for both the City and Redevelopment Agency, and the August 2009 Investment Report, all of which were approved by the Council and Redevelopment Agency Board as part of this agenda's Consent Calendar, Item Nos. 3, 10, and 4, respectively.

Councilmember Francisco entered the meeting at 2:11 p.m.

Item No. 15 appears in the Redevelopment Agency minutes.

RECESS

3:24 p.m. - 3:33 p.m. Councilmembers Falcone, House and Williams were absent when the Council reconvened.

REDEVELOPMENT AGENCY REPORTS

16. Subject: Contract For Construction For The Carrillo Recreation Center Rehabilitation Project (570.07)

    Recommendation:

    A. That the Redevelopment Agency (Agency) Board authorize the expenditure of $4,736,970 from the Agency's Carrillo Recreation Center Rehabilitation Project accounts in the 2001A Bond Fund, 2003A Bond Fund, and the Agency's General Capital Projects Fund, to fund the construction of the Carrillo Recreation Center Rehabilitation Project (Project), including construction, construction support, Leadership in Energy and Environmental Design (LEED) commissioning, inspection, materials testing, furniture allocation, staff time, and other items;

    B. That Council reject the bid protests of McGillivray Construction, Inc. (McGillivray), and Frank Schipper Construction (Schipper), and award a contract to TASCO Construction, Inc. (TASCO), in their low bid amount for the base bid of $3,060,905, for construction of the Project, Bid No. 3503;

(Cont'd)

16. (Cont'd)

C. That Council authorize the Public Works Director to execute the contract for the base bid, and approve expenditures of up to $612,181 to cover any cost increases from contract change orders;

D. That Council authorize the Public Works Director to execute a contract with Kruger Bensen Ziemer Architects, Incorporated (KBZ), in the amount of $196,000, for construction support and LEED administrative services, and approve expenditures of up to $20,000 for extra services;

E. That Council authorize the Public Works Director to execute a contract with AG Mechanical, Inc. (AG Mechanical), in the amount of $62,800 to provide Enhanced LEED Commissioning, and approve expenditures of up to $6,280 for extra services;

F. That Council authorize the General Services Manager to issue a Purchase Order to Penfield & Smith (P&S), in the amount of $229,625, to provide construction inspection services, and approve expenditures of up to $23,000 for extra services;

G. That Council authorize the General Services Manager to issue a Purchase Order to Fugro West, Inc. (Fugro), in the amount of $37,899, to provide materials testing and special inspection services, and to approve expenditures of up to $3,790 for extra services;

H. That Council authorize the General Services Manager to issue a Purchase Order to Criterion Environmental (Criterion), in the amount of $11,340, to monitor asbestos and lead paint abatement, and to approve expenditures of up to $1,150 for extra services; and

I. That Council authorize the General Services Manager to issue a Purchase Order to a contractor selected from a bid process in an amount not to exceed $100,000 to complete landscaping for the Project.

Documents:

- September 29, 2009, joint report from the Community Development Director/Agency Deputy Director, the Public Works Director, and the Parks and Recreation Director.
- September 29, 2009, PowerPoint presentation prepared and made by Staff.

Council/Agency Member House returned to the meeting at 3:34 p.m. Council/Agency Member Falcone returned to the meeting at 3:35 p.m. Council/Agency Member Williams returned to the meeting at 3:40 p.m.

Speakers:

- Staff: Principal Civil Engineer Joshua Haggmark, Senior Recreation Supervisor Jason Bryan, City Administrator/Agency Executive Director James Armstrong, City Attorney/Agency Counsel Stephen Wiley.
- Member of the Public: Michael Self.

(Cont'd)

16. (Cont'd)

Motion:

Council/Agency Members House/Horton to approve the recommendations; City Council Contract No. 23,204 (Recommendation C), City Council Contract No. 23,205 (Recommendation D) and City Council Contract No. 23,206 (Recommendation E).

Vote:

Majority voice vote (Noes: Councilmember Williams).

CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS

COMMUNITY DEVELOPMENT DEPARTMENT

17. Subject: Amendments To Ordinance Concerning Undergrounding Utilities And Time Limits To Rebuild Nonconforming Properties Damaged Or Destroyed In Natural Disasters (530.07)

Recommendation: That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Section 22.38.050 of Santa Barbara Municipal Code Regarding Utility Undergrounding Requirements in Connection with Construction Projects and Amending Section 28.87.038 of the Municipal Code Regarding the Reconstruction of Nonconforming Buildings Damaged or Destroyed by Natural Disasters.

Documents:

- September 29, 2009, report from the Community Development Director.
- Proposed Ordinance.
- September 28, 2009, email communications from Niel Nathason and Margaret G. Banez.
- September 29, 2009, letter from Roy Harthorn.

The title of the ordinance was read.

Speakers:

- Staff: Building Inspector/Plan Check Supervisor Chris Hansen.
- Members of the Public: Blanche Tobin, Ruben Barajas, Roy Harthorn.

Motion:

Councilmembers Horton/Falcone to approve the recommendation.

Vote:

Unanimous voice vote.

RECESS

Mayor Blum recessed the meeting at 4:24 p.m. in order for the Council to reconvene in closed session for Item No. 18, and stated that no reportable action is anticipated.

CLOSED SESSIONS

18. Subject: Conference With Real Property Negotiators Regarding 319 West Haley Street (330.03)

Recommendation: That Council hold a closed session to consider instructions to its negotiators regarding the possible sale of property owned by the City, commonly known as 319 West Haley Street. Instructions to negotiators will direct staff regarding the price and terms of a possible sale of the City-owned parcel. Negotiations are held pursuant to the authority of Section 54956.8 of the Government Code. City Negotiators: Browning Allen, Transportation Manager; Don Irelan, Senior Real Property Agent; and Stephen P. Wiley, City Attorney, on behalf of the City of Santa Barbara, pursuant to the authority of Government Code Section 54956.8. Negotiating Parties: Pathpoint, Inc., which holds a right of first refusal over the parcel. Under Negotiation: Price and terms of payment of a possible sale.

Scheduling: Duration, 20 minutes; anytime
Report: None anticipated

Documents:
September 29, 2009, report from the Public Works Director.

Time:
4:25 p.m. - 4:40 p.m.

Councilmember Williams left the meeting at 4:35 p.m.

No report made.

ADJOURNMENT

Mayor Blum adjourned the meeting at 4:40 p.m. to Monday, October 5, 2009, at 1:30 p.m. to the property located at 2105 Anacapa Street.

SANTA BARBARA CITY COUNCIL

SANTA BARBARA
CITY CLERK'S OFFICE

_____ ATTEST: _____

MARTY BLUM
MAYOR

BRENDA ALCAZAR, CMC
DEPUTY CITY CLERK

Agenda Item No. _____

File Code No. 550.05

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: October 13, 2009

TO: Mayor and Councilmembers

FROM: Transportation Division, Public Works Department

SUBJECT: Approval Of Funding For Downtown Parking Garage Lighting Project

RECOMMENDATION: That Council:

A. Increase the Downtown Parking estimated revenues in the amount of $96,363.31 in the Downtown Parking operating reserve for amounts to be reimbursed by Southern California Edison; and
B. Appropriate $121,271.16 from operating reserves in the Downtown Parking Capital Program to cover the cost of installing new fluorescent light fixtures in four of the City's downtown parking garages.

DISCUSSION:

In December 2008, Southern California Edison (SCE) presented a one-time opportunity to take advantage of a special energy rebate. Due to the rebate's potential to significantly reduce energy costs at the Granada Garage, the decision was made to replace the metal halide lighting with fluorescent lighting. The fluorescent lighting fixtures were inexpensive and installed with minimal inconvenience to the public. Due to their longer life expectancy, less maintenance is required on the fluorescent fixtures than the metal halide fixtures. Replacement of the metal halide fixtures cost $59,067. The originally anticipated two-year payback will now occur in just over one year due to these energy saving retrofits.

SCE is now offering the same incentives to complete the same retrofits in the remaining four parking garages. They will reimburse the Downtown Parking Program for all material costs, and Downtown Parking will be responsible for contracted labor costs associated with installing the new fixtures.

The summary of the Downtown Parking Garage Lighting Project (Project) costs for materials paid for through SCE incentives, the labor costs for installation, and the annual electricity savings are shown in the Table below.

SUMMARY OF LIGHTING PROJECT COSTS AND SAVINGS

Project Site	SCE Materials Reimbursement	Labor Costs	Annual Estimated Savings	Annual KWH Saved
Lot 2	$30,678.07	$38,094.90	$21,438.17	158,801
Library Garage	$24,131.45	$30,364.16	$15,871.67	117,567
Lobero Garage	$16,323.94	$21,137.32	$11,678.18	86,505
Ortega Garage	$25,229.85	$31,674.78	$18,485.22	136,927
TOTAL	**$96,363.31**	**$121,271.16**	**$67,473.24**	**499,800**

BUDGET/FINANCIAL INFORMATION:

Because SCE incentives are time-sensitive, the City must fund the lighting project as soon as possible. In order to meet the SCE timeline, the materials have been purchased and the rebate request has been submitted to SCE. The total cost of the materials and installation for the Project is $217,634.47. There is a sufficient expenditure appropriation in the Downtown Parking Capital Program to cover the $96,363.31 for the materials. Since this project was not anticipated when the budget was prepared, an appropriation of $121,271.16 is needed from the Downtown Parking operating reserves to cover the cost for the installation of the lighting.

In addition to reducing maintenance costs, the proposed lighting retrofits will save the Downtown Parking program $67,473.24 annually in reduced energy costs, giving the Project a 2-year payback period.

SUSTAINABILITY IMPACT:

Replacement of the existing high pressure sodium and metal halide lighting in all of the City's parking garages will result in a significant reduction in energy use. It is estimated that the retrofits on the four garages combined will save 499,800 kWh annually and reduce CO_2 equivalent emissions by 440,000 lbs. per year.

PREPARED BY: Browning Allen, Transportation Manager/VG/kts

SUBMITTED BY: Christine F. Andersen, Public Works Director

APPROVED BY: City Administrator's Office

Agenda Item No._____

File Code No. 540.06

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: October 13, 2009

TO: Mayor and Councilmembers

FROM: Engineering Division, Public Works Department

SUBJECT: Purchase Order For Drafting Services For The Fiscal Year 2010 Water Main Improvement Project

RECOMMENDATION:

That Council authorize the General Services Manager to issue a Purchase Order to O'Brien & Wall (O'Brien) in the amount of $38,665 for drafting services on the Water Main Improvement Project, Fiscal Year 2010 (Project), and change order authority of up to $3,935 to cover any cost increases that may result from extra services.

DISCUSSION:

City staff is currently working on the design of the Water Main Improvement Project (Project) for Fiscal Year 2010. The Project will replace approximately 8,500 linear feet of water mains and associated valves, fire hydrants, and other related appurtenances throughout the City. The water mains that are slated for replacement have been selected by considering numerous criteria, including age, break history, pipe material, water demands, and fire flows. Staff is requesting approval for drafting services to support in-house design and ensure that this important annual Project is designed and constructed in a timely manner. The estimated construction cost for the Project is $1,732,500.

Selection Process:

A Request For Proposal (RFP) process was conducted for drafting services. Two proposals were received for the work. O'Brien received the highest score during the review process based on the requirements set forth in the RFP, and was chosen as the firm that was most responsive to, and best met the needs of the Project. O'Brien has successfully completed many similar projects for the City.

BUDGET/FINANCIAL INFORMATION:

Staff requests authorization for the General Services Manager to issue a Purchase Order to O'Brien in the amount of $38,665 to provide Project drafting services. Staff requests change order authority of $3,935, or approximately 10%, to cover any necessary unforeseen changes in the scope of work, for a total amount not to exceed of $42,600.

ESTIMATED TOTAL PROJECT COST

Design Costs	
Design (by City)	$60,000
Drafting Services	*$38,665*
Drafting Services - Extra Services	*$3,935*
Estimated Design Subtotal	$102,600
Construction Cost	
Construction Management (by City)	$135,000
Construction Contract	$1,350,000
Construction Change Order	$135,000
Materials Testing	$9,900
Estimated Construction Subtotal	$1,629,900
Estimated Total Project Cost	**$1,732,500**

There are adequate funds in the Water Capital Fund to cover the cost of this Purchase Order.

PREPARED BY: Joshua Haggmark, Principal Civil Engineer/ALS/sk

SUBMITTED BY: Christine F. Andersen, Public Works Director

APPROVED BY: City Administrator's Office

Agenda Item No._____

File Code No. 570.06

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: October 13, 2009

TO: Mayor and Councilmembers

FROM: Recreation Division, Parks and Recreation Department

SUBJECT: Agreements For Afterschool Recreation Programs

RECOMMENDATION: That Council:

A. Authorize the Parks and Recreation Director to enter into two annual program operation agreements with the Santa Barbara School Districts (SBSD) for the Recreation Afterschool Program (RAP) and Afterschool Opportunities for Kids! (A-OK!);
B. Authorize the Parks and Recreation Director to enter into an annual program operation agreement with the Santa Barbara School Districts and Police Activities League (PAL) for the Junior High Afterschool Sports Program; and
C. Increase estimated revenues and appropriations by $32,432 in the Parks and Recreation Department Fiscal Year 2010 General Fund budget for the Recreation Afterschool Program and Afterschool Opportunities for Kids! Program.

DISCUSSION:

Each year, the City and SBSD enter into agreements to define terms and establish budgets for the administration of 3 afterschool recreation programs (RAP, Junior High Afterschool, and A-OK!). The programs are an important City service that provides essential support to families during the crucial afterschool hours. National statistics show that the afterschool hours, between 3:00 to 6:00 pm, have the highest incidents of juvenile crime and youth engaging in inappropriate behaviors.

Afterschool Programs Overview

Recreation Afterschool Program (RAP)

The RAP program provides recreation services, homework help, and afterschool care at 6 elementary school sites. In Fiscal Year 2009, 356 participants attended the program, a 10% decrease below the 394 participants in Fiscal Year 2008. It is assumed this decrease may be due to the poor economy. With continuing program quality improvements and the support of school Principals, staff expects at a minimum a slight increase in participation during Fiscal

Year 2010. The program is very affordable; participants either pay $130 for 30 days of service, or pay a daily drop-in fee of $7 per day. The City continues its support by providing $60,000 in scholarships for RAP, which is unchanged from previous years. Staff works with the Principals to determine scholarship recipients. Recipients are usually students receiving "free or reduced" lunches through the School District.

Afterschool Opportunities for Kids! (A-OK!)

Jointly funded since Fiscal Year 2000, A-OK! provides an afterschool tutorial and enrichment program at 5 Title I elementary school sites through After School Education and Safety (ASES) state grant funding. The program targets students achieving academic scores below grade level. Title I schools have over 50% of their student population receiving "free or reduced" lunches. The program is provided through collaboration and funding with the SBSD, Healthy Start, Family Services Agency, and several other non-profit providers. The program averages 520 participants daily, which is the maximum program size. Participants pay $20-$30 per month (sliding scale) for the program. The District contracts with Parks and Recreation Department staff to provide recreation and enrichment services for the program. City program support is $ 47,385, unchanged from previous years.

Junior High Afterschool Sports and Recreation Program

The Junior High Afterschool Sports and Recreation Program, which is free to all participants, provides sports leagues and recreation services at 4 junior high school sites. The program served 838 participants in Fiscal Year 2009 and 738 participants in Fiscal Year 2008. After a very successful partnership last year, staff met with agency representatives from the SBSD, City of Goleta and PAL to propose a transfer of leadership to PAL for the main 3 sport leagues: flag football, basketball and soccer. This concept was approved by all 3 agencies and was implemented this fall. Parks and Recreation will continue to bring other non-profit program offerings to campuses including Club West Cross Country and BiCi Centro Earn a Bike Program). City program support is $20,000, unchanged from previous years.

BUDGET/FINANCIAL INFORMATION:

The RAP budget for Fiscal Year 2010 provides funding for 300 monthly participants plus additional drop-in participants. In Fiscal Year 2010, $152,609 was appropriated in the Parks and Recreation Department Miscellaneous Grants fund for salaries and supplies. At the time this budget was proposed, only 5 sites were included, due to minimal attendance at 1 site. Parents at this site, Open Alternative School, have since committed to maintaining a minimum student base to cover site costs. Staff requests an additional expenditure of $14,467 to cover the expanded salaries and benefits. The total Fiscal Year RAP program budget of $167,076 will be covered by program fees of $107,076 and General Fund support (for scholarships) of $60,000.

The A-OK! Program budget was proposed at $202,155. The City funding commitment for the A-OK! Program is unchanged at $47,385, and is already budgeted for Fiscal Year

2010. The remaining balance is reimbursed by the School District as part of the proposed agreement. Staff requests an additional $17,965 in revenue and expenditure for salaries and supplies not anticipated at the time of the budget was developed. The SBSD's commitment towards recreation services is $172,735, for a total budget of $220,120.

The Junior High Afterschool Sports Program budget is supported by SBSD ($40,000), City of Santa Barbara ($20,000), City of Goleta ($13,000), and PAL (approximately $24,000 through grants, donations, and fundraising). The City funding commitment is unchanged and is already budgeted for Fiscal Year 2010. The PAL Board of Directors has approved this change.

	City of Santa Barbara	SB School Districts	City of Goleta	PAL	Revenue	Expenditure Budget
RAP	$60,000	$0	$0	$0	$107,076***	$167,076
A-OK! (Recreation Services only)	$47,385	$172,735*	$0	$0	$0	$220,120
Jr. High	$20,000	$40,000	$13,000	$24,000**	$0	$97,000
Totals	$127,385	$212,735	$13,000	$24,000	$107,076	$484,196

* Reimbursed to SBSD by Afterschool Education and Safety (ASES) State Grant.
** provided though grants, donations and fundraising
*** provided through program fees

Additionally, the City provides in-kind administrative oversight and program coordination through 3 positions: a Youth Activities Supervisor, a Recreation Coordinator, and a part-time Recreation Program Leader. Sixty-four percent of the Recreation Coordinator salary and benefit is included in the A-OK! budget shown in the table above to provide "reimbursed" program support.

SUMMARY:

The Parks and Recreation Department recommends that the City continue support of the afterschool programs. The agreements are on the October 13, 2009, Santa Barbara School Districts Board of Education agenda for approval. These agreements are for 1 year ending June 30, 2010.

PREPARED BY: Sarah Hanna, Recreation Programs Manager

SUBMITTED BY: Nancy L. Rapp, Parks and Recreation Director

APPROVED BY: City Administrator's Office

Agenda Item No._____

File Code No. 540.03

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: October 13, 2009

TO: Mayor and Councilmembers

FROM: City Administrator's Office

SUBJECT: Central Coast Water Authority Board Member Assignment

RECOMMENDATION:

That Council designate a Councilmember to serve as the City's Representative on the Central Coast Water Authority (CCWA) Board for the remainder of the year.

DISCUSSION:

Councilmember Falcone is the City's representative and Councilmember Williams is the alternate on the Central Coast Water Authority Board. Councilmember Falcone desires to be relieved from this assignment. Councilmember Williams does not want to change his assignment and prefers to remain as the alternate on the CCWA Board. Therefore, it is necessary that Council appoint a Councilmember to replace Councilmember Falcone as the member of the CCWA Board of Directors for the remainder of calendar year 2009. The CCWA has three scheduled meetings through December 2009.

PREPARED BY: Marcelo López, Administrative Services Director

SUBMITTED BY: Jim Armstrong, City Administrator

APPROVED BY: City Administrator's Office

Agenda Item No._____

File Code No. 340.02

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: October 13, 2009

TO: Mayor and Councilmembers

FROM: General Services Division, Finance Department

SUBJECT: Establishment Of Purchasing Debarment Procedures

RECOMMENDATION:

That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Establishing the Grounds and Procedures for the Debarment of Nonresponsible Contractors Who Seek Contracts with the City.

DISCUSSION:

At the May 19, 2009, Ordinance Committee meeting, staff presented a new process for debarring contractors and suppliers from bidding on City purchases and contracts. Debarment is a process where the City declares a contractor or supplier ("contractor") to be nonresponsible and prohibits the contractor or supplier from doing business with the City for a period of time, either temporarily or permanently depending on the circumstances involved. A nonresponsible contractor is a contractor whose past acts of malfeasence or nonfeasence call into question the contractor's ability to timely or correctly perform under a contract. By debarring nonresponsible contractors, the City can avoid complications in the bidding process for prospective City contracts. Since the ability to bid on government contracts can be viewed as a business right of the contractor, the City must afford a contractor procedural due process before declaring the contractor nonresponsible and prohibiting the contractor from bidding on City contracts.

The Ordinance Committee unanimously moved to forward the resolution to Council for adoption after clarifying the process for terminating existing contracts or agreements. At the June 30, 2009, Council meeting, a section was added to the Municipal Code chapter 4.52 directing the City Administrator to develop a debarment procedure for approval by Council.

The following is an overview of the debarment process and highlights of the key elements.

- The debarment process can be initiated by any City division by requesting that a vendor or contractor to be debarred. When a request is made, the City Administrator will appoint a fair and impartial Debarment Hearing Officer (DHO) to conduct a hearing. The hearing will be informal and the common law and statutory rules of evidence and procedures do not apply.

- The DHO will schedule a hearing where the division requesting debarment and the Contractor or the Contractor's representative will be given opportunities to present their evidence. The decision will be based on the preponderance of evidence presented. The DHO may make inquiries during the hearing to make a factual determination. The debarment can be for a period of time such as three years to permanent debarment depending on the contractor's history, nature, and severity of the contractor's actions.

- The contractor will be notified in writing of the DHO's decision. Contractors that have performed or have been awarded contracts of an aggregate value of at least $500,000 in the five years prior to the debarment proceedings may appeal the decision of the DHO to the City Council. Otherwise, the decision of the DHO is final. The City General Services Manager will create and maintain a list of all debarred contractors. A debarred contractor will be prohibited from bidding on City contracts and excluded from doing business with the City either as a prime contractor or as a subcontractor for the debarment period.

If adopted, the procedure cannot be applied to previous contracts or performance with the City. The procedures can only apply to contracts and contractors performance from the effective date of adoption.

SUBMITTED BY: Robert Samario, Interim Finance Director

APPROVED BY: City Administrator's Office

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA ESTABLISHING THE GROUNDS AND PROCEDURES FOR THE DEBARMENT OF NONRESPONSIBLE CONTRACTORS WHO SEEK CONTRACTS WITH THE CITY

WHEREAS, the City of Santa Barbara generally awards contracts for City purchases to the lowest responsible bidder;

WHEREAS, poor contractual performance in the past, improper bidding irregularities, and other negative actions on the part of a contractor can give the City reason to question the ability of a contractor to properly perform on future City contracts; and

WHEREAS, in order to protect the City's interests while maintaining fairness in the competitive bidding of City contracts, the City hereby establishes a process for the potential suspension and debarment of nonresponsible contractors.

NOW, THEREFORE, BE IT RESOLVED BY THE THE COUNCIL OF THE CITY OF SANTA BARBARA AS FOLLOWS:

1. Statement of Purpose

The City only intends to do business with responsible and honest persons and businesses. The use of a debarment and suspension process is designed to protect the City and the public and to promote fairness in the competition for City business by ensuring that only responsible and honest persons and businesses may submit bids or contract proposals to the City or otherwise contract with the City.

This Resolution sets forth the grounds for possible debarment and suspension of City contractors in order to establish procedures for determining whether a person or business may be debarred or suspended by the City from doing business with the City. These procedures shall apply to contracts for the purchase of ordinary goods and services, as well as contracts for the construction of City public works.

2. Definitions

For purposes of these procedures, the following definitions shall apply:

Adequate evidence. Information sufficient to support a reasonable belief that a particular act or omission has occurred.

Affiliate. A person who is any of the following:

a. is the assignee, successor, subsidiary of, or parent company, of another person; or,

b. is a controlling stockholder; or,

c. has the same or similar management of a debarred corporation or other legal entity; or,

d. directly or indirectly controls, or has the power to control, another person, or is directly or indirectly controlled by another person.

For purposes of this definition, indicia of control include, but are not limited to, common or integrated management or ownership, identity of interests among relatives, shared facilities and equipment, common use of employees, or a business entity organized following the debarment, suspension, or proposed debarment of a person which has the same or similar management, ownership or principal employees as the contractor which may be or has been debarred, suspended or proposed for debarment, or the debarred person or the business entity created after the debarment, suspension or proposed debarment and which operates in a manner designed to evade the application of these procedures or to defeat the purpose of these procedures.

Charging Officer. The City department head, or his or her designee, who recommends debarment of a person.

Charging Document. A written document which identifies with particularity the information relevant to the proposed debarment and which summarizes the City's evidence concerning the person or business recommended for debarment.

City Administrator. The City Administrator of the City of Santa Barbara or his or her designee. The City Administrator may, in writing, delegate any or all of his or her rights and responsibilities under this resolution to another City officer.

City Contract. Any written agreement between the City and another person for the purchase of goods or services or any combination thereof, including contracts for the construction of City public works.

Controlling stockholder. A stockholder who:

a. owns more than 25% of the voting stock of a corporation; or,

b. has the power to direct or control the direction of the management or policies of a corporation, without regard to the number of shares the stockholder owns.

Debar or Debarment. The temporary or permanent disqualification of a person from any of the following:

a. bidding on a City contract; or,

b. submitting responses to City's requests for proposals or qualifications; or,

c. being awarded a City contract; or,

d. executing a City contract; or

e. participating in a City contract as a subcontractor, material supplier, or employee of a prime contractor or another subcontractor; or

f. directly or indirectly (e.g. through an affiliate) submitting offers for, or executing contracts, or subcontracts with the City; or

g. conducting business with the City as an employee, agent, or representative of another person.

Debarment Hearing Officer. A City management employee from a City department other than the department requesting the debarment who is appointed by the City Administrator to hold hearings, take evidence, and to make determinations about a proposed debarment for the City, or some other person not employed by the City as and when determined by the City Administrator.

Management. The officers, partners, owners, foremen or other individuals responsible for the financial and operational policies and practices of a person.

Contract Performance Evaluation. A City-issued written evaluation of a person describing the performance of the person or the business on a specific City contract.

Person. As the term is defined in Santa Barbara Municipal Code section 1.04.190. In addition, if a person is a corporate or other legal entity, it includes individuals who constitute the person's management. The term person also includes any individual or other legal entity that does either of the following:

a. directly or indirectly (e.g. through an affiliate) submits offers for or is awarded a City contract or a subcontract under a City contract; or

b. conducts business with the City as an agent or representative of another person.

Preponderance of the evidence. Proof by information that, when compared with the information opposing it, leads to the conclusion that the fact at issue is more probably true than not.

Prime contractor. A person who enters into and duly executes a contract with the City.

Public works contract. A contract for the construction, reconstruction or repair of public buildings, streets, utilities, and other public works.

Relative. An individual who is any of the following:

a. an individual related by consanguinity to a person within the second degree as determined by the common law; or,

b. a spouse of a person; or,

c. an individual related to a spouse of a person within the second degree of consanguinity as determined by the common law; or,

d. an individual in an adoptive relationship within the second degree of a person as determined by the common law.

Subcontractor. A person or business who is any of the following:

a. a person who contracts directly with a prime contractor but not directly with the City; or,

b. any person under contract with a prime contractor or another subcontractor to provide any service, materials, labor or otherwise perform on a City contract.

Willful failure to cooperate. Any of the following acts or omissions:

a. intentionally fail to attend a hearing or give testimony, or

b. intentionally fail to provide documents, books, papers, or other information upon request of any City officer.

3. Grounds for Debarment

Any of the following acts or omissions may constitute appropriate grounds for debarment of a person by the City:

a. A final conviction, including a plea of nolo contendere, or final unappealable civil judgment of any one or more of the following:

   1. a violation of any state or federal statute or municipal ordinance for embezzlement, theft, fraud, bid rigging, perjury, forgery, bribery, falsification or destruction of records, receiving stolen property, or any offense indicating a lack of business integrity or business honesty; or,

   2. the commission of a criminal offense arising out of obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract; or,

   3. a violation of California Government Code sections 84300(c) and 84301 (sections of the California Political Reform Act requiring disclosure of true campaign donor), and which violations occur with respect to a City election.

b. Debarment of the person by another governmental agency.

c. A Fair Political Practices Commission final enforcement order against a person, either following a hearing or by stipulation, that makes a finding of a violation of California Government Code sections 84300(c) and 84301 and which violations occurred with respect to a City election.

d. The person has committed any unlawful or unethical act in bidding for or in any way seeking the award of a City contract.

e. The person was created or formed to, or operates in a manner designed to evade the application of these debarment procedures or to defeat the purpose of these debarment procedures.

f. On two or more occasions, the person committed any of the following acts or omissions:

1. unjustifiably refused to properly perform or complete contract work or warranty performance on a City contract; or,

2. unjustifiably failed to honor or observe contractual obligations or legal requirements pertaining to a City contract; or,

3. used demonstrably substandard materials, or failed to furnish or install materials in accordance with requirements of a City contract; or,

4. willfully failed to cooperate in the review or investigation of the person's performance or administration of a City contract; or,

5. performed, or failed to perform, a City contract in manner that violated any permit or discretionary approval issued by any governmental agency for the work; or,

6. violated any City ordinance or policy relating to employment and did not take corrective action after sufficient notice by the City; or,

7. failed to timely submit performance securities, contract documents, insurance documents or any other item required by the City in conformance with bid or contract requirements; or

8. submitted a bid or a claim for payment to the City with computational or other errors.

4. Initiation of Proceedings.

Upon a recommendation for debarment from a Charging Officer, the City Administrator may initiate an administrative debarment proceeding by serving the person or persons recommended for debarment with a Charging Document. The Charging Document shall state the grounds for debarment with sufficient specificity to advise the person recommended for debarment of the basis for the recommended debarment. The Charging Document shall also summarize the City's evidence against the person.

5. Service of Charging Document.

The City Administrator shall serve the Charging Document on each person named in the Charging Document in a manner specified for notice in Section 10 of this resolution.

6. Request for a Hearing.

Within fifteen (15) days of service of the Charging Document, any person named in the Charging Document may submit a written request for an administrative hearing. A request for a hearing may be made through counsel or other authorized representative. Hearing requests shall be filed with the City Clerk with a copy provided to the City Administrator.

7. Failure to Respond to the Charging Document.

The failure of any person to file a written request to be heard with the City Clerk within the time required by this resolution, or failure of the person or the person's representative(s) to appear for a requested hearing which has been scheduled and noticed in accordance with the provisions of Section 10 of this Resolution, shall be deemed an admission by the person to the allegations contained in the Charging Document.

8. Appointment of Debarment Hearing Officer.

If a timely request for a hearing is filed with the City Clerk pursuant to Section 6, the City Administrator shall appoint a fair and impartial Debarment Hearing Officer to hear and determine whether the person should be debarred. The Debarment Hearing Officer shall follow the procedures set forth in this Resolution and shall make a decision based on the evidence provided at the debarment hearing.

9. Suspension Upon Service of Charging Document

a. Upon the service of a Charging Document, the City Administrator may elect to suspend any person named in the Charging Document if the City Administrator finds in writing that it is in the public interest to do so.

b. The City Administrator shall notify the person of the suspension in accordance with the procedures set forth in this Resolution.

c. The suspension shall continue from the effective date of the notice of suspension as provided in this resolution until the Debarment Hearing Officer makes a final decision on the proposed debarment or until there has been a final ruling by the City Council following an appeal of a debarment decision, if any appeal is filed. No suspension shall exceed a period of one hundred twenty (120) days.

10. Proper Notices and Service

a. Whenever notice is required to be delivered under these procedures, the notice shall be delivered by any of the following methods:

1. Personal delivery, with service deemed effective on the date of delivery as established with a written proof of service.

2. Certified mail, postage prepaid, return receipt requested; provided that, simultaneously, the same notice is sent by regular mail. If a notice sent by certified mail is returned unsigned, then delivery shall be deemed effective pursuant to regular mail; provided, the notice sent by regular mail is not returned as undelivered by the postal authorities. Service provided in this manner shall be deemed effective on the date of mailing as established by a written proof of service.

3. Publication in a newspaper of general circulation. Service shall be deemed effective on the first date of publication.

b. Proof of delivery of notice may be made by the certificate of any officer or employee of the City or by declaration under penalty of perjury of any person over the age of eighteen years. The proof of service shall show that delivery was done in conformity with this resolution.

c. The failure of any person to receive any notice duly served in accordance with these procedures shall not affect the validity of any debarment proceedings.

11. Pre-Hearing Procedure.

The Debarment Hearing Officer shall notify each person named in the Charging Document who has requested a hearing and the Charging Official of the scheduled debarment hearing date. The hearing date shall be set at the Debarment Hearing Officer's sole discretion, except the hearing must commence not less than 21 days or more than 90 days after of the date of service of the Charging Document. The Debarment Hearing Officer may extend the 90-day period upon good cause shown.

Discovery pursuant to the California Code of Civil Procedure is not applicable to this administrative debarment procedure.

The Debarment Hearing Officer may, in his or her sole discretion, direct any person named in the Charging Document and the Charging Official to submit in advance of the hearing, statements, legal analyses, lists of witnesses, exhibits, documents, or any other information the Debarment Hearing Officer deems pertinent to the determination on the debarment. The Debarment Hearing Officer may request the respective parties to submit any rebuttal evidence in response to such information. The Debarment Hearing Officer may limit the length, scope, or content of any statement, analysis, list, rebuttal, document, or other requested information.

12. Proceedings before the Debarment Hearing Officer

The proceedings shall be as informal as is compatible with the requirements of fairness and equity. The Debarment Hearing Officer need not be bound by the common law or statutory rules of evidence and procedure, but may make inquiries in the matter through all means and in a manner best calculated to make a just factual determination.

Upon the written agreement of each person who has requested a hearing and the Charging Official, and with the concurrence of the Debarment Hearing Officer, the hearing may be conducted exclusively by written presentation.

The Debarment Hearing Officer may, in his or her sole discretion, do either of the following:

a. set time limitations on the presentation of evidence at the hearing; or,

b. limit the scope of evidence presented based on relevancy.

13. Debarment Hearing Officer's Authority to Debar; Debarment Hearing Officer's Decision Final

a. After notice and hearing held in accordance with these procedures, or upon the allegations contained in the Charging Document if a request for a hearing is not timely filed, the Debarment Hearing Officer shall determine whether the person is to be debarred and whether the debarment shall be temporary or permanent. If the debarment is temporary, the Debarment Hearing Officer shall indicate the period of the debarment. To debar a person, the Debarment Hearing Officer must find by a preponderance of the evidence that one or more grounds for debarment stated in the Charging Document exist. The Debarment Hearing Officer shall render his or her decision, in writing, within fifteen (15) days of the conclusion of the hearing or within thirty (30) days of the service of the Charging Document if no hearing is requested, whichever is earlier.

b. Except as provided in subsection (d) below, a Debarment Hearing Officer's decision shall be final.

c. The Debarment Hearing Officer shall deliver notice of the decision to each person named in the Charging Document and to the City Administrator in the manner of service provided in this Resolution.

d. If the decision of the Debarment Hearing Officer concerns a person that has performed or been awarded City contracts of an aggregate value of more than $500,000 within the five (5) years prior to the service of the Charging Document, the decision of the Debarment Hearing Officer to debar a person may be appealed to the City Council in accordance with Chapter 1.30 of the Santa Barbara Municipal Code. The filing of an appeal of the debarment decision shall not stay any suspension put in place by the City Administrator pending a final decision of the City Council.

e. A copy of the decision shall be provided to the General Services Manager by the Debarment Hearing Officer or by the City Clerk's Office if the decision is appealed to the City Council.

14. Standard of Proof

The standard of proof for the Debarment Hearing shall be a preponderance of the evidence and the burden of proof shall initially be the responsibility of the Charging Officer.

15. Imputation of Knowledge and Conduct

a. The fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individuals associated with a person may be imputed to the person when the conduct occurred in connection with the individual's performance of duties for, or on behalf of, the person, or with the person's knowledge, approval, or acquiescence. The person's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

b. The fraudulent, criminal, or other seriously improper conduct of a person may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the person who participated in, knew of, or had reason to know of the person's conduct.

c. The fraudulent, criminal, or other seriously improper conduct of one person participating in a joint venture or similar arrangement may be imputed to other participating persons if the conduct occurred for, on approval of, or acquiescence of these persons. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

16. Judicial Review

Once a final decision has been issued as provided in this resolution, the time in which judicial review of the order must be sought shall be governed by California Code of Civil Procedure section 1094.6.

17. Creation of List of Debarred and Suspended Persons

a. The General Services Manager shall create and maintain a list of persons who have been debarred or suspended in accordance with these procedures.

   1. This list shall include the names and addresses of all persons who have been debarred or suspended.

   2. For each debarred or suspended person, the list shall state the date of commencement and expiration of the debarment or suspension.

b. The General Services Manager shall establish procedures to provide for the effective use of the list to ensure that the City does not do business with persons who have been debarred or suspended.

18. Effect of Debarment or Suspension

a. Persons who have been debarred or suspended are excluded from conducting business with the City on behalf of themselves or as agents or representatives of other persons for the duration of the debarment or suspension.

b. Persons who have been debarred or suspended are excluded from submitting bids, directly or indirectly (e.g., through an affiliate), submitting responses to requests for proposal or qualifications, receiving contract awards, executing contracts, participating as a subcontractor, employee, agent or representative of another person contracting with the City, or receiving contracts for the period of debarment or suspension.

c. The management of a corporate or other legal entity that has been debarred or suspended shall not conduct business with the City under a different corporate name.

d. The City shall not accept any bid, proposal, quotation, or offer from any debarred or suspended person for the duration of the debarment or suspension.

e. When a debarred person sells or otherwise transfers to a relative or to any other person over whose actions the debarred person exercises substantial influence or control, then that relative or other person is automatically suspended or debarred or proposed for debarment to the same extent as the seller or transferor is debarred, suspended, or proposed for debarment.

19. Effect of Debarment or Suspension on an Affiliate

a. If the City determines that a person is an affiliate of a person that is debarred, suspended or proposed for debarment, the affiliate is debarred or suspended to the same extent as the person that is debarred, suspended or proposed for debarment.

b. An affiliate that is debarred under this Section may appeal the debarment determination to the Debarment Hearing Officer by submitting a written request to the City Clerk within ten (10) days of notice of the debarment determination. An appeal under this Section shall be governed by the same rules and regulations in accordance with these procedures as are applicable to a Debarment Hearing Officer's procedure to debar a person, including an appeal to the City Council.

c. The filing of an appeal under this Section shall not stay the decision to debar the affiliate.

20. Effect of Debarment or Suspension on Existing Contracts

a. Notwithstanding the debarment, suspension, or proposed debarment, of a person, the City may continue existing contracts or subcontracts it has with that person that are in existence at the time the person was debarred, suspended, or proposed for debarment.

b. The City may continue to place orders against existing contracts, including delivery contracts, held by a debarred or suspended person, unless the contract has been terminated.

c. The City shall not renew or voluntarily extend the duration of current contracts, or consent to subcontracts, with debarred or suspended persons, unless the City Administrator states in writing the compelling reasons for renewal or extension.

Agenda Item No._____

File Code No. 540.03

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: October 13, 2009

TO: Mayor and Councilmembers

FROM: Water Resources Division, Public Works Department

SUBJECT: Joint Participation Agreement For Cachuma Operation And Maintenance Board Bond Issuance To Finance Improvements To The South Coast Conduit

RECOMMENDATION: That Council:

A. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Authorizing the Execution and Delivery of a Joint Participation Agreement with the Cachuma Operation and Maintenance Board, and Authorizing Certain Other Actions Related Thereto; and

B. Authorize the City Administrator to execute an Indemnification Agreement by and between the Cachuma Operation and Maintenance Board, Goleta Water District, City of Santa Barbara, Carpinteria Valley Water District, and the Santa Ynez Water Conservation District, Improvement District No. 1 (ID No. 1), provided the agreement is in a form acceptable to the City Attorney.

DISCUSSION:

The Cachuma Operation and Maintenance Board (COMB) is a joint powers authority that operates infrastructure that supplies water from Cachuma Lake to the South Coast. The City is a member of COMB, with Council Member Das Williams as the current Board Member representing the City. The other member agencies are the Goleta Water District, the Montecito Water District, the Carpinteria Valley Water District, and ID No. 1.

The assets maintained and operated by COMB are owned by the U.S. Bureau of Reclamation (USBR). The City and other COMB members make payments to COMB, both for the repayment to USBR for the cost of constructing the facilities, and for the cost of operating and maintaining the facilities. At this time, a number of significant capital projects are needed to rehabilitate or augment existing USBR facilities. COMB staff has proposed to seek financing for a group of projects shown on the attached list.

The most significant project is the construction of a parallel pipeline to convey water from the South Portal of the Tecolote Tunnel to the point where the Corona Del Mar Treatment Plant draws water for the Goleta Water District. This parallel line will restore the original design capacity of the South Coast Conduit, which was reduced when improvements were made at the Corona Del Mar Treatment Plant. It will also provide system redundancy, allowing one pipe to be out of service for inspection, maintenance or repair.

This parallel pipeline project has been accepted for $3.2 million in Proposition 50 grant funding. Matching funds for the Proposition 50 grant funding will be available from the bond proceeds.

BUDGET/FINANCIAL INFORMATION:

Over the past several years, COMB has had an annual capital program that averages about $1.5 million per year. In order to keep member agency payments approximately equivalent to recent budgets and still be able to fund the proposed significant capital projects, the amount of debt funding being sought is sized to keep the debt service at about $1 million per year. This will allow some level of annual funding for additional smaller capital projects that can be budgeted and completed annually. COMB intends to issue not-to-exceed $20,000,000 of revenue bonds to finance the projects. Participating South Coast COMB member agencies will pay the annual debt service to COMB in the same allocations as they currently pay. The City's share of the principal amount of the revenue bonds to be issued by COMB will not exceed $7,176,000. This approach will allow the member agencies to see relatively flat COMB budgets. In five years, repayment to the USBR for the construction of Bradbury Dam and the Tecolote Tunnel will be complete, so annual costs to member agencies will decrease. COMB anticipates that the capital program may increase at that time to address additional work not included in the financing.

Montecito Water District has decided not to participate in the bond financing of the capital projects. Instead, they will pay their portion of the expenditures as they are incurred. Each participating South Coast COMB member agency (Goleta Water District, Carpinteria Valley Water District and the City of Santa Barbara) will enter into a Joint Participation Agreement (JPA) with COMB. The JPA is the financing document that obligates each member agency to make debt service payments to COMB from net revenue of the Water Fund. In the City's case, because the debt is considered parity debt to other Water Fund bonds and contracts, a rate covenant requires the City to fix and collect rates and charges from the Water Fund which will be sufficient to yield net revenue (as defined in the JPA) during each fiscal year, equal to 125% of the City's annual debt payment. Orrick, Herrington & Sutcliffe LLP, the City's bond counsel, has assisted the City Attorney's Office in negotiating revisions to the JPA to ensure that the JPA and the City's debt service obligation will not affect the City's ability to issue future debt payable from the Water Fund.

By adopting the Resolution, the City will also be approving an Appendix to the COMB Official Statement that contains the City's disclosures and the continuing disclosure requirements. The Appendix is not attached to this report, but is available in both the Mayor's Office and the Office of the City Clerk.

The capital projects proposed to be funded with the bond proceeds will be operated and maintained for the benefit of the four South Coast COMB member agencies. As has historically been the case, because ID No. 1 will receive no benefit from the projects, it will incur no payment obligations under the revenue bond or otherwise be responsible in any way for the projects funded with the proceeds.

The COMB governing documents require unanimous approval of all the member agencies for this type of transaction. Therefore, although ID No. 1 and Montecito are not participating in the bond issuance, their approval of the bond is required. As a condition of ID No. 1's approval, ID No. 1 has requested that the participating member agencies indemnify and hold it harmless from any and all obligations or liabilities related to the revenue bond or the projects funded with the bond proceeds. The City Attorney's Office and the City's bond counsel have reviewed the agreement and recommend its approval by Council provided that the participating South Coast member agencies also approve language added to each JPA that defines and limits the indemnification obligation between the South Coast members.

Goleta Water District has approved the JPA. Montecito Water District has approved the bond issue but will not be participating in the debt payment. Carpinteria Valley Water District did not approve the Resolution or JPA and will be discussing the matter further at their October 14, 2009 meeting. If all member agencies approve the bond issuance and all participating members adopt the Resolution to approve the JPA, COMB will consider approval of the legal documents and sale of the bonds.

The Finance Committee recommended that Council adopt the Resolution on August 18, 2009.

ATTACHMENT: List of Capital Improvement Projects

PREPARED BY: Rebecca Bjork, Water Resources Manager/mh

SUBMITTED BY: Christine F. Andersen, Public Works Director

APPROVED BY: City Administrator's Office

ATTACHMENT

List of Capital Improvement Projects

Cachuma Operation and Maintenance Board
Capital Program

(1) Construction of an additional section of pipeline and improvements to South Coast Conduit to increase operational flexibility, reliability and capacity.

(2) Rehabilitation of South Coast Conduit crossings over Mission Creek and two other streams in Santa Barbara County between Glen Annie Reservoir and Carpinteria Reservoir.

(3) Installation of isolation valves in order to allow segregated sections of South Coast Conduit to be shut down for future repair and maintenance.

(4) Rehabilitation of a portion of South Coast Conduit lower reach laterals, air release outlets and blowoff drains to improve reliability and protect against corrosion.

(5) Improvements to Lauro Reservoir, Barker Pass and Sheffield Tunnel vent structures to accommodate refined hydraulic capacity and surge suppression and reduce potential for flooding damage to private property.

(6) Implementation of a program to locate and map South Coast Conduit from Goleta to Carpinteria, accurately define the pipeline right-of-way, identify and prevent encroachments onto South Coast Conduit easement and develop a comprehensive facilities Geographic Information System.

(7) Rehabilitation of South Coast Conduit at creek crossings identified as having been exposed due to erosion.

(8) Rehabilitation of a portion of South Coast Conduit laterals, air release outlets and blowoff drains to improve reliability and protect against corrosion.

(9) Improvements to control station piping to remove of redundant valves and piping and install hydraulically efficient meters and automated control valves.

(10) Replacement of two Venturi meters with a single sonic-type meter which will increase reliability, increase the accuracy of flow measurement, and reduce head loss.

(11) Installation of air release and vacuum valves on South Coast Conduit in Sheffield Tunnel.

(12) Reconstruction and reconfiguration of Glen Annie Turnout Weir to increase length, improve reliability, reduce undersirable head loss and facilitate maintenance of the turnout.

(13) Conduct structural inspection and analysis of Lake Cachuma Intake Tower using modern codes and computer analyses to assess seismic risk.

(14) Conduct assessment of Lake Cachuma Intake Tower gate operability problems due to submergence and trapped debris or corrosion.

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA AUTHORIZING THE EXECUTION AND DELIVERY OF A JOINT PARTICIPATION AGREEMENT WITH THE CACHUMA OPERATION AND MAINTENANCE BOARD, AND AUTHORIZING CERTAIN OTHER ACTIONS RELATED THERETO

WHEREAS, the City of Santa Barbara (the "City") is a charter city duly organized and existing under the Constitution and laws of the State of California;

WHEREAS, pursuant to the Ralph M. Brown Act constituting Chapter 9 of Part 1 of Division 2 of Title 5 (commencing with Section 54950) of the California Government Code this meeting was duly noticed;

WHEREAS, the City is a member of the Cachuma Operation and Maintenance Board ("COMB"), which operates pursuant to the 1996 Amended and Restated Agreement for the Establishment of a Board of Control to Operate and Maintain the Cachuma Project – Cachuma Operation and Maintenance Board, dated May 23, 1996, as amended by the Amendment to 1996 Amended and Restated Agreement for the Establishment of a Board of Control to Operate and Maintain the Cachuma Project – Cachuma Operation and Maintenance Board, made effective September 13, 2003 (collectively, the "Joint Powers Agreement"); and

WHEREAS, the City has determined to enter into a Joint Participation Agreement to permit COMB to finance the acquisition and construction of certain improvements to the Cachuma Project (the "Project") which provides supplemental water to the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA AS FOLLOWS:

SECTION 1. Declaration of City Council. This City Council hereby specifically finds and declares that the actions authorized hereby constitute and are with respect to public affairs of the City, and that the statements, findings and determinations of the City set forth in the preambles above and of the documents approved herein are true and correct~~.~~ and hereby approves and ratifies the issuance by COMB of not to exceed $20,000,000 of revenue bonds to finance the Project on behalf of the City and certain other member units of COMB, all as provided in Section 1.3(i) of the Joint Powers Agreement; provided, however, that the City share of the principal amount of revenue bonds issued by COMB shall not exceed $7,176,000 and that said approval and ratification shall not be undertaken until such time as all COMB member agencies have approved and ratified the bond issuance, the participating South Coast member agencies have each determined to enter into a joint participation agreement with COMB, and the Montecito Water District has entered into a separate agreement with COMB.

SECTION 2. Joint Participation Agreement. The form of Joint Participation Agreement, dated as of August 1, 2009, by and between COMB and the City, presented in connection with this meeting and on file with the City Clerk is hereby approved. The Mayor or Mayor Pro Tempore and the City Clerk are each hereby authorized and directed to execute, acknowledge and deliver said Joint Participation Agreement in substantially the form presented in connection with this meeting, with such changes therein as the City Attorney may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 3. City Information. The preparation and distribution of Appendix E to the Preliminary Official Statement, which contains information with respect to the City ("Appendix E"), presented in connection with this meeting and on file with the City Clerk is hereby approved. The City Administrator of the City is hereby authorized to sign a certificate pursuant to Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 (the "Act") relating to the Preliminary Official Statement. The Mayor or Mayor Pro Tempore or City Administrator of the City is hereby authorized and directed to execute and deliver a certificate required under Section 10(b)5 of the Act with respect to Appendix E contained in the final Official Statement.

SECTION 4. Further Actions. The Mayor, Mayor Pro Tempore and City Administrator are hereby authorized to do any and all things, including preparation and certification of information concerning the City for inclusion in Appendix E, and to execute and deliver any and all documents, which they may deem necessary or advisable in order to give effect to and comply with the terms and intent of this resolution or the Joint Participation Agreement.

SECTION 5. Effective Date. This resolution shall take effect immediately upon its passage.

Agenda Item No._____

File Code No. 630.01

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: October 13, 2009

TO: Mayor and Councilmembers

FROM: Environmental Services Division, Finance Department

SUBJECT: Public Hearing Regarding Proposed Solid Waste Rate Changes

RECOMMENDATION:

That Council hold a public hearing, as required by State law, regarding proposed changes to rates for the collection of recyclables, greenwaste, foodscraps and trash for businesses within the City of Santa Barbara.

DISCUSSION:

The Solid Waste Strategic Plan, approved by City Council in 2005, contains several technical approaches designed to increase diversion of material from the landfill through "Waste System Modifications." These technical approaches include modifying the solid waste collection rate structure to provide increased financial incentives for customers to subscribe to diversion services (recycling, greenwaste and foodscraps) and decrease trash services.

Following a selection process, the City hired Skumatz Economics Research Associates (SERA) in December 2007 to perform a rate study for the business sector using a mathematical model to test various rate proposals. A Rate Study Project Team was assembled, consisting of senior staff from Allied Waste Industries, MarBorg Industries, SERA, and the Environmental Services Division, to help develop the proposed new rates for the business sector.

On March 3, 2009 City Council approved, in concept, the proposed new rates for trash, recycling, greenwaste and foodscraps collection services in the City's business sector. These new rates are designed to: 1) increase financial incentives for businesses to recycle more and dispose of less, 2) create new rates for the Foodscraps Recovery and Composting program in the business sector, and 3) to enable business customers to better understand and self-audit the charges shown on their utility bills and discern the financial incentives that have been created to divert materials from landfill disposal. The new rates also correct several anomalies in the existing rate structure that can create disincentives for businesses to recycle more. Council directed staff to make a concerted

outreach effort to the business community, and receive feedback and answer questions before moving forward with implementing the new rates.

Staff has now conducted a comprehensive business outreach campaign, which was presented to Council at its July 21, 2009 meeting. At that meeting, Council also directed staff to initiate the noticing process per Proposition 218 requirements, which was sent to all affected property owners between July 22 and August 21, 2009. To date, only one letter has been received in opposition to the new rates.

Today's public hearing is required prior to final adoption of the new rates. The final fee resolution is scheduled for consideration by Council on October 27, 2009 and the new rates would be effective on utility bills dated November 1, 2009 or later.

BUDGET/FINANCIAL INFORMATION:

Per the contracts with both Allied Waste and MarBorg Industries, the City is required to maintain revenue neutrality when proposing fundamental changes to the structure of the rates for collecting municipal solid waste in the City. The proposed new business rates have been designed to be revenue neutral and pose no material financial impacts to the City or the contracted haulers.

SUSTAINABILITY IMPACTS:

Recycling municipal solid waste and the City's related efforts to divert material from landfill disposal have considerable beneficial impacts to the environment. The proposed new business rates contain increased financial incentives for business customers to divert recyclable, compostable and/or reusable materials from the trash. The United States Environmental Protection Agency has acknowledged and developed metrics that provide clear evidence of reduced greenhouse gas emissions through composting and recycling, which result in the creation of products using recycled feedstocks versus using virgin, natural resources. All of the activities of the Solid Waste Strategic Plan contribute to the City's goal of becoming a more sustainable community.

ATTACHMENT: Notice of Public Hearing – Proposed Changes to Solid Waste Rates in the Business Sector

PREPARED BY: Stephen MacIntosh, Environmental Services Supervisor

SUBMITTED BY: Robert Samario, Interim Finance Director

APPROVED BY: City Administrator's Office

ATTACHMENT

NOTICE OF PUBLIC HEARING
Proposed Increase to Utility Rates

Date: **October 13, 2009**
Time: **2:00 p.m.**
Place: **City Council Chambers, City Hall**
735 Anacapa Street, Santa Barbara

NOTICE IS HEREBY GIVEN that the City Council of the City of Santa Barbara will consider a recommendation to adopt a resolution, at the above-indicated time and place, to change trash, recycling, and greenwaste collection rates for ***Business Customers only*** that are charged by the City. Residential and Multi-Family trash rates will not change, nor will any water and wastewater rates change. Changes would be effective on utility bills dated November 1, 2009 or later. Sample billing comparisons for current and proposed rates are shown below. The changes will provide additional incentives for customers to increase recycling and greenwaste service, add foodscraps collection (a new program for business customers) and to reduce trash service. For more information about the Foodscraps Collection Program that starts November 1, 2009 or these rate changes, see www.SBrecycles.org. Recycling, greenwaste, and foodscraps (diversion services) will cost 15% of the price of trash service for business customers. The customers' actual bill may increase or decrease depending on the mix of trash and diversion services selected by the customer. Dumpster rental rates have been included in the cost of service, and customers with their own dumpsters will receive a credit.

Note: This notice is intended only for Business Customers billed by the City of Santa Barbara for trash and diversion services.

If you oppose any of the above increases, please deliver your protest **in writing** to the City Clerk of the City of Santa Barbara at 735 Anacapa Street, Santa Barbara, CA, 93101, prior to or during the City Council's consideration of this item on **October 13, 2009**. (If you wish to submit your written protest during the public hearing, please deliver it to City Staff in the Council Chamber.)

Typical Trash, Recycling, Foodscraps & Greenwaste Billing Comparisons
Current vs. Proposed Rates

Customer Class	Level of Diversion	Sample Container Mix	Total Monthly Charges*		
			Current Cost	Proposed Rates	$ Change
Small customer (total waste = 1cubic yard)	Trash 100%, no recycle, green and/or food	Trash-two 96 gal carts	$121.06	$121.66	$0.60
	Trash 50%, any combination of recycle, green and/or food 50%	Trash-96gal cart Recycling-96 gal cart	$60.53	$60.83	$0.30
	Trash 33%, any combination of recycle, green and/or food 66%	Trash-64gal cart Greenwaste-64 gal cart Recycling-64 gal cart	$40.35	$40.55	$0.20
Medium Customer (total waste = 12 cubic yards)	Trash 100%, no recycle, green and/or food	Trash-two 3yd dumpsters, 2x/wk	$740.92	$877.90	$136.98
	Trash 50%, any combination of recycle, green and/or food 50%	Trash-3yd dumpster, 2x/wk Recycling-3yd dumpster, 2x/wk	$551.53	$504.79	$-46.74
	Trash 33%, any combination of recycle, green and/or food 66%	Trash-4yd dumpster, 1x/wk Recycling-4yd dumpster, 2x/wk	$493.04	$366.23	$-126.81
Large customer (total waste = 48 cubic yards)	Trash 100%, no recycle, green and/or food	Trash-Three 4yd dumpsters, 4x/wk	$2,753.13	$3,592.74	$839.61
	Trash 50%, any combination of recycle, green and/or food 50%	Trash-4yd dumpster, 6x/wk Greenwaste-4yd dumpster, 1x/wk Recycling-4yd dumpster, 5x/wk	$2,130.50	$2,077.66	$-52.84
	Trash 33%, any combination of recycle, green and/or food 66%	Trash- 4yd dumpster, 4x/wk Recycling-two 4yd dumpsters, 4x/wk	$1,789.49	$1,556.84	$-232.65

* Not including 6% utility tax on waste services, as applicable

Agenda Item No._____

File Code No. 640.07

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: October 13, 2009

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Appeal Of The Planning Commission Denial Of The 1642 & 1654 Calle Cañon/2418 Calle Montilla Subdivision

RECOMMENDATION:
That Council deny the appeal of Joseph and Carolyn Maguire, thereby upholding the Planning Commission denial of the proposed six-lot subdivision and associated modifications and waivers.

EXECUTIVE SUMMARY:
On May 14, 2009, the Planning Commission unanimously (4-0) denied the proposed subdivision at 1642 and 1654 Calle Cañon and 2418 Calle Montilla. The property owners appealed the Planning Commission's decision, requesting that Council reconsider the Planning Commission's action. It is the Planning Commission and staff position that the site is not physically suitable for the proposed development due to steep, unstable slopes; and that the proposal is inconsistent with the City's General Plan, particularly with regard to hillside development, and visual and biological resources. The proposal was denied prior to the commencement of environmental review; therefore, an action overturning the Planning Commission's denial would not result in the approval of the project. Such action would result in the project continuing into the next steps of the environmental review process. Staff anticipates that the proposed project would require the preparation of an Environmental Impact Report.

PROJECT DESCRIPTION:
The proposed project includes a subdivision of two lots of 225,285 square feet and 99,333 square feet into six lots. The project location is within the Alta Mesa General Plan neighborhood in an area designated as High Fire and Major Hillside. Due to slope density requirements, each of the six proposed lots is required to provide more than the minimum lot area for the zone. The larger existing lot is zoned A-2 and is developed with two residences accessed from a common driveway on Calle Cañon. The smaller existing lot is split-zoned A-2 and E-1 and developed with a single-family residence fronting Calle Montilla. The three existing residences are proposed to remain. Multiple retaining walls with heights up to 20 feet are proposed.

The discretionary applications required for this project are:

1. **Lot Area Modification** to allow the creation of a 10,188 square-foot lot (Lot 6) where a 22,500 square-foot lot is required with slope density in the E-1 Zone (Santa Barbara Municipal Code Sections 28.15.080 and 28.92.110.A);
2. **Street Frontage Modification** to allow Lot 2 less than the required A-1 Zone 100 feet of street frontage (SBMC §s 28.15.080 and 28.92.110.A);
3. **Street Frontage Modification** to allow Lot 3 less than the required A-1 Zone 100 feet of street frontage (SBMC §s 28.15.080 and 28.92.110.A);
4. **Street Frontage Modification** to allow Lot 4 less than the required A-1 Zone 100 feet of street frontage (SBMC §s 28.15.080 and 28.92.110.A);
5. **Wall Height Modification** to allow retaining walls to exceed 3.5 feet in height within ten feet of the Calle Cañon front lot line and within 20 feet of the Calle Cañon front lot line on either side of the driveway for Lots 1-4 (SBMC §s 28.87.170.B and 28.92.110.A);
6. **Tentative Subdivision Map** to allow the division of two lots into six lots (SBMC Chapter 27.07);
7. **Public Street Waiver** to allow the creation of Lot 2 without frontage on a public street (SBMC §22.60.300);
8. **Public Street Waiver** to allow the creation of Lot 3 without frontage on a public street (SBMC §22.60.300); and
9. **Public Street Waiver** to allow the creation of Lot 4 without frontage on a public street (SBMC §22.60.300).

DISCUSSION:

On May 14, 2009, the Planning Commission denied the proposed project. During the deliberation, the consensus of the Commission was that the project would result in overdevelopment of the site. The Commission denied the project due to inconsistency with General Plan policies related to hillside development, visual resources, and biological resources, and directed the applicant to work with City staff on a design more appropriate for the site. The property owners appealed the decision on May 25, 2009 (Appellant's letter, Attachment 1). The Planning Commission minutes of May 14, 2009 and Resolution No. 019-09 are attached (Attachment 2).

Staff discussed possible alternatives with the owner's representatives both prior to and following the Planning Commission decision. The attached letter to the applicant (Attachment 3) addresses specific applicant requests for staff feedback on alternative project proposals.

GENERAL PLAN CONSISTENCY:

Approval of the subdivision requires findings of consistency with the City's General Plan. The General Plan contains various narratives, goals, policies, and implementation strategies related to hillside development, visual resources, and biological resources and applicable to this project.

The General Plan classifies the subject property within one of the two designated Major Hillside Open Space areas in the City. The applicable Major Hillside Open Space Area

is the north slope of the Mesa Hills, which extends from City College at Cabrillo Blvd. westerly between the Westside and Mesa Hills, through the Las Positas Valley and into Hope Ranch. The Open Space Element states that the location of development in this Major Hillside Open Space area should be controlled in a manner that will preserve the natural characteristics of the terrain and the native vegetation.

The Land Use Element recommends that the residential density of Major Hillside Open Space areas be limited to one or less dwelling unit per acre, depending on topography of the land, and that densities as low as one dwelling unit for every ten or more acres may be appropriate in some of the steeper hillside areas. The Conservation Element states that the 1975 Slope Density Ordinance has been ineffective in preventing scarring of hillsides, noting evidence of major scarring on the north facing slopes of the Mesa Hills. In response, it recommends that the location of development in hillside areas be controlled in a manner that guarantees preservation of the natural characteristics of the terrain and vegetation, even if development in certain areas is prohibited outright.

The Conservation Element also provides policies addressing conservation of visual and biological resources, including the following:

- *Development on hillsides shall not significantly modify the natural topography and vegetation.*
- *Development which necessitates grading on hillsides with slopes greater than 30% should not be permitted.*
- *Significant open space areas should be protected to preserve the City's visual resources from degradation.*
- *Ridgeline development which can be viewed from large areas of the community or by significant numbers of residents of the community shall be discouraged.*

Please refer to the attached Planning Commission Staff Report (Attachment 4) for additional information on General Plan consistency, and a summary of previous reviews by the Planning Commission, Architectural Board of Review and Single Family Design Board.

ENVIRONMENTAL REVIEW:

Because of concerns regarding General Plan consistency, staff brought the project application to Planning Commission for consideration of denial prior to progressing further with the environmental review process in the interest of minimizing additional resource expenditures by the applicant and staff. The subject proposal includes development over a landslide and through Oak woodland and, despite the extensive application review, the related project impacts to biological resources and geology remain unknown. Project denial prior to full environmental review is specifically provided by California Environmental Quality Act (CEQA) Guidelines Section 15270.

Since the City has not fulfilled CEQA obligations for consideration of project approval, Council may not approve the project at this time. If Council chooses to allow the

application to continue through the process, Staff anticipates that an Environmental Impact Report would be necessary for compliance with CEQA due to resource constraints and policy issues.

APPLICATION REVIEW:
In the appeal letter, the property owners express frustration with the duration of the application review and informational requests made by Staff reviewing the application. The subject application has been in process since 2000 and has been submitted to the City eight separate times.

The Community Development Department Development Review Program currently has the following P3 objectives addressing application review duration and approach:

1. *Work with applicants to submit complete applications within the second 30-day review at least 70% of the time, in order to improve customer service and reduce workload.*
2. *Encourage at least 50% of Planning Commission projects to receive a Pre-Application Review Team (PRT) review, in order to provide early advice to project proponents and minimize applications that cannot be supported.*
5. *Implement process improvements that reduce the amount of time spent to review projects while maintaining the quality of the City and better managing Staff workload, including updated procedures, additional training for new and existing Staff, and clearer environmental analysis procedures.*

Following each application submittal, the City is required to inform the applicant as to what additional information is necessary to achieve a complete application. The attached Planning Commission Staff Report includes a summary of each application submittal and City response. The City did not meet P3 Objective 1, as the project application has been submitted eight times. There are multiple reasons for this, which include changes to both the project and City regulations that led to requests for additional information needed to deem the application “complete,” and the procedure by which staff worked with applicants who did not make project changes in response to staff’s comments and concerns (described below). Also provided for Council information (Attachment 5) are excerpts taken from the pre-application reviews and incomplete DART letters. These statements make clear the lack of staff support and concern that the project would not be found consistent with policies had been expressed numerous times to the applicants.

Three of staff’s recent process improvements to achieve P3 Objective 5 are to 1) make a better distinction between application completeness and project supportability; 2) inform applicants of staff’s lack of support for proposed projects clearly, and 3) bring projects to decision-makers for consideration of early denial when projects have not been adequately revised to address major concerns expressed by staff or the Planning Commission. These improvements are a direct result of this application, wherein staff realized that its communication with the applicants should have been more clear.

Partially due to this application's longevity, five different staff planners and multiple other Land Development Team members reviewed the project for the City, and three different architectural firms, two land use planning firms and multiple resource specialists represented the applicant during review of the project.

With each review, the applicant was notified of staff's position on the project and of the option to appeal staff's completeness determination. The applicant chose to continue the process, seeking a complete application and anticipating full environmental review despite unsupportive comments from staff, the Planning Commission, and design review boards.

CONCLUSION:
Staff recommends that the Council deny the appeal and uphold the decision of the Planning Commission to deny the project, making the findings for denial contained in Planning Commission Resolution No. 016-09 (Attachment 2).

ATTACHMENTS:

1. Appeal letter received May 25, 2009
2. Planning Commission minutes of May 14, 2009 and Resolution No. 016-09
3. Letter from Paul Casey to the applicant dated June 23, 2009
4. Planning Commission Staff Report dated May 7, 2009
5. Excerpts from City review letters

PREPARED BY: Daniel Gullett, Associate Planner

SUBMITTED BY: Paul Casey, Community Development Director

APPROVED BY: City Administrator's Office

Joseph and Carolyn Maguire
1369 Schoolhouse Road
Santa Barbara CA 93108

ATTACHMENT 1

City Council
City Hall
Santa Barbara, California

Re: 1642 & 1654 Calle Canon, 2418 Calle Montilla
Lot split application (APNs 041 – 140 - 0066, 008, 009)

Dear Mme. Mayor and City Council Members,

With reference to the above captioned addresses and APNs, we respectfully and hopefully request that you re-examine and seriously consider exercising your powers to override the Santa Barbara Planning Commission's decision of May 14, 2009, in which it rejected our request to approve our thoughtfully- and professionally-developed, modest plans to conform with our parents' last wishes to develop our property in a dramatically scaled-down version, to the benefit of the public and that of our three sisters and children.

The following abbreviated list of episodes and circumstances have occurred during several decades of attempting to receive fair and equitable treatment from the City. We trust you will strongly disapprove of the discriminatory nature of some of the Planning Department's tactics and practices. Many may have been caused by unusually frequent turnover of personnel and their lack of sufficient time to familiarize themselves with important details. Arbitrary, retroactive, quasi-punitive policy changes and harsh fee structures were created with complete disregard for the devastating financial strain on well-meaning clients. This has created an atmosphere of desperation, affecting our physical and fiscal health, well beyond what our small plans should have triggered.

At the meeting of May 14, 2009, Mr. Kato, the Planning Staff's designated analyst, publicly uttered and recorded his much-appreciated statement of admission that Staff has failed to communicate with us and our team in a clear, unambiguous manner, when extremely consequential, time-sensitive demands were made on us. The consequences - devastating! Ms. Jan Hubbell expressed her displeasure with the mistakes and vague style in which Staff often communicated with us, also. Perhaps, Staff employees could be sensitized to the 'Art' of "walking in their clients' moccasins".

We hope that you will understand the merits and fairness of our Application, finding an equitable and satisfactory solution to our long duration of conscientious efforts. These efforts will significantly enhance the neighborhood at no expense to the City, while also respecting our vested interest in our property.

Sincere thanks to you for your courtesy in allowing us to present our case -

Joe & Carolyn
Maguire
969-3900

Points to Ponder

Calle Canon Property

8/29/05

1. Family Home, owned for a quarter Century, inherited by four sisters in 1990, suitable for dense building of 20 sites by Public Works map, had only 3 dwellings.

2. Was family home in semi-rural area. Paid taxes, maintained avocado orchard in anticipation of modest future development, when funds were available.

3. Application for dividing into 5 lots pending for 10 years, but frustrated by City Staff's various schemes, taking of the potential value and simplicity of plans, to create confiscatory policies financially and punitive, "retroactive" requirements.

4. Each time a plateau of progress was achieved, City Staff changed, reinterpreted, procrastinated and created more hurdles and unjustifiable expenses and delays.

5. Slope/Density concerns were resolved by a State Licensed Contractor, Civil Engineer and prominent Architects through meticulous, professional recalculations and redesigns.

6. Biological Evaluation was required, provided, paid for, accepted two years ago. Additional Biological Report is demanded by the DART Report. This is another obvious attempt to create delays which could be eliminated by a simle Addendum to the previous Report prior to issuing "Conditional Permits". Two

updated addenda were recently submitted.

7. Fire Department approved elaborate entrance, turn-about. Fire hydrants and in-dwelling fire sprinkling home system.

8. Precedents of other major hillside projects - 7 houses on Manitou that have been built in the last 10 year. The hill was steeper and they had to fill in 40' hole. Also, Rogers Tract, with much grading in the plans and steeper driveways. More townhouses and luxury homes capturing the harbor and ocean views.

9. $556.25 New Fee. No time limit for City. Just another punitive measure to wear out the client and force us into submission.

10. Abusive, confiscatory schemes should no longer be tolerated. City staff should be accountable for lost income, diminution of value, inefficient , understaffed Permit Processing System.

11. Postpone DART Meeting due to mistaken dates and insufficient notice to attend, much less prepare a response.

12. There has been much communication and many studies done at City's request since 2005. There has been a lot of malfeasance in the way this has been handled. We proceeded, in good faith, with all that was asked of us, following all City regulations.

10,000 sq. ft. lots (now recommended to 12,500) easily in 2002

Elings Park - sev. hundred acres

Extend one acre boundary because of slopes

approved Fire Dept. approach to area on Calle Cañon

Driveways in area

SANTA BARBARA CITY VIEW PROPERTY - 5.85 ACRES +/-

RECUSALS: To avoid any actual or perceived conflict of interest, Commissioner Jacobs recused herself from hearing this item due to the applicant's attorney working at the same firm as her husband.

This hearing was for Planning Commission consideration of project denial prior to initiation of environmental review. The project could not be approved at this hearing, only denied or continued.

APPLICATION OF PETER EHLEN, ARCHITECT FOR CAROLYN & JOSEPH MCGUIRE PROPERTY OWNERS, 1642 & 1654 CALLE CAÑON / 2418 CALLE MONTILLA, APNs 041-140-006, 008, 009, A-2 & E-1 ZONES, GENERAL PLAN DESIGNATION: MAJOR HILLSIDE (MST99-00606)

The project consists of a subdivision of two lots of 225,285 sf and 99,333 sf into six lots. The project location is within the Alta Mesa General Plan neighborhood and in an area designated as High Fire and Major Hillside. Due to slope density requirements, each of the six proposed lots is required to provide more than the minimum lot area for the zone. The larger existing lot is zoned A-2 and currently developed with two residences accessed from a common driveway on Calle Cañon. The smaller existing lot is split-zoned A-2 and E-1 and currently developed with a single-family residence fronting Calle Montilla. The three existing single-family residences are proposed to remain. Multiple retaining walls up to approximately 20 ft in height would be necessary to construct the proposed driveways. New curb, gutter, sidewalk, and parkway are proposed along the Calle Cañon frontage.

The discretionary applications required for this project are:

1. Lot Area Modification to allow the creation of a 10,188 square foot lot (Lot 6) where a 22,500 square foot lot is required with slope density in the E-1 Zone (SBMC §28.15.080 and §28.92.110.A);
2. Street Frontage Modification to allow Lot 2 less than the required A-1 Zone 100 feet of street frontage (SBMC §28.15.080 and 28.92.110.A);
3. Street Frontage Modification to allow Lot 3 less than the required A-1 Zone 100 feet of street frontage (SBMC §28.15.080 and 28.92.110.A);
4. Street Frontage Modification to allow Lot 4 less than the required A-1 Zone 100 feet of street frontage (SBMC §28.15.080 and 28.92.110.A);
5. Wall Height Modification to allow retaining walls to exceed 3.5 feet in height within ten feet of the front lot line on Calle Cañon and on either side of the driveway for Lots 1-4 within 20 feet of the front lot line (SBMC§28.87.170.B and 28.92.110.A);
6. Tentative Subdivision Map to allow the division of two lots into six lots (SBMC 27.07);
7. Public Street Waiver to allow the creation of Lot 2 without frontage on a public street (SBMC §22.60.300);

8. Public Street Waiver to allow the creation of Lot 3 without frontage on a public street (SBMC §22.60.300); and

9. Public Street Waiver to allow the creation of Lot 4 without frontage on a public street (SBMC §22.60.300).

The Environmental Analyst determined that the project was exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15270 (Projects which are disapproved).

Case Planner: Daniel Gullett, Associate Planner
Email: DGullett@SantaBarbaraCA.gov

Daniel Gullett, Associate Planner, gave the Staff presentation.

Staff assured the Planning Commission that the driveway design had been reviewed by the Fire Department.

Pete Ehlen, Architect, gave the applicant presentation, joined by Justin Van Mullen.

Chair Thompson opened the public hearing at 5:17 P.M.

The following people supported denial of the project:

1. Laura Brooks supported denial of the project citing the existing density of the area and the impact of any further development. Major concern is safety.
2. Tina Ryder supported denial and asked that the rural character be maintained if any other proposed development is reviewed.
3. Jim Garland supports denial and is concerned about public safety and increase in traffic.
4. Pamela Juliet Garland expressed concern that the proposed driveway would be directly in front of her home and elaborated in a submitted letter.

Stephen Zoldos expressed support for the applicant's efforts and asked the Commission not to deny the project.

With no one else wishing to speak, the public hearing was closed at 5:34 P.M.

The Commissioners made the following comments:

1. Commissioner White feels that any intensification that is to occur should be developed in a cluster and that this configuration is overdeveloped.
2. Commissioner Lodge cannot support Staff continuing to work on this proposal; would consider a project where the other houses are clustered down below where there is less of a steep slope, or a one story house on the existing lot 5 and returning lot 6 to its original configuration.
3. Commissioner Bartlett empathized with the applicant and thinks that one-story homes nestled into the two upper lots might buffer the skyline view of the tract

homes above. Agrees with Commissioner White on seeing more clustering. Turnaround wall at the access road entry would be the most obvious visual impact. Concerned with access road and would want it to look more natural.

4. Commissioner Thompson sees the potential benefits but sees the proposed development as too aggressive for the site. Clustering may have some potential.

Mr. Van Mullen asked for clarification of 'clustering' and was directed to work with Staff.

Staff responded to the Commissions question about the potential for a Planned Unit Development PUD) and explained a Planned Residential Development (PRD) and the clustering differences in each.

Mr. Ehlen commented that clustering options had been studied but did not fit with the rural character of the site.

MOTION: Lodge/White **Assigned Resolution No. 016-09**
Deny the application due to inconsistency with the General Plan making the findings as outlined in the Staff Report

This motion carried by the following vote:

Ayes: 4 Noes: 0 Abstain: 0 Absent: 3 (Larson, Jostes, Jacobs)

Chair Thompson announced the ten calendar day appeal period.

VI. **DISCUSSION ITEM:**

ACTUAL TIME: 5:55 P.M.

PROPOSED FINANCIAL PLAN AND OPERATING BUDGET FOR FISCAL YEAR 2010.

City Staff Presenter: Bettie Weiss, City Planner
Email: BWeiss@SantaBarbaraCA.gov

Bettie Weiss, City Planner, gave the Staff presentation.

Staff answered additional Planning Commission questions about Public Works using Planning Division Staff for work that would have been contracted out; the proposed work furlough; defining building height definition if the Save El Pueblo Viejo initiative passes; and the potential source of revenue from TOT (short term rental of individual properties in residential zones). Ms. Weiss also explained the 30-50% cost recovery of services.

The Commissioners made the following comments:

City of Santa Barbara
California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 016-09
1642 AND 1654 CALLE CAÑON / 2418 CALLE MONTILLA
MODIFICATIONS, TENTATIVE SUBDIVISION MAP, PUBLIC STREET WAIVERS
MAY 14, 2009

APPLICATION OF PETER EHLEN, ARCHITECT FOR CAROLYN & JOSEPH MCGUIRE PROPERTY OWNERS, 1642 & 1654 CALLE CAÑON / 2418 CALLE MONTILLA, APNs 041-140-006, 008, 009, A-2 & E-1 ZONES, GENERAL PLAN DESIGNATION: MAJOR HILLSIDE (MST99-00606)

The project consists of a subdivision of two lots of 225,285 sf and 99,333 sf into six lots. The project location is within the Alta Mesa General Plan neighborhood and in an area designated as High Fire and Major Hillside. Due to slope density requirements, each of the six proposed lots is required to provide more than the minimum lot area for the zone. The larger existing lot is zoned A-2 and currently developed with two residences accessed from a common driveway on Calle Cañon. The smaller existing lot is split-zoned A-2 and E-1 and currently developed with a single-family residence fronting Calle Montilla. The three existing single-family residences are proposed to remain. Multiple retaining walls up to approximately 20 ft in height would be necessary to construct the proposed driveways. New curb, gutter, sidewalk, and parkway are proposed along the Calle Cañon frontage.

The discretionary applications required for this project are:

1. Lot Area Modification to allow the creation of a 10,188 square foot lot (Lot 6) where a 22,500 square foot lot is required with slope density in the E-1 Zone (SBMC §28.15.080 and §28.92.110.A);
2. Street Frontage Modification to allow Lot 2 less than the required A-1 Zone 100 feet of street frontage (SBMC §28.15.080 and 28.92.110.A);
3. Street Frontage Modification to allow Lot 3 less than the required A-1 Zone 100 feet of street frontage (SBMC §28.15.080 and 28.92.110.A);
4. Street Frontage Modification to allow Lot 4 less than the required A-1 Zone 100 feet of street frontage (SBMC §28.15.080 and 28.92.110.A);
5. Wall Height Modification to allow retaining walls to exceed 3.5 feet in height within ten feet of the front lot line on Calle Cañon and on either side of the driveway for Lots 1-4 within 20 feet of the front lot line (SBMC§28.87.170.B and 28.92.110.A);
6. Tentative Subdivision Map to allow the division of two lots into six lots (SBMC 27.07);
7. Public Street Waiver to allow the creation of Lot 2 without frontage on a public street (SBMC §22.60.300);
8. Public Street Waiver to allow the creation of Lot 3 without frontage on a public street (SBMC §22.60.300); and

9. Public Street Waiver to allow the creation of Lot 4 without frontage on a public street (SBMC §22.60.300).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15270 (Projects which are disapproved).

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

WHEREAS, 1 person appeared to speak in favor of the application, and 4 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, May 7 2009
2. Site Plans
3. Correspondence received in support of the denial:
   a. Paula Westbury, Santa Barbara

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

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

The Tentative Map (SBMC §27.07.100)

B. Consistency with General and Specific Plans. Approval shall be denied to any map which is not consistent with the General Plan or a specific plan adopted thereunder or which depicts a land division or land use which is not compatible with the objectives, policies, general land uses and programs specified in the General Plan.

As discussed in Section V.B of the staff report, the project is not consistent with General Plan guidance, goals, policies, and implementation strategies related to hillside development, and visual and biological resources. Therefore, map approval is denied.

C. Denial on Specific Findings; Exceptions.

1. Approval or recommendation thereof shall be denied to any map by the Advisory Agency and, in the event of an appeal, by the Appeal Board, if said body finds:

a. The proposed map is not consistent with applicable General and specific plans.

As discussed in Section V.B of the staff report, the map is not consistent with General Plan guidance, goals, policies, and implementation strategies related to hillside development, and visual and biological resources. Therefore, approval is denied.

b. The design or improvement of the proposed development is not consistent with applicable general and specific plans.

As discussed in Section V.B of the staff report, the construction of the proposed driveways and buildout of the lots would not be consistent with General Plan

guidance, goals, policies, and implementation strategies related to hillside development, and visual and biological resources. Therefore, approval is denied.

c. The site is not physically suitable for the type of development.

As discussed in the Staff Report, the project site is not physically suitable for the type of development due to steep unstable slopes. Therefore, approval is denied.

This motion was passed and adopted on the 14th day of May, 2009 by the Planning Commission of the city of Santa Barbara, by the following vote:

AYES: 4 NOES: 0 ABSTAIN: 0 ABSENT: 3 (Larson, Jostes, Jacobs)

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

Julie Rodriguez

Julie Rodriguez, Planning Commission Secretary

July 9, 2009

Date

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

DYK - Plan file

ATTACHMENT 3

City of Santa Barbara

Community Development Department

www.SantaBarbaraCA.gov

Director's Office
Tel: 805.564.5502
Fax: 805.564.5506

Building & Safety
Tel: 805.564.5485
Fax: 805.564.5476

Housing & Redevelopment
Tel: 805.564.5461
Fax: 805.564.5477

Planning
Tel: 805.564.5470
Fax: 805.897.1904

Rental Housing Mediation Task Force
Tel: 805.564.5420
Fax: 805.564.5477

630 Garden Street
PO Box 1990
Santa Barbara, CA
93102-1990

June 23, 2009

Peter Ehlen
East Beach Ventures
401 B East Haley Street
Santa Barbara, CA 93101

SUBJECT: POTENTIAL 3-LOT SUBDIVISION AT 1642/1654 CALLE CANON/ 2418 CALLE MONTILLA

Dear Pete:

This letter is in response to a meeting I had with you and your Mrs. McGuire a couple of weeks ago, as well as a number of phone calls and an informal meeting since then with both you and Mrs. McGuire. I appreciate the interest of your client in determining the best way to move forward with consideration of their property, and balancing that with the consideration of the pending appeal before the City Council of a Planning Commission denial. I hope this letter provides you and your client with some options to consider, and we are certainly available to answer any questions. We have tried to be as forthcoming as we can about what different processes might entail, but as you can appreciate, we are unable to be certain about outcomes and issues that might arise under different scenarios.

From our conversations with you and your client, we believe the main focus of inquiry is regarding a 3 lot subdivision at 1642 Calle Canon. The new lots would consist of the following lots shown on the August 8, 2008 plans: Lot 5, Lot 6, and Lots 1-4 combined into a single large parcel.

Three Lot Subdivision

A three lot subdivision would constitute a revised project. With the described project, Staff anticipates that the required Planning Commission applications would be a Tentative Subdivision Map and a Modification for wall height. Review and approval by the Single Family Design Board would also be required.

Unfortunately, because the building area of Lot 5 includes areas that are over 20% slope, the project cannot be deemed exempt from CEQA. Therefore, Staff anticipates the need to prepare an Initial Study, pursuant to CEQA, to determine the appropriate level of environmental review (at this point our hope would be for a Negative Declaration, but an Environmental Impact Report is possible). The major issues in the Initial Study would most likely center around the new building site on Lot 5, and the two new driveways, as well as the wall adjacent to the new driveway that would access the large lot. Of course, it is possible that other issues arise during the Initial Study. Since the proposal is less than five lots, a Parcel Map would be required instead of a Final Map.

I realize that one of your concerns is new fees. We feel that we can consider this a revised project and thereby have reduced fees. The fee would be half of the current fee of $7,365.00 for the Tentative Subdivision Map, half the current fee of $2,015.00 for the Modification, $8,077.00 to prepare an Initial Study, $900 for the Negative Declaration, and $375 for Single Family Design Board review of the grading and the retaining wall for total fees of $14,042. This assumes other Modifications or an EIR are not required.

All advisories and required additional information identified in the September 24, 2008 letter would be applicable, with the exception of the additional information requested for lots no longer proposed (e.g., storm drain and sewer connections to lots 3 and 4).

It's important to note that all public improvements shown on the August 8, 2008 plans, including sidewalk, curb, parkway, street lights, fire hydrants, drain outlets, etc., as shown on sheet T3 of the current plans, would be required in addition to improved access to the existing residences on Calle Canon. The new driveway probably would not be required to go beyond proposed lot 2, since development is no longer proposed further along the driveway. A narrower driveway may be acceptable to provide this access. Requirements for the driveway geometry would depend partially on the number of residences served by the driveway. You would probably want to discuss your proposal with Jim Austin at 564-5702 for Fire Department access requirements. These improvements would be required to be installed prior to Final Map recordation, which is standard for new subdivisions, although it is possible to defer the installation of the public improvements for up to 12 months. In order to defer the installation of the improvements, your clients would have to bond for the improvements, and if they weren't completed within 12 months, then the City would exercise the bond, and pay for the construction of the improvements.

Based on the information that we have, Staff could support the approval of the three-lot subdivision, with the appropriate mitigations and conditions of approval.

Alternate Plan - Two-Lot Subdivision

You also asked for comments on an alternative plan, which would entail the subdivision of the existing 2418 Calle Montilla lot (approx. 53,000 s.f.) into two lots: proposed Lot 6, and the remainder of the existing lot, which would be approximately 41,000 s.f. in size. As stated previously, Staff would support proposed Lot 6 despite its inadequate lot size because of the pattern of the development on Calle Montilla. However, we would not support the creation of the remainder lot, because we believe the average slope of the remainder lot to be at least 20%, and more likely over 30%, in which case the 30,000 s.f. minimum lot size would be required to be doubled or tripled. Since the remainder lot would only be about 41,000 s.f. in size, the minimum lot size requirement would not be met. Staff would not support the creation of another under-sized lot, and does not recommend proceeding with this idea.

Phased Plan: three-lot subdivision and subsequent subdivision

We understand that the three-lot subdivision would be the first part of a phased project. Phase 2 has not yet been defined for Staff. We just want to highlight that in our opinion, phased projects are inherently risky because the Planning Commission and most neighbors do not like the idea of piecemealing, where the entire project is not reviewed, but only parts at a time. There is no guarantee that, once the first phase is approved, any future phase would also be approved, although there would be nothing preventing an applicant from applying. It is possible to envision a scenario where the first phase goes well, but the Planning Commission would not approve later phases. We believe that the proposed phased strategy, with the three-lot subdivision followed by the subdivision of the large lot is risky and more expensive than attempting a single subdivision at this time. It is more expensive because the project is two subdivisions, so all costs would be at least doubled. Additionally, the public improvements would be required to be installed prior to the Phase I Final Map is recorded (public improvements can be deferred for up to12 months as noted above), which front-loads costs. We predict that two Mitigated Negative Declarations would be required, and depending on the Phase 2 plan, an EIR could be required for it. As you can see, we have serious concerns with such a subdivision phasing plan.

Alternate Phased Plan: lot line adjustment and subsequent subdivision

When Staff met with Justin Van Mullem, we discussed a phased project wherein Phase 1 would be a lot line adjustment that would create Lot 6 and one very large lot, and Phase 2 would be a subdivision of the single large lot into 2-3 lots. While my conversation with Mrs. McGuire makes this approach seem unlikely from her end, we thought we'd still respond with our thoughts on it as an approach.

Although phasing is inherently risky as discussed above, we believe that this lot line adjustment/subdivision phasing plan is a lower risk phasing strategy that Staff could support, as the lot line adjustment would not create any new development potential. We believe that the Planning Commission would support this phasing strategy as well. We also believe that Phase 1 would be a fairly low cost and speedy phase, as the project could most likely be found to be categorically exempt from CEQA, and the public improvements would not be required for the lot line adjustment. Staff would support the Lot Line Adjustment and the phasing plan; however, Staff and Planning Commission support of the second phase proposal is entirely dependent on what is proposed. If the second phase were to be for two to three lots, Staff could probably support it.

Conclusion

I hope this information is helpful. As we've discussed, we still need to resolve the status of the pending appeal before the City Council as well. At this point, the July 14th appeal date in front of the City Council is not feasible. The City Clerk's Office does need your consent to either find a later date for the appeal, put it on a tentative hold while you decide which direction to take, or withdraw the appeal.

If you have any technical questions on the planning discussions above, please feel free to contact Dan Gullett, Associate Planner, or Danny Kato, Senior Planner at 564-5470.

We look forward to working with you on a revised project if that is the direction you would like to go.

Sincerely,

Paul Casey
Community Development Director

cc: Joe Maguire PO Box 5723 Santa Barbara CA 93105
Planning File

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V.

City of Santa Barbara
California

PLANNING COMMISSION
STAFF REPORT

REPORT DATE: May 7, 2009

AGENDA DATE: May 14, 2009

PROJECT ADDRESS: 1642 &1654 Calle Cañon, 2418 Calle Montilla (MST 99-00606)
Rancho Blanco Subdivision

TO: Planning Commission

FROM: Planning Division, (805) 564-5470
Danny Kato, Senior Planner DK
Daniel Gullett, Associate Planner DG

I. PROJECT DESCRIPTION

The project consists of a subdivision of two lots of 225,285 sf and 99,333 sf into six lots. The project location is within the Alta Mesa General Plan neighborhood and in an area designated as High Fire and Major Hillside. Due to slope density requirements, each of the six proposed lots is required to provide more than the minimum lot area for the zone. The larger existing lot is zoned A-2, and currently developed with two residences accessed from a common driveway on Calle Cañon. The smaller existing lot is split-zoned A-2 and E-1, and currently developed with a single-family residence fronting Calle Montilla. The three existing single-family residences are proposed to remain. Multiple retaining walls up to approximately 20 ft in height would be necessary to construct the proposed driveways. New curb, gutter, sidewalk, and parkway are proposed along the Calle Cañon frontage.

II. REQUIRED APPLICATIONS

The discretionary applications required for this project are:

1. Lot Area Modification to allow the creation of a 10,188 square foot lot (Lot 6) where a 22,500 square foot lot is required with slope density in the E-1 Zone (SBMC §28.15.080 and §28.92.110.A);
2. Street Frontage Modification to allow Lot 2 less than the required A-1 Zone 100 feet of street frontage (SBMC §28.15.080 and 28.92.110.A);
3. Street Frontage Modification to allow Lot 3 less than the required A-1 Zone 100 feet of street frontage (SBMC §28.15.080 and 28.92.110.A);
4. Street Frontage Modification to allow Lot 4 less than the required A-1 Zone 100 feet of street frontage (SBMC §28.15.080 and 28.92.110.A);
5. Wall Height Modification to allow retaining walls to exceed 3.5 feet in height within ten feet of the front lot line on Calle Cañon and on either side of the

driveway for Lots 1-4 within 20 feet of the front lot line (SBMC§28.87.170.B and 28.92.110.A);

6. Tentative Subdivision Map to allow the division of two lots into six lots (SBMC 27.07);

7. Public Street Waiver to allow the creation of Lot 2 without frontage on a public street (SBMC §22.60.300);

8. Public Street Waiver to allow the creation of Lot 3 without frontage on a public street (SBMC §22.60.300); and

9. Public Street Waiver to allow the creation of Lot 4 without frontage on a public street (SBMC §22.60.300).

III. RECOMMENDATION

Staff recommends that the Planning Commission deny the project due to inconsistency with General Plan policies related to hillside development, visual resources, and biological resources, making the findings outlined in Section VI of this report.

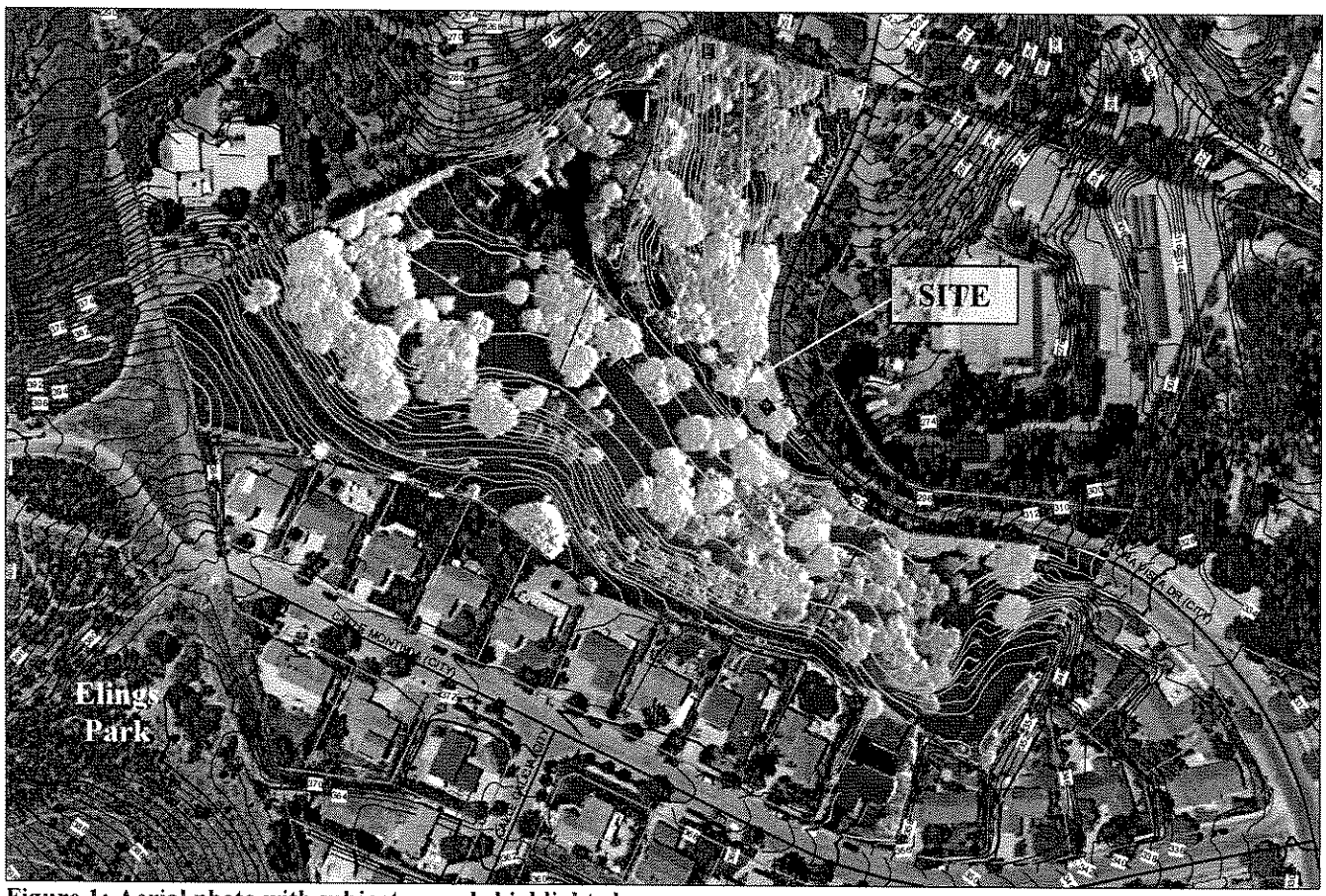

Figure 1: Aerial photo with subject parcels highlighted

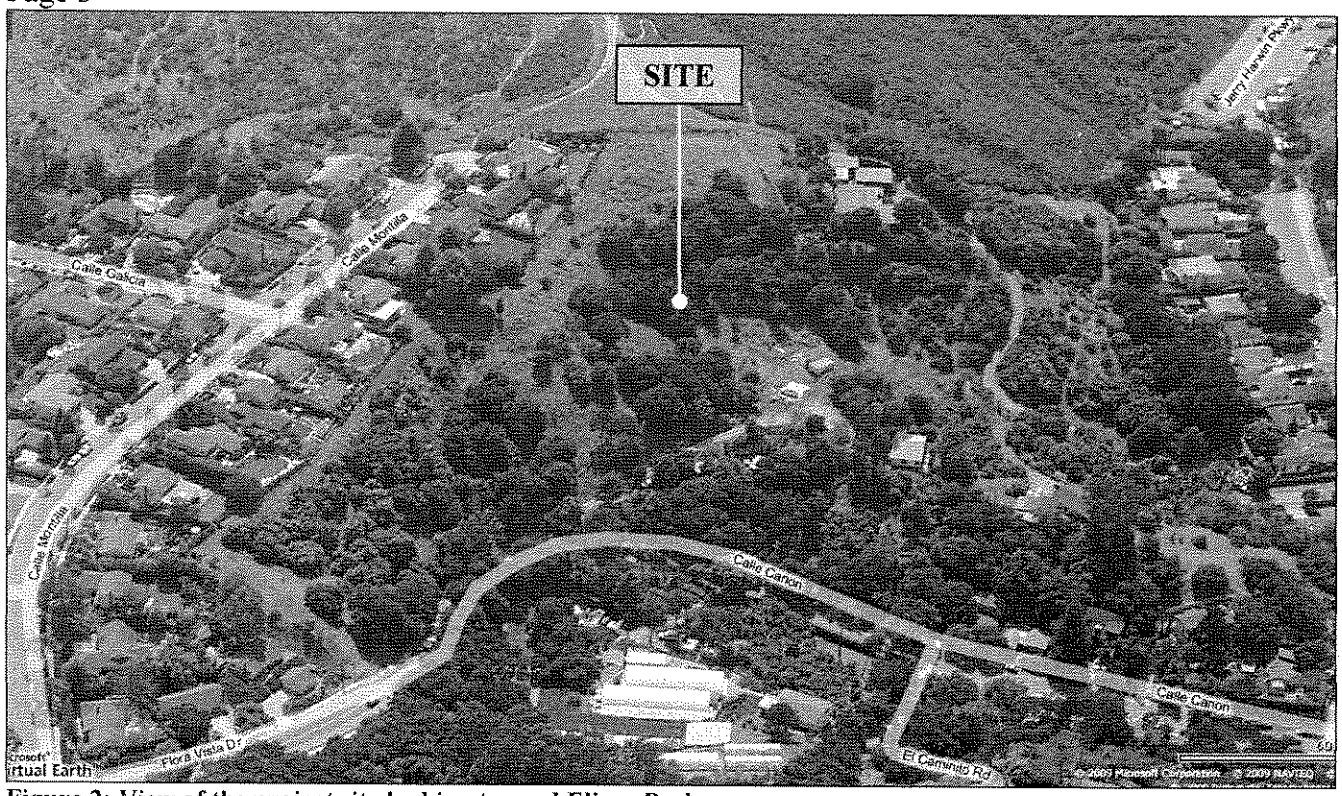

Figure 2: View of the project site looking toward Elings Park

SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant:	Peter Ehlen	Property Owner:	Carolyn & Joseph McGuire
1642 & 1654 Calle Cañon			
Parcel Numbers:	041-140-008, -009	Lot Area:	225,285 sf
General Plan:	Major Hillside	Zoning:	A-2
Existing Development:	815 sf SFR, 1,040 sf SFR	Topography:	Average Slope 28%
2418 Calle Montilla			
Parcel Number:	041-140-006	Lot Area:	99,333 sf
General Plan:	Major Hillside	Zoning:	E-1, A-2
Existing Development:	2,400 sf SFR	Topography:	Average Slope 30%
Adjacent Land Uses:			
North – Single Family Residential		East – Agriculture (landscape nursery)	
South – Single Family Residential		West – Elings Park	

B. PROJECT STATISTICS

Lot	1	2	3	4	5	6
Gross Area (sf)	80,730	38,067	54,172	52,316	99,333	12,975
Net Area (sf)	76,846	38,067	54,172	52,316	78,861	10,188
Average Slope	34%	18%	24%	27%	35%	12%
Slope Multiplier	3x	1.5x	2x	2x	3x	1.5x
Required Area (sf)	75,000	37,500	50,000	50,000	75,000	22,500
(Net Area – Required Area)	1,846	567	4,172	2,316	3,861	-12,312*
Building Envelope Area (sf)	4,527	13,037	7,633 (north)† 7,329 (middle) 2,618 (south)‡	24,696	6,478	n/a
Average Building Envelope Slope	31%	6%	11% (north) 26% (middle) 28% (south)	25%	8%	n/a

IV. ISSUES

A. DEVELOPMENT CONSTRAINTS

Lot 1

- Although this lot is 80,730 sf, the proposed building envelope is only 4,527 sf with 31% average slope
- The existing residence was permitted by the Planning Commission in 1957 subject to the condition that the building was *to be used solely as a guest house in conjunction with the existing main dwelling and under present ownership* - subsequent permits refer to the 1957 approval as a *variance for a second dwelling*
- Contains a portion of the Lavigia Fault
- Contains public road easement
- The existing driveway does not meet City standards

Lot 2

- Contains the flattest developable area of the subject property and the existing 1,040 sf residence
- The existing driveway does not meet City standards

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* Lot area modification is required for Lot 6
† Due to it's location below unstable soil, this envelope is designated for accessory purposes only
‡ No access is provided to this envelope

Lot 3

- Contains portions of the Lavigia Fault and oak woodland habitat
- The northern building envelope is designated for accessory uses only due to the location of the landslide on the parcel
- The southern building envelope has no access is currently proposed
- The middle building envelope is 7,329 sf with 26% slope, contains 14 oaks trees and is located adjacent to the fault

Lot 4

- Contains portions of the Lavigia Fault and oak woodland habitat
- Development includes construction of a driveway over a landslide and through oak woodland habitat
- Building envelope is on a ridgeline and adjacent to an area of Elings Park that provides unimpeded views of the Riviera and mountains

Lot 5

- Contains portions of the Lavigia Fault, oaks and three landslides
- Driveway proposed over historical agricultural access and requires grading on slopes exceeding 30%
- Contains public road easement
- Placement of the building envelope is proximate to existing development

Lot 6

- Lot previously existed in the proposed configuration as Lot 61 of Westwood Hills Unit 3 (created in 1962)
- The current lot configuration was as result of a lot split in 1971
- Due to the zoning map and General Plan amendments of 1975, the lots on Calle Montilla became non-conforming with regard to lot size and density

V. PROJECT HISTORY

A. APPLICATION REVIEW

Development Review Committee ***November 1996***

The Development Review Committee provided a comment letter on a five lot subdivision contiguous with the current project's boundaries exclusive of proposed Lot 6. The letter noted the required approvals, applicable policies, and environmental constraints. It also advised the applicant to redesign the subdivision to reduce the number of lots and provide for lots with development envelopes on slopes less than 30% and, preferably on slopes less than 20%.

Pre-application review ***August 1999***

The pre-application was for a six lot subdivision on the two subjects lots. In City's review letter staff conveyed concerns regarding the steep topography and vegetation on the site, noted General Plan inconsistency with regard to hillside development, and indicated that the proposed

subdivision exceeded the number of lots appropriate for the topography. In the review letter, staff identified information required for application submittal, including a fault study and soils report, and indicated that an Initial Study would be required to determine the appropriate level of environmental review.

Initial application submittal ***October 2000***

The applicant submitted a tentative map, road improvement plan, and fault investigation with the application. In response, staff reiterated the concern that the proposed number of lots was excessive for the topography and neighborhood and noted concerns with General Plan consistency, in particular the Open Space, Land Use, and Conservation Elements discussions of Major Hillside areas and preservation of oak woodlands. Staff also discussed the proposed modifications and identified a General Plan density issue with Lot 6 (referred to as Lot B at the time). Staff suggested that the project be redesigned to either site building envelopes at lower elevations or concentrate building envelopes in one area to maximize contiguous open space area. Staff requested plan corrections, a slope map, additional information regarding access, hazardous materials (a former varnishing workshop was located on the property and was destroyed by fire in 1998), utility connections, grading and drainage, public improvements, biology, information on the Lavigia Fault, a soils report, and a visual study.

Submittal 2 ***August 2001***

The applicant provided a tentative map, site plan, and wall sections, drainage study and biological resources evaluation. The plans indicated an eight foot wall at the driveway access for Lots 1-4 off of Calle Cañon. In the response letter, staff noted the need for modifications for over-height walls in interior setbacks and indicated that wall height modifications would not be supported, noting concerns regarding proposed grading and height. Staff encouraged the applicant to redesign the driveway. Staff expressed concerns with the project's consistency with the Single Family Residence guidelines with regard to retaining wall height and extent and disturbance on areas with slopes greater than 30%, particularly on Lots 4 and 5 (then Lot A). Staff stated that it may be necessary to reduce the number of lots to comply with the Single Family Residence Guidelines. Staff indicated general support of the configuration of Lot 6 (then Lot B) despite the General Plan density and zoning lot area requirements, since proposed Lot 6 was consistent with the pattern of development and density of the surrounding neighborhood (an accurate slope density factor of Lot 6 was not known until the eighth application submittal, it was reported as 8.3% in the Submittal 2 review). Staff requested plan corrections; access information; photos of Lots 3, 4, and 5 from Elings Park; a biological assessment; soils report; fault location study; and a Phase II Hazardous Materials site assessment.

Submittal 3 ***April 2002***

The applicant submitted a revised tentative map, biological resources evaluation, fault location study and soils report addendum, site assessment and slope map. In response, staff noted that the resubmittal did not propose alternative lot configurations and reiterated staff concerns regarding General Plan inconsistency pertaining to development on Lots 4 and 5. Staff recommended that the applicant apply for Planning Commission concept review to receive

feedback regarding General Plan consistency with Lots 4 and 5. Staff requested revised plans, a revised biological resources study, hydrology calculations, and drainage information.

Planning Commission Concept Review ***July 2002***

The staff report for this Concept Review requested that the Commission consider the appropriateness of the proposed subdivision design in the context of General Plan policies related to hillside design, particularly for Lots 4 and 5. The plans submitted for the concept hearing did not include a slope map or show landslides on the property, which limit site developability. At that time, the access to Lot 4 was configured to avoid the oak woodland area by wrapping the driveway around the woodland to the south, and a cul-de-sac was proposed between Lots 2 and 3. At the review some Planning Commissioners expressed concerns with the developability of Lots 3, 4 and 5 due to steep slopes, vehicular access, view issues, and neighbor privacy. Some Planning Commissioners also expressed an interest for a revised proposal with clustered development. Minutes from this review are attached as Exhibit C.

ABR site visit with story poles on Lots 4 and 5 ***March 2003***

Planning Commission Lunch Meeting ***September 2004***

The Planning Commission also provided comments on site access and public improvements associated with the project at a lunch meeting on September 16, 2004. There are no minutes from the lunch meeting, however a summary of the meeting was provided by staff in the City's fourth application review letter in September 2004 (discussed below). According to the letter, the Commission stated that the driveway improvements to serve Lots 1, 2, 3, and 4, including the then-proposed 17 foot high retaining wall, were necessary in order to meet Fire Department access requirements, and requested the architect work with Architectural Board of Review (ABR) to design the walls for compliance with the Neighborhood Preservation Ordinance in order to soften the potential visual impact of the wall. The Commission also stated that the public improvements along the Calle Cañon frontage were an overall benefit to the neighborhood providing better pedestrian circulation, and that because of the proposed public improvements, the Planning Commission could support the requested street frontage modifications. The Commission restated concerns from the previous review regarding proposed Lot 4. Although some Commissioners did not find the overall density an issue, the consensus was that Lot 4 was not accessible.

Submittal* 4** ***September 2004

The owner retained a new applicant who submitted revised plans, an updated biological resources evaluation, and drainage analysis. In response, staff stated that the design of Lot 4 was not supported due to visual impacts to Elings Park visitors and the community, policy inconsistency with regard to hillside development, and the length of the driveway to access Lot 4 and related grading (the location of the Lot 4 driveway was outside of the delineated landslide area at that time). Staff requested a revised site plan with development envelopes, redesign of the Calle Cañon sidewalk, and additional information with regard to construction, drainage, and slope information. Staff recommended providing a trail between Elings Park and Escondido Park. Staff also conveyed comments from the Planning Commission's lunch meeting of September 16, 2004.

Submittal* 5** ***July 2005

The applicant submitted revised plans, an engineering geology investigation, preliminary foundation investigation, and an updated biological resources investigation. After receiving additional slope and geologic information, staff conveyed increased concern that the subdivision could not be supported as designed. Staff specifically stated that the creation of Lot 4 would not be supported due to policy inconsistency issues and potential visual impacts of the driveway and future residence, and that access improvements to Lot 5 would be inconsistent with Conservation Element Implementation Strategy 2.1, since significant grading on slopes exceeding 30% would be required to meet driveway standards. Staff noted that an Environmental Impact Report may be necessary due to inconsistency with the General Plan in addition to identified geologic and biologic issues. Staff requested that the development envelopes on Lots 1-3 avoid slopes exceeding 30% and indicated support of the driveway improvements from Calle Cañon since the improvements were necessary to provide improved fire/emergency access to the existing development. Staff stated the trail to Elings Park is not needed since a link to the park is available at Calle Montilla. Staff requested plan revisions and that future residential use be considered in the Biological Evaluation.

Submittal* 6** ***October 2007

The owner retained another applicant who submitted updated plans, additional biological information, and a memo on fault and landslide information. In response, staff acknowledged the removal of some development from 30% slopes but continued to express concerns stated in previous response letters regarding potential inconsistency with the General Plan. Staff stated that, as proposed with the environmental information provided, staff would recommend denial of the project to the Planning Commission. Staff provided options to the applicant to have the project considered by the Planning Commission for denial, receive another concept review, or provide necessary environmental information to staff to complete an Initial Study. Staff identified additional required environmental information, including the necessary additional landslide stability analysis and fault information identified the applicant's geologist, an updated biological report addressing construction of future homes, and plan revisions. Staff also advised the applicant that a Single Family Design Board site concept review was now required by the Neighborhood Preservation Ordinance for new subdivisions.

Submittal* 7** ***May 2008

The applicant submitted revised plans and a biological evaluation addendum indicating the desire to initiate the CEQA process. In response, staff reiterated the request from the previous submittal for additional geologic information on the mitigation of fault and landslide hazards and indicated continued concerns regarding General Plan consistency and consistency with Single Family Residence Guidelines. Staff requested additional information on stormwater management to meet the City standards and additional biological and geological information regarding the construction of the reconfigured driveway to Lot 4 over a landslide and through oak woodland.

Submittal 8 ***August 2008***

The applicant submitted revised plans, a physical model of the Calle Cañon driveway to Lots 1-4 and a drainage study. In response, staff noted that the additional geologic and biologic information was not submitted as requested and that concerns raised by staff and the Planning Commission throughout the application review process had not been sufficiently addressed. Staff informed the applicant that the project would be taken before the Planning Commission for consideration of project denial rather than initiating the CEQA process.

Following the eighth application submittal, the applicant requested that staff postpone the Planning Commission consideration of denial pending submittal of results from further geologic investigation. The results from that investigation were submitted on April 14, 2009 and are discussed below.

B. DESIGN REVIEW

This project was reviewed by the Architectural Board of Review (ABR) seven times between November 2000 and October 2003. Following the Neighborhood Preservation Ordinance Update and the formation of the Single Family Design Board (SFDB), the project was reviewed once by SFDB in December 2007 (meeting minutes are attached as Exhibit D). Both ABR and SFDB consistently expressed concerns regarding the location of building envelopes on Lots 4 and 5, vegetation removal, and the relationship of future buildings on Lots 4 and 5 to public views and neighboring properties. The ABR visited the site to view story poles in March 2003.

The *Single Family Residence Design Guidelines* apply to the proposed subdivision and provide a tool for both the SFDB and Planning Commission to help determine if appropriate findings and approvals can be made.

Relevant Single Family Residential Hillside Housing Design Guidelines include:

26.5 Fit in with hillside topography and background

26.6 Avoid interrupting natural ridgelines and skylines. Set the house below these.

29.2 Preserve slopes greater than 30% by avoiding grading and clearing.

30.1 Set house on the site so that the length of the driveway is minimized.

30.2 Minimize the visibility of driveway cuts on the property.

30.4 Design driveway slope with the natural topography.

32.3 Avoid crowding or overwhelming neighboring residences.

C. GENERAL PLAN COMPLIANCE

Approval of a Tentative Map for the project requires a finding of consistency with the City's General Plan. It is staff's position that the proposed project is inconsistent with the City's General Plan, particularly the guidance, goals, policies, and implementation strategies in the Conservation Element, Land Use Element, and Open Space Element related to hillside development, visual resources, and biological resources, as discussed below.

Open Space Element

The Open Space Element includes the subject property in one of the two designated Major Hillside Open Space areas in the City. This Major Hillside Open Space area is located on the north slope of the Mesa Hills, extending from City College at Cabrillo Blvd. westerly between the Westside and Mesa Hills, through the Las Positas Valley and into Hope Ranch. The Open Space Element states that this area has a pronounced impact on the community despite the narrow projection of the area. The slopes are identified as steep and, in some cases, essentially undevelopable. The Open Space Element states that, similar to the foothills (the other Major Hillside area), it should not be necessary to acquire this open space to preserve it, for much of it is practically undevelopable. *It is necessary, however, to provide certain development controls so that the density is held down to an appropriate level. Also, the location of development should be controlled in a manner that will preserve the natural characteristics of the terrain and the native vegetation.*

Land Use Element

The Land Use Element includes the project site in the Alta Mesa neighborhood, which consists of the area bordered by Loma Alta Drive on the east; Elings Park on the west; existing development oriented to Cliff Drive on the south; and the base of the steep hillside on the north. The Land Use Element discussion of the neighborhood indicates that most of the land has been developed or committed to public use. It points out that *the steep hills along the northern border have been classified as major hillside open spaces by the Open Space Element and have been zoned A-1 and A-2. Still more restrictive zoning will probably be appropriate for these areas.* The Land Use Element further recommends that the residential density Major Hillside open space areas be limited to one or less dwelling unit per acre, depending on topography of the land. *Densities as low as one dwelling unit for every ten or more acres may be appropriate in some of the steeper hillside areas.*

Conservation Element

The Conservation Element acknowledges that extensive cutting and grading of hillsides accompanying residential development can cause irreversible environmental damage diminishing the aesthetic character of the City and that development has impaired scenic vistas from open, publicly-accessible sites on the hills themselves. It notes that natural constraints to development, such as excessive steepness of slopes, have been overcome by environmentally-damaging engineering practices throughout the hillside areas. It states, that a response to the trend was the 1975 Slope Density Ordinance, which had the intent to prevent unnecessary scarring of hillsides through regulation of density of various slopes. However, according to the Conservation Element, the Slope Density Ordinance has not been effective, noting evidence of major scarring on the north facing slopes of the Mesa Hills and other areas of the City. It, therefore, suggests that the location of development in the hillside areas should be controlled in a manner that guarantees preservation of the natural characteristics of the terrain and vegetation, even if revised ordinances prohibit development in certain areas outright.

The Conservation Element also provides the following relevant goals, policies and implementation strategies addressing visual resources and biological resources:

Visual Resources

Goals

- Prevent the scarring of hillside areas by inappropriate development.
- Protect and enhance the scenic character of the City.
- Maintain the scenic character of the City by preventing unnecessary removal of significant trees and encouraging cultivation of new trees.
- Protect significant open space areas from the type of development which would degrade the City's visual resources.

Policies

2.0 Development on hillsides shall not significantly modify the natural topography and vegetation.

3.0 New development shall not obstruct scenic view corridors, including those of the ocean and lower elevations of the City viewed respectively from the shoreline and upper foothills, and of the upper foothills and mountains viewed respectively from the beach and lower elevations of the City.

4.0 Trees enhance the general appearance of the City's landscape and should be preserved and protected.

5.0 Significant open space areas should be protected to preserve the City's visual resources from degradation.

6.0 Ridgeline development which can be viewed from large areas of the community or by significant numbers of residents of the community shall be discouraged.

Implementation Strategies

2.0 Development on hillsides shall not significantly modify the natural topography and vegetation.

2.1 Development which necessitates grading on hillsides with slopes greater than 30% should not be permitted

5.0 Significant open space areas should be protected to preserve the City's visual resources from degradation.

6.0 Ridgeline development which can be viewed from large areas of the community or by significant numbers of residents of the community shall be discouraged.

Biological Resources

Goal

- Enhance and preserve the City's critical ecological resources in order to provide a high quality environment necessary to sustain the City's ecosystem.

Policies

4.0 Remaining Coastal Perennial Grasslands and Southern Oak Woodlands shall be preserved, where feasible.

5.0 The habitats of rare and endangered species shall be preserved.

D. ENVIRONMENTAL REVIEW

Project disapproval is exempt from CEQA review pursuant to CEQA Guidelines Section 15270, which allows the initial screening of a project on its merits prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved.

The following is a summary of the submitted geologic and biologic information.

Geology

The Master Environmental Assessment identifies the majority of the site as an area of high erosion potential. In addition, the City's Geologic Hazards Maps indicate that the Lavigia Fault is located on the project site.

In a December 2004 Engineering Geology Report, Applied Geosciences stated that habitable structures should not be constructed within ten feet of the Lavigia Fault or on the fault splay on Lot 5 without adequate engineering, and recommended that additional investigation be performed to document that the ten foot setback is adequately observed within the 50 ft investigation setback on either side of the fault line identified in the report. This report also stated that structures shall not be constructed within areas of possible landslides and that structures proposed on side slope areas not designated as potential landslides provide foundations below shallow zones of potential down creep (10-15 ft).

In a March 2005 report addendum, Applied Geosciences stated that Lot 3 could be developed provided that the suspected landslide is completely assessed and the potential impacts to the proposed development are mitigated or removed. The addendum identified that specific recommendations follow the landslide configuration determination and that mitigation may include full removal of the landslide.

In a November 2006 Landslide and Fault Evaluation Memo a different consultant, Geological Consultants Inc., stated that there was insufficient data to analyze the landslide and slump conditions on the site or define the location of the Lavigia Fault. The memo then described a preliminary investigative program to identify data needed to determine mitigations of fault and landslide hazards required for the project.

A geologic report prepared by another consultant, Earth Systems, in April 2009 investigated the landslide area on Lots 3 and 4 with two test pits in the middle of the Lot 3 building envelope, and one test pit between Lots 3 and 4. One of the three test pits indicated that there was no landsliding below the Lot 4 driveway. However, the remaining two test pits were inconclusive. This report provides the opinion that mitigation of existing landslides is feasible for the proposed development, but design-level geology and geotechnical studies should be performed to determine appropriate mitigation for each landslide area, and that such mitigation may include full removal of landslide deposits and replacement with engineered fill that would be keyed and benched. Quantities of earthwork and limits of grading required to build the

proposed private driveway for Lots 1-4 across two landslides and future residences remain unknown at this time.

Biology

Katherine Rindlaub provided a Biological Resources Evaluation in April 2005 and an Addendum in March 2008. Ms. Rindlaub identified potentially significant and mitigable temporary impacts to the isolated population of the Silvery legless lizard (*Anniella purchra pulchra*), a California Department of Fish & Game (DFG) Species of Special Concern, due to habitat loss. Ms. Rindlaub also identified potentially significant and mitigable temporary impacts to the Cooper's Hawk (*Accipiter cooperii*), a DFG Watch List species; the Loggerhead shrike (*Lanius ludovicianus*), a DFG Species of Special Concern; and the DFG Fully Protected White-tailed kite (*Elanus lsucurus)* due to nesting failure and cumulative impacts due to habitat loss. Staff requested additional information in the seventh application review in preparation for an Initial Study, including plans showing biological habitats on the project site and surrounding the project site, additional information on habitat type and areas of disturbance, and a raptor survey to establish the nesting potential of raptors consistent with current biological report standards. The City has not received the requested information.

In the 2005 Evaluation, Ms. Rindlaub also evaluated the project impacts to individual Coast live oak trees and oak woodland habitat. Oak woodland habitat provides shelter, food, and space for many animals and oak trees control the micro-environment around them as their shade produces significantly lower temperatures and their leaf litter creates acidic soil conditions. Ms. Rindlaub provided a rough visual estimate that concluded approximately 30 oaks were likely to be significantly impacted by limbing and 25 oaks were likely to experience significant intrusion into the root zone. In the 2005 Evaluation, Ms. Rindlaub identified mitigation measures to reduce project impacts to individual oak trees and oak woodland habitat to less than significant levels. But impacts to individual oaks and oak woodland habitat remain unknown due to incomplete information regarding to mitigation of landslides along the proposed driveway and accommodation for City Fire Department defensible space and vegetation road clearance requirements.

Without a full project description, including locations and quantities of grading and tree removals, or complete information regarding project impacts, specifically those regarding landslide mitigation and associated biological impacts, project impacts are unknown and environmental review of the project is inadequate at this time.

VI. FINDINGS FOR TENTATIVE MAP DENIAL

The Planning Commission finds the following:

THE TENTATIVE MAP (SBMC §27.07.100)

B. Consistency with General and Specific Plans. Approval shall be denied to any map which is not consistent with the General Plan or a specific plan adopted thereunder or

which depicts a land division or land use which is not compatible with the objectives, policies, general land uses and programs specified in the General Plan.

As discussed in Section V.B of the staff report, the project is not consistent with General Plan guidance, goals, policies, and implementation strategies related to hillside development, and visual and biological resources. Therefore, map approval is denied.

C. Denial on Specific Findings; Exceptions.

1. Approval or recommendation thereof shall be denied to any map by the Advisory Agency and, in the event of an appeal, by the Appeal Board, if said body finds:

a. The proposed map is not consistent with applicable General and specific plans.

As discussed in Section V.B of the staff report, the map is not consistent with General Plan guidance, goals, policies, and implementation strategies related to hillside development, and visual and biological resources. Therefore, approval is denied.

b. The design or improvement of the proposed development is not consistent with applicable general and specific plans.

As discussed in Section V.B of the staff report, the construction of the proposed driveways and buildout of the lots would not be consistent with General Plan guidance, goals, policies, and implementation strategies related to hillside development, and visual and biological resources. Therefore, approval is denied.

c. The site is not physically suitable for the type of development.

As discussed in the Staff Report, the project site is not physically suitable for the type of development due to steep unstable slopes. Therefore, approval is denied.

Exhibits:

A. Site Plan (DRT.2), Tentative Map (T3), Slope Analysis (T10)
B. Applicant's letter, dated April 28, 2009
C. PC Concept Minutes of July 25, 2002
D. ABR/SFDB Design Review Minutes

EXHIBIT A

Site Plan
1" = 40'-0"

EAST BEACH VENTURES
401 E. EAST HALEY STREET SANTA BARBARA, CA 93101
805.966.7288 EAST-BEACH.NET

RANCHO BLANCO
6 Lot Subdivision
1642 Calle Canon/2418 Calle Montilla
Santa Barbara, CA 93101

Project No. 04-66
Revision
△

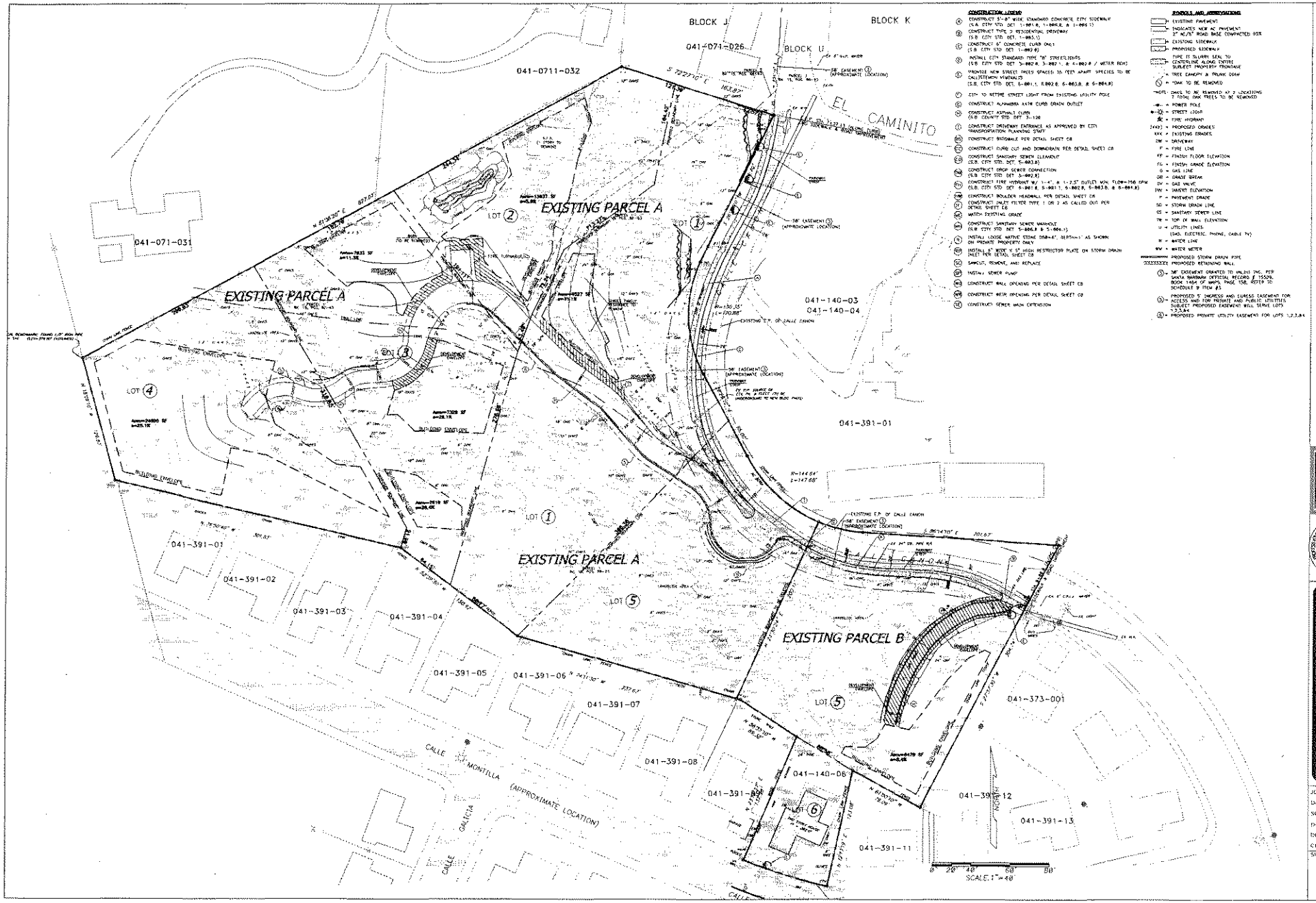
Drawn Based
7.17.06 Village Park
8.23.07 DARB Submittal
11.14.07 SFDB Submittal
3.12.08 DARB Re-submittal
8.08.08 DARB Re-submittal

Drawing Date:
08.08.08

Site Plan

DRT.2

Plotted On: 8/23/08



CONSTRUCTION LEGEND

- (A) CONSTRUCT 5'-4" WIDE STANDARD CONCRETE CITY SIDEWALK (S.B. CITY STD. DET. 1-001.B, 1-002.B, & 1-003.1)
- (B) CONSTRUCT TYPE 2 RESIDENTIAL DRIVEWAY (S.B. CITY STD. DET. 1-003.1)
- (C) CONSTRUCT 6" CONCRETE CURB ONLY (S.B. CITY STD. DET. 1-002.6)
- (D) INSTALL CITY STANDARD TYPE "B" STREETLIGHTS (S.B. CITY STD. DET. 3-002.4, 3-002.1, & 4-002.2 / METER BOX)
- (E) PROVIDE NEW STREET TREES SPACED 35 FEET APART SPECIES TO BE CALISTEMON VIMINALIS (S.B. CITY STD. DET. 6-001.1, 6.002.6, 6-003.B, & 6-004.B)
- (F) CITY TO RETIRE STREET LIGHT FROM EXISTING UTILITY POLE
- (G) CONSTRUCT ALHAMBRA AATM CURB DRAIN OUTLET
- (H) CONSTRUCT ASPHALT CURB (S.B. COUNTY STD. DET. 3-128
- (I) CONSTRUCT DRIVEWAY ENTRANCE AS APPROVED BY CITY TRANSPORTATION PLANNING STAFF
- (J) CONSTRUCT SIDEWALK PER DETAIL SHEET C8
- (K) CONSTRUCT CURB CUT AND DOWNDRAIN PER DETAIL SHEET C8
- (L) CONSTRUCT SANITARY SEWER CLEANOUT (S.B. CITY STD. DET. S-003.B)
- (M) CONSTRUCT DROP SEWER CONNECTION (S.B. CITY STD. DET. S-002.B)
- (N) CONSTRUCT FIRE HYDRANT W/ 1-4", & 1-2.5" OUTLET, MIN. FLOW=750 GPM (S.B. CITY STD. DET. 6-001.B, 6-001.1, 6-002.B, 6-003.B, & 6-004.B)
- (O) CONSTRUCT BOULDER HEADWALL PER DETAIL SHEET C8
- (P) CONSTRUCT INLET FILTER TYPE 1 OR 2 AS CALLED OUT PER DETAIL SHEET C8
- (Q) MATCH EXISTING GRADE
- (R) CONSTRUCT SANITARY SEWER MANHOLE (S.B. CITY STD. DET. S-006.A & S-006.1)
- (S) INSTALL LOOSE NATIVE STONE DIA=4", DEPTH=1' AS SHOWN ON PRIVATE PROPERTY ONLY
- (T) INSTALL 6" WIDE X 5" HIGH RESTRICTOR PLATE ON STORM DRAIN INLET PER DETAIL SHEET C8
- (U) SAWCUT, REMOVE, AND REPLACE
- (V) INSTALL SEWER PUMP
- (W) CONSTRUCT WALL OPENING PER DETAIL SHEET C8
- (X) CONSTRUCT WEIR OPENING PER DETAIL SHEET C8
- (Y) CONSTRUCT SEWER MAIN EXTENSION

SYMBOLS AND ABBREVIATIONS

- EXISTING PAVEMENT
- INDICATES NEW AC PAVEMENT 2" AC/3" ROAD BASE COMPACTED 95%
- EXISTING SIDEWALK
- PROPOSED SIDEWALK
- FIRE IT SLURRY SEAL TO CENTERLINE ALONG ENTIRE SUBJECT PROPERTY FRONTAGE
- TREE CANOPY & TRUNK DRAW
- OAK TO BE REMOVED
- NOTE: OAKS TO BE REMOVED AT 2 LOCATIONS 7 TOTAL OAK TREES TO BE REMOVED
- POWER POLE
- STREET LIGHT
- FIRE HYDRANT
- (3.42) PROPOSED GRADES
- 3.42 EXISTING GRADES
- DW DRIVEWAY
- F FIRE LINE
- FF FINISH FLOOR ELEVATION
- FG FINISH GRADE ELEVATION
- G GAS LINE
- GB GRADE BREAK
- GV GAS VALVE
- HW HANDY ELEVATION
- P PAVEMENT GRADE
- SD STORM DRAIN LINE
- SS SANITARY SEWER LINE
- TW TOP OF WALL ELEVATION
- U UTILITY LINES (GAS, ELECTRIC, PHONE, CABLE TV)
- W WATER LINE
- WM WATER METER
- PROPOSED STORM DRAIN PIPE
- PROPOSED RETAINING WALL
- (1) 10' EASEMENT GRANTED TO VALLEY INC. PER SANTA BARBARA OFFICIAL RECORD # 15529, BOOK 1464 OF MAPS, PAGE 158, REFER TO SCHEDULE B ITEM #3
- (2) PROPOSED 5' INGRESS AND EGRESS EASEMENT FOR ACCESS AND FOR PRIVATE AND PUBLIC UTILITIES SUBJECT PROPOSED EASEMENT WILL SERVE LOTS 1,2,3,4
- (3) PROPOSED PRIVATE UTILITY EASEMENT FOR LOTS 1,2,3,4

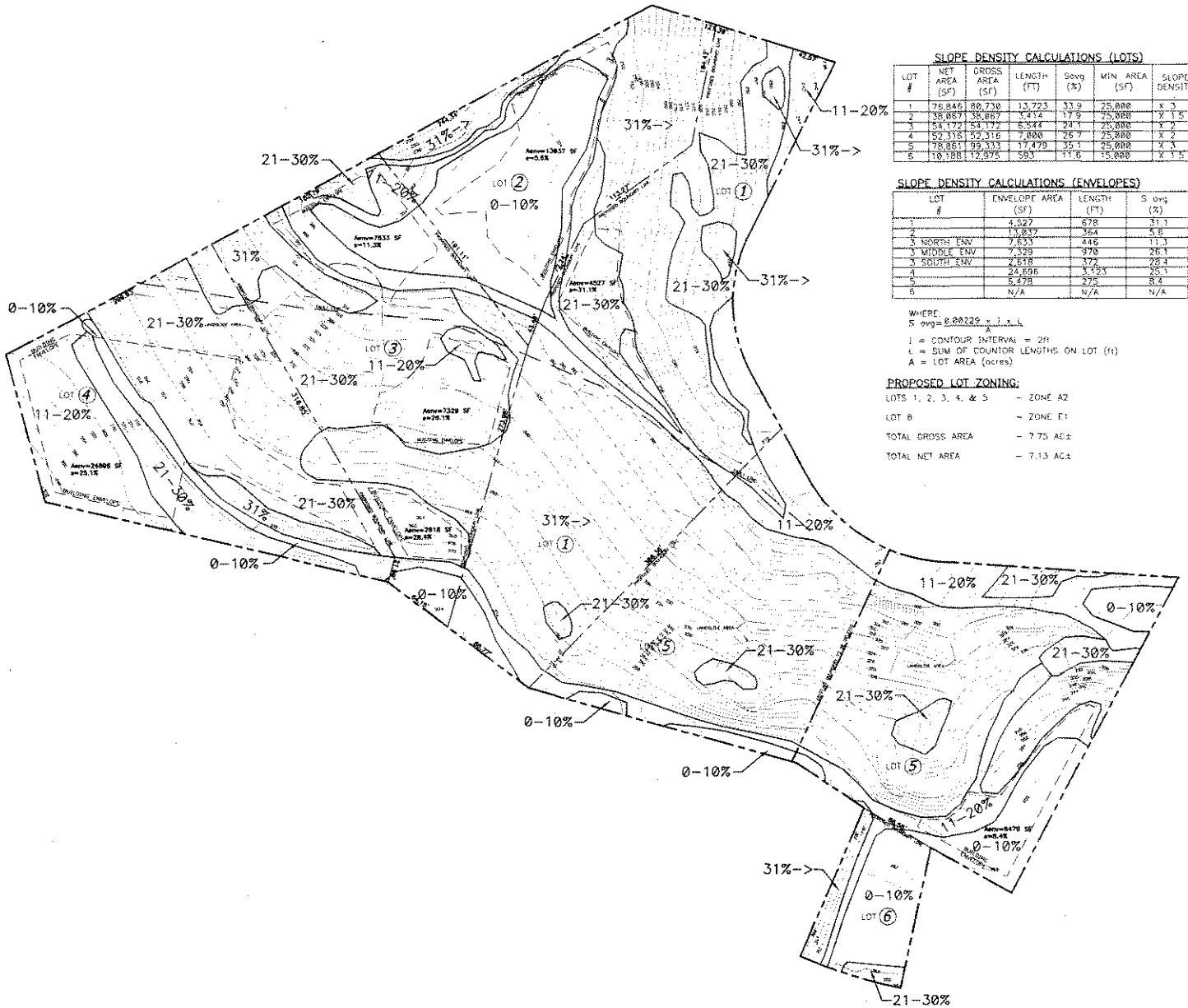
TENTATIVE MAP

OVERALL TENTATIVE PARCEL MAP

25 YEARS OF EXCELLENCE ERIE & ASSOCIATES

ERIE & VAN SANDE
CIVIL ENGINEERS
SANTA BARBARA, CA 93101
(805) 963-1532

JOB NO.	1848.01
DATE	07/11/2008
SCALE	1"=40'
DRAWN	JAL
DESIGN	LJE
CHECKED	LJE
SHEET NO.	T3



SLOPE DENSITY CALCULATIONS (LOTS)

LOT #	NET AREA (SF)	GROSS AREA (SF)	LENGTH (FT)	Savg (%)	MIN. AREA (SF)	SLOPE DENSITY	INCREASE IN MIN. LOT SIZE (SF)
1	76,846	80,730	13,723	33.9	25,000	x 3	75,000
2	38,067	38,067	5,414	17.9	25,000	X 1.5	37,500
3	54,172	54,172	6,544	24.1	25,000	X 2	50,000
4	52,316	52,316	7,000	25.7	25,000	X 2	50,000
5	78,861	99,333	17,479	35.1	25,000	X 3	75,000
6	10,188	12,975	593	11.6	15,000	X 1.5	22,500

SLOPE DENSITY CALCULATIONS (ENVELOPES)

LOT #	ENVELOPE AREA (SF)	LENGTH (FT)	S avg (%)
1	4,527	678	31.1
2	13,077	364	5.8
3 NORTH ENV	7,633	446	11.3
3 MIDDLE ENV	7,329	970	26.1
3 SOUTH ENV	2,618	372	28.4
4	24,696	3,123	25.1
5	5,478	275	8.4
6	N/A	N/A	N/A

WHERE

$$S\ avg = \frac{0.00229 \times I \times L}{A}$$

I = CONTOUR INTERVAL = 2ft
L = SUM OF COUNTOR LENGTHS ON LOT (ft)
A = LOT AREA (acres)

PROPOSED LOT ZONING:

LOTS 1, 2, 3, 4, & 5 – ZONE A2

LOT 6 – ZONE E1

TOTAL GROSS AREA – 7.75 AC±

TOTAL NET AREA – 7.13 AC±

NORTH

0 20' 40' 60' 80'
SCALE: 1"=40'

NOTE: 2' CONTOUR INTERVAL

TENTATIVE MAP

SLOPE ANALYSIS

SHEET 25 OF TEAMS OF ERIE & ASSOCIATES

ERIE & VAN SANDE
CIVIL ENGINEERS
SANTA CLARITA, CA 91321
(661) 263-3992

JOB NO. 1848.01
DATE 07/31/2008
SCALE 1"=40'
DRAWN J.A.L.
DESIGN J.A.E.
CHECKED J.A.E.
SHEET NO.
T10

ON DESIGN, ARCHITECTURE & PLANNING
829 De La Vina Street, Suite 200, Santa Barbara, CA 93101
Mailing Address: P.O. Box 489, Santa Barbara, CA 93102
PH: (805) 564-3354 FAX: (805) 962-3904

April 28, 2009

Planning Commission
City of Santa Barbara
735 Anacapa Street
Santa Barbara, CA 93101

RE: 1642 & 1654 Calle Canon, 2418 Calle Montilla
6-lot Subdivision

Dear Commissioners,

On behalf of the owners, Joe & Carolyn Maguire, we are submitting an updated project for your consideration. This project has been reviewed in concept by the Commission on July 25, 2002. Since that time, multiple drainage, geology, biology, engineering and design studies have been conducted and a refined project has been developed. This process underwent eight DART reviews with five different planners assigned.

This project started with the Development Review Committee in 1996. The owners, in good faith, provided numerous analysis/studies required by city staff throughout the years. They have incurred approximately $250,000 during this process. It was not until the last DART review of September 30, 2008 did they hear that staff would be recommending denial of the project as proposed.

In spite of staff's position, we are hopeful that the Commission will review this project with consideration of the following positive aspects:

- Low density residential project
- No adverse impacts indicated in any studies
- General neighborhood upgrade
- Public benefits such as new street lights, fire hydrants and turnouts, and sidewalk installation of Calle Canon *(this is an opportunity to improve a major arterial road that connects the west side to the beach area)*

We look forward to presenting our project to you at your meeting and appreciate your time in this review process.

Sincerely,

Justin Van Mullem
Principal/Planner

EXHIBIT B

July 25, 2002 (PC Concept)

APPLICATION OF DAVE TABOR & ASSOCIATES, AGENT FOR CAROLYN MAGUIRE AND DIANA GUSTAFSON (PROPERTY OWNERS), 1642 & 1654 CALLE CANON/2418 CALLE MONTILLA, APN 041-140-008,-009 A-2 SINGLE FAMILY RESIDENTIAL ZONE, APN 041-140-006 A-2/E-1 SINGLE FAMILY RESIDENTIAL ZONE, GENERAL PLAN DESIGNATION: MAJOR HILLSIDE (MST99-00606)

Concept review hearing to discuss General Plan consistency of proposed 6-lot subdivision. The subdivision involves three existing parcels, totaling over seven acres, to be subdivided into six lots ranging in size from 10,142 square feet to 2.43 acres. The project proposes building and grading envelopes for five of the undeveloped lots (one lot currently developed), two new access driveways, and public improvements.

Trish Allen, Assistant Planner, gave a brief review of the project.

Dave Tabor, Applicant, gave a detailed review of the project design.

Commissioners' questions and comments:

1. Asked if there has been any previous discussion about cluster development, like that of a Planned Unit Development (PUD).
2. Asked for clarification of the security gate location.

Ms. Allen stated that the Applicant had been asked to pursue a more clustered development and pointed out the amount of site area that would remain open space.

The following people spoke in opposition to the project:
Marcia Engelmann, 2414 Calle Montilla
Wynne Tufnell, 1640 Calle Canon

Mr. Tabor commented that the former agricultural easement will not be used in the future. He also stated that the newly installed gate is only to prevent unauthorized activity on the property.

During the discussion, the Commission:

1. Asked if the slope density ordinance applies in a mixed zone property.
2. Stated that the Land Use Element suggests clustering on steep slopes and recognized that this is a modification on the concept of clustering.
3. Asked if there will be a subdivision map with five, one-acre parcels or if the residences will be clustered in a PUD.
4. Commented that Lot five at 2.4 acres would be best used if development were located away from the 20% slope.
5. Asked for comment on the ability to build in the geologic fault setback.
6. Asked for clarification of the terms "development envelope" and "building envelope" as used on the plans.
7. Felt that Lots one and two are the developable areas, but not three, four, or five. Setting aside zoning, felt a PUD would be appropriate.
8. Felt it difficult to support building at the Lot four location, but could support developing Lots one, two, and three, and leaving the rest of the hillside alone.
9. Believed that Lots four and five are in violation of good practices for hillside development.
10. Stated the need to be cautious about the amount of car traffic to take place on the hillside.

EXHIBIT C

11. Supported rotating the Lot five building envelope.

12. Stated that the Planning Commission needs to look at the entire developable area and what is allowed when the project comes back for review.

13. One Commissioner is comfortable with Lot six, and will be comfortable with Lot five after the terminology is clarified correctly on the plans and believes the best lots for market value would be Lots four and five.

14. Asked Applicant to research the history of the street and the solutions to be proposed for the street.

15. Commented that the rural nature of the neighborhood should be preserved and felt lots four and five should not be built upon.

16. Thought the preservation of the rural nature of the site, the views and privacy of the neighbors on Calle Montilla, road access problems, and overall site development would all be better served by clustering the houses on the lower lots.

17. Thought the property could support five units.

18. Agreed that clustering is the best solution.

19. Stated that clustering the houses in a manner similar to Stacy Lane may not be appropriate to this site.

20. Stated that lot constraints may not support five units unless they are clustered, which may be out of character for the area.

21. Felt that oak trees on a large site such as this lends a natural look to the area. If the development were to be clustered, which would require the removal of 20 oaks trees, the remaining oaks and a major part of the hillside would be left in its natural state.

Ms. Allen responded to the question of slope density and that the clustering of houses would not affect the lot area density and that zoning will apply. She stated that Staff had not made a recommendation to the Applicant on how clustering the buildings should occur. It was suggested to the Applicant that he explore clustering and relocating the building envelopes so that there would be a more overall, open space area. Ms. Allen stated that the subdivision needs to comply with the zoning (A-2), however, it would be possible for the Applicant to come forward with another proposal to rezone the property for a PUD. She also responded to the question of the ability to build in the geologic fault setback and stated that the fault is designated as inactive although the exact location of the fault area could not be identified. She commented that people sometimes use the terms "development" and "building envelope" interchangeably, which can be misleading. For purposes of this project, the Applicant was asked to show "development envelopes." On the plans, the terms "building envelope" and "development envelope" were used. The "development envelope" includes access and grading areas to create the driveways.

Mr. Tabor stated that a line on the map (fault) is based on a prior City map and that after walking the site a fault was not found. He stated the location of the fault was presumed, and that the geologist had to put a setback on it because of the evidence of a fault on the map. He also stated there is not a chance of rupture and that the fault is inactive, with no chance of sliding if a driveway or garage or non-habitable structure is built on it. He expressed appreciation for the Commission's comments, stated that the project may need to be redesigned, and would have appreciated instruction earlier in the process. If the houses are clustered, native oak trees will need to be eliminated.

Ms. Craver spoke to the comments made by the Applicant about lack of instruction earlier in the process. She stated that although neither she nor Ms. Allen could speak for previous Staff who had worked on the project, current Staff had enough concern about this project that it was brought to the Planning Commission for review before it was even found complete, and concern had been communicated to the Applicant.

November 20, 2000 (ABR)
1642 CALLE CANON

Assessor's Parcel Number: 041-140-008
Application Number: MST99-00606
Agent: David Tabor
Applicant: Marianna Day

(Proposal for a tentative subdivision of two existing lots into six new residential lots, with associated street improvements on Calle Canon. A new private access road and fire department turnaround are anticipated to require approximately 500 cubic yards of grading, with additional grading for driveways to the individual lots estimated at up to 1,620 cubic yards of cut and fill. An undetermined number of oak trees may be affected or removed.)

David Tabor, agent, present.

Public comment opened at 4:25 p.m.

Vice-Chair Pujo read a letter from A.K. Frowiss into the record expressing concerns regarding possible chemical and erosion damage.

Public comment closed at 4:26 p.m.

Motion: Indefinite continuance with the following comments: 1) An organized site visit with the Planning Commission should be arranged. 2) Provide aerial photographs. 3) Provide site sections and sections for the proposed driveways. 4) Provide information on retaining walls.
Action: Hutchings/Six, 5/0/1. Gorrell abstained.

December 4, 2000 (ABR)
1642 CALLE CANON

Assessor's Parcel Number: 041-140-008
Application Number: MST99-00606
Agent: David Tabor
Applicant: Marianna Day

(Proposal for a tentative subdivision of two existing lots into six new residential lots, with associated street improvements on Calle Canon. A new private access road and fire department turnaround are anticipated to require approximately 500 cubic yards of grading, with additional grading for driveways to the individual lots estimated at up to 1,620 cubic yards of cut and fill. An undetermined number of oak trees may be affected or removed.)

(3:52)

David Tabor, agent and Marck Aguilar, Associate Planner, present.

Motion: Indefinite continuance with the following comments: 1) The Board is concerned with the amount of grading proposed to provide access at sites A and 4. 2) Lower the building envelopes at sites A and 4 on the hillside to be more nestled in. 3) Provide information regarding the potential grading impacts to the existing trees. 4) Provide sections of the driveway and retaining walls. 5) The site information should be provided at a larger scale and be more legible.
Action: Pujo/Hutchings, 7/0/0.

EXHIBIT D

April 30, 2001 (ABR)
1642 CALLE CANON

Assessor's Parcel Number: 041-140-008
Application Number: MST99-00606
Agent: David Tabor
Applicant: Marianna Day & Carolyn W. Maguire

(Proposal for a tentative subdivision of two existing lots into five new residential lots, with associated street improvements on Calle Canon. A new private access road and fire department turnaround are anticipated to require approximately 500 cubic yards of grading, with additional grading for driveways to the individual lots estimated at up to 1,620 cubic yards of cut and fill. An undetermined number of oak trees may be affected or removed.)

(5:55)

David Tabor, agent, and Russ Banko, agent, present.

Public comment opened at 5:07 p.m.

Ed Haldeman, 1533 West Valerio Street, was concerned about the height of the proposed houses, his privacy, and drainage.

Public comment closed at 5:09 p.m.

Motion: Two weeks continuance for an In-Progress Review with the following comments: 1) The envelopes for Lot 1, 2, and 3 are appropriate. 2) Provide a massing study for the future development of Lots A and 4 relative to their access and existing adjacent homes. 3) The Board reserves judgment of the exact alignments and development of the driveways to Lots A and 4. 4) Document the top and bottom elevations of all the proposed walls. 5) Study a sandstone or other natural wall at Calle Canon with areas of foreground planting rather than Alan block. 6) Enhance the paving at the main entry. 7) Document the trees to be removed with a bold "X".

Action: Gradin/Eichelberger, 7/0/0. Gorrell stepped down.

May 14, 2001 (ABR)
1642 CALLE CANON

Assessor's Parcel Number: 041-140-008
Application Number: MST99-00606
Owner: Carolyn Maguire & Diana Gustafson
Agent: David Tabor

(Proposal for a tentative subdivision of two existing lots into five new residential lots, with associated street improvements on Calle Canon. A new private access road and fire department turnaround are anticipated to require approximately 500 cubic yards of grading, with additional grading for driveways to the individual lots estimated at up to 1,620 cubic yards of cut and fill. An undetermined number of oak trees may be affected or removed.)

(3:28)

David Tabor, agent, and Russ Banko, Architect, present.

Motion: Indefinite continuance to the Planning Commission with the following comments: 1) The grading and access roads as presented are acceptable. 2) The Board is uncomfortable with the building appropriateness of Lot A (Lot 5) and the location of Lot 4, and requests the Planning Commission to comment on the appropriateness of the envelopes, the location of envelopes, and in respect to Lot A (Lot 5) the feasibility of any development at all. 3) If Lot A (Lot 5) is

developable the Board reserves the right to have significant input to the pad elevation and site plan. 4) The Board reserves judgment on access to Lot A (Lot 5) and Lot 4 until reviewing a house design. 5) The Board reserves judgment on the walls. 6) The heights of the walls are acceptable. 7) Study sandstone or other natural wall materials with areas of foreground planting. 8) Alan block is not acceptable. 9) Enhance the paving at the main entry. 10) The number of oak trees are proposed to be removed with the proposed replanting appears to be acceptable.

Action: Six/Gradin, 8/0/0.

October 28, 2002 (ABR)
1642 CALLE CANON

Assessor's Parcel Number: 041-140-008
Application Number: MST99-00606
Agent: David Tabor
Agent: Russ Banko
Owner: Carolyn Maguire & Diana Gustafson

(Proposal for a tentative subdivision of two existing lots into five new residential lots with associated street improvements on Calle Canon. A new private access road and Fire Department turnaround are anticipated to require approximately 500 cubic yards of grading, with additional grading for driveways to the individual lots estimated at up to 1,620 cubic yards of cut and fill. An undetermined number of oak trees may be affected or removed. Conceptual review of the new residences is requested.)

(3:22)

David Tabor, Architect, and Russ Banko, Designer, present.

Staff Comment: Trish Allen, Assistant Planner, stated that the project has been through the 30-day review process for several iterations. The project is still considered an incomplete project. Staff referred the project to the Planning Commission for concept comments regarding the General Plan consistency issues. Staff had repeated concerns regarding consistency with the General Plan as it relates to open space and hillside development. A lot of progress has been made and the project has changed substantially since the last ABR review. Retaining wall heights have been diminished and the subdivision has been significantly massaged. Staff is still voicing concerns regarding the developability of Lots 4 and 5 and the General Plan consistency issues. The Planning Commission felt that Lots 1, 2, and 3 were developable locations. The plans before the Board are specifically for Lots 4 and 5. The proposed configuration for Lot 6 contains an existing residence. This residence is part of the subdivision because of its proposed lot line adjustment. The Planning Commission and Staff had no concerns with this lot area modification. The Planning Commission felt that Lots 4 and 5 could be in violation with the good practices for hillside development. They felt that it was important to preserve the rural nature of the neighborhood and that the overall site development would be better served if the houses were clustered on the lower portions of the property. One Commissioner was not concerned about Lots 4 and 5. He felt that the proposed development was reasonable. Mrs. Allen has a summary of all the comments made by the Planning Commission.

Mrs. Allen, responding to Mr. Gradin's question regarding the suggestion to cluster the homes on the lower lot, stated that it was not Staff's intention to steer the Planning Commission's discussion into a Planned Unit Development-type of development. The General Plan speaks about clustering homes in very loose terms. The clustering needs to be appropriate to the surrounding neighborhood. The overall goal is to preserve a larger area of open space that is undisturbed.

Mrs. Allen asked the Board members to focus on the developability of Lots 4 and 5. Staff hopes that the additional information can lead to a decision whether these lots are developable or not looking at the possible configuration of the residences. The project will return to the Planning

Commission with ABR's comments, when Staff deems the project to be complete and the Environmental Assessment has been completed.

Motion: Continued indefinitely to the Planning Commission with the following comments: 1) The Board cannot accept the mass of the residences and their effect on the ridgeline. 2) Look at the methods to improve the presentation of the proposal. 3) The Board will be looking for some radical changes in the massing of Lots 4 and 5. 4) The Board will be commenting on the proposed driveways serving Lots 4 and 5 at a future review. 5) At this time, the Board cannot commit on the developability of Lots 4 and 5.

Action: Six/Eichelberger, 9/0/0.

March 3, 2003 (ABR following viewing of story poles on Lots 4 and 5)

1654 CALLE CANON

Assessor's Parcel Number:	041-140-008
Application Number:	MST99-00606
Agent:	David Tabor
Agent:	Russ Banko
Owner:	Carolyn Maguire & Diana Gustafson

(Proposal for a tentative subdivision of two existing lots into five new residential lots with associated street improvements on Calle Canon. A new private access road and Fire Department turnaround are anticipated to require approximately 500 cubic yards of grading, with additional grading for driveways to the individual lots estimated at up to 1,620 cubic yards of cut and fill. An undetermined number of oak trees may be affected or removed.)

Item Nos. 1 and 2 were reviewed simultaneously.

(3:32)

David Tabor, Agent, and Russ Banko, Designer, present.

Public comment opened at 3:53 P.M.

David Martin, 2410 Calle Montilla, was concerned about the lack of notice for reviews, impact on his view and location of the residence on Lot 5.

Marcia Engelmann, 2414 Calle Montilla, was concerned about the impact on her view and area in general.

Gena-Vera Niblack, 2516 Calle Montilla, was concerned about the impact on her view.

Eva Turner, 2426 Calle Montilla, was in support of the project. In her opinion the proposed development would not impede on the neighborhood.

Public comment closed at 3:58 P.M.

Staff Comment: Trish Allen, Assistant Planner, stated that Barbara Chen Lowenthal, Planning Commission Liaison, emphasized that the proposed residences would have to be in compliance with the hillside-design techniques.

The Board either collectively or individually made the following comments:

Lot 4:

- The design has improved overall; some stepping down the hillside is occurring, but the residence is still too prominent on the hillside. Profile of the house needs to be low slung (silhouetted) and harmonious with the hillside.

- Study sinking the mass further, and nestle the house further into the hill; this would result in less driveway fill.
- The majority of the proposed residence should be comprised of one-story elements due to the visibility from public views, in particular Elings Park. The public should be able to see over the top of the house from the adjacent park.
- The size of the proposed residence would have to be significantly reduced to be acceptable.
- The proposed architectural style (stucco and tile roof) is not appropriate for the surrounding neighborhood or for the site; study a more rural/ranch style.

Lot 5:

- The house is too prominent on the hillside. The house is not cut into the hill; use same effort implemented with the sinking of the garage for the remainder of the residence.
- Study reducing the amount of turnaround area.
- The central portion of the residence appears to have three-story elements.
- The mass, bulk, and scale is too aggressive for this site. Study a smaller house tucked into the hillside.
- The size of the proposed residence would have to be significantly reduced to be acceptable.

Motion: Continued indefinitely with the following comments (the following comments apply to both Lots 4 and 5): 1) The majority of the Board finds the 12-foot wide driveways acceptable. 2) The materials for the driveways must be as natural as possible. 3) Retaining walls must be sandstone. 4) The architecture must be an outstanding example of a woodsy, art-and-crafts style of architecture to fit in with the nature of the property, which is considered to be oak woodland. 5) The Board reserves judgment on the redesigning of the size and mass. 6) The plans shown do not conform to the topographic information of the licensed surveyor. 7) Provide accurate topographic lines, height representations and tree canopies for proper evaluation of both properties. 8) Study reducing the amount of pavement at the houses.

Lot 4: the majority of the residence should be comprised of single-story elements nestled into the hillside.

Lot 5: 1) The Board finds the proposed location for the house, entirely on the top of the ridge, unacceptable. 2) The Board suggested reducing the size of the house and lowering it down the site, recognizing that the City does not allow development on slopes that are greater than 30 percent.

Action: Six/Gross, 7/0/0.

October 13, 2003 (ABR)

1642 CALLE CANON, LOT NO. 4

Assessor's Parcel Number: 041-140-008
Application Number: MST99-00606
Agent: James Staples
Agent: Russ Banko
Owner: Carolyn Maguire & Diana Gustafson
Architect: Jan Hochhauser

(Proposal for a tentative subdivision of two existing lots into five new residential lots, with associated street improvements on Calle Canon. A new private access road and Fire Department turnaround are anticipated to require approximately 500 cubic yards of grading, with additional grading for driveways to the individual lots estimated at up to 1,620 cubic yards of cut and fill. An undetermined number of oak trees may be affected or removed.)

(Conceptual review of the residence for proposed Lot No. 4. Proposal for a 2,812 square foot, two-story residence, with an attached 443 square foot garage including a 983 square foot

basement, on a proposed 1.21 acre lot located in the Hillside Design District. There is approximately 1,096 cubic yards of grading proposed outside the main building footprint.)

1642 CALLE CANON, LOT NO. 5

Assessor's Parcel Number: 041-140-008
Application Number: MST99-00606
Agent: James Staples
Agent: Russ Banko
Owner: Carolyn Maguire & Diana Gustafson
Architect: Jan Hochhauser

(Proposal for a tentative subdivision of two existing lots into five new residential lots, with associated street improvements on Calle Canon. A new private access road and Fire Department turnaround are anticipated to require approximately 500 cubic yards of grading, with additional grading for driveways to the individual lots estimated at up to 1,620 cubic yards of cut and fill. An undetermined number of oak trees may be affected or removed.)

(Conceptual review of the proposed residence for proposed Lot No. 5. Proposal for a 2,835 square foot, two-story residence with a detached 525 square foot garage including a 326 square foot basement on a proposed 2.42 acre lot, located in the Hillside Design District. There is approximately 1,180 cubic yards of grading proposed outside the main-building footprint.)

(Item Nos. 4 and 5 were reviewed simultaneously.)

Jan Hochhauser, Architect; and Tina Townsend, agent, present.

Public comment opened at 4:57 p.m.

Bill Boyd, 2430 Calle Montilla, was concerned about the proposed locations and heights for the residences on Lot Nos. 4 and 5.

Marcia Engelmann, 2414 Calle Montilla, was still concerned about the proposed height and location for the residence on Lot No. 5 in regards to the view.

Public comment closed at 5:03 p.m.

Staff Comment: Trish Allen, Assistant Planner, responding to the Mr. Eichelberger's question regarding the status of the private road access and subdivision approval, stated that the proposal for the subdivision of six parcels has not been approved as of yet. The concept of the subsequent development at the remaining lots has been reviewed several times. Staff, Planning Commission and ABR are having difficulty visualizing the developments for Lot Nos. 4 and 5.

Motion: Continued indefinitely to the Planning Commission and an indefinite continuance for an in-progress review of the architecture proposed for Lot Nos. 4 and 5, with the following comments: 1) The project is moving in the right direction. 2) The Board concurs with the one-story designs with the buildings being lowered into the property with minimum amount of understory. 3) Study the architecture to provide further relieve to the ridgelines by reducing the plate heights where possible, minimizing the grand volumes, and incorporating overhangs to create shadow lines. 4) The architecture is to feel more indigenous and recede better into the hillside in its forms and colors. 5) Study an alternate location for the garage on Lot No. 5. 6) The Board would like to have applicant erect story poles as soon as the concept for the development is acceptable, and to review the installation with the Planning Commission before the project is referred to the Planning Commission.

Action: Six/Gross, 5/0/0.

December 10, 2007 (SFDB)
1642 CALLE CANON

Application Number:	MST99-00606
Owner:	Carolyn Maguire
Architect:	Pete Ehlen
Contractor:	Russell Banko Design and Construction

(Proposal for a tentative subdivision of two existing lots into five new residential lots, with associated street improvements on Calle Canon. A new private access road, private driveways and Fire Department turnaround are anticipated to require approximately 3,600 cubic-yards of cut and 2200 cubic-yards fill grading, multiple retaining walls of varying heights are proposed. One oak tree is proposed to be removed.)

(4:22)

Present: Pete Ehlen, Architect.

Staff Comments: Allison DeBusk, Case Planner stated staff's concerns with a) inconsistency with General Plan; b) residential density; c) environmental constraints; d) visual impacts.

Public comment opened at 4:45 p.m.

- Ramona Marten, opposed: concerned with proximity to property line; visual impact; project height.
- Marcia Engleman, opposed: concerned with loss of views; integrity of hillside and neighborhood; removal of seven oak trees; traffic; density; negative impact to neighborhood.
- Bill Boyd, conditional support: concerned with maintenance of existing view easement.
- Stephen Zoldos, spoke in support of the project.
- Richard Banta, conditional support: would like to work with developer to mitigate loss of views.
- Public comment letters from Paula Westbury, Otto Engleman, Pamela Haldeman, Bill Boyd, Gina-Vera Niblack, Terry Bugay, and Eva Turner were acknowledged by the Chair.

Public comment was closed at 5:06 p.m.

Motion: Continued indefinitely to the Planning Commission with the following comments:

1) Give consideration to single-story houses on building envelope numbers 4 and 5. Those building envelopes will be kept away from the upper property line as is reasonable to prevent the house from intruding on the neighbors above.
2) The tall curved retaining wall may deviate from the height and terracing guidelines if designed in an interesting way.
3) Preservation of oak trees is very important. Use caution with regard to the effects of grading on the oak trees.
4) The overarching architectural style should be rural and of appropriate size and color.
5) The Board appreciates the sidewalks as presented.

Action: Deisler/Bernstein, 4/1/0. Motion carried. (Zink opposed, excessive grading. Carroll stepped down. Woolery absent.)

Development Review Committee ***November 1996***

"Based on the site plan and a site visit conducted by Planning Division Staff, it appears that development of proposed Lots 3, 4, 5 could not occur without significant grading and alteration of highly visible steep slopes, some of which are in excess of 30 percent. As a result, Staff has serious concerns as to whether the proposed subdivision could be found consistent with the goals and policies of the City's General Plan."

"…Staff would recommend that the applicant consider redesigning the proposed subdivision : (1) to reduce the number of lots and provide for lots with development envelopes in areas with slopes less than 30 percent and preferably less than 20 percent; (2) to create lots which have frontage on and could obtain access from Calle Canon."

(At the time access was proposed across the future Elings Park South property)

Pre-application Review ***August 1999***

"Based on the General Plan policies and Zoning Ordinance requirements, staff feels that the proposed subdivision exceeds the number of lots appropriate for the topography."

Response to initial application submittal ***October 2000***

"Based upon the General Plan designation of Major Hillside/Open Space in combination with the overall topography (steep slopes) and significant oak woodland, staff maintains concerns with respect to the number of lots proposed for the project site."

Response to Submittal* 2** ***September 2001

"Staff strongly recommends the applicant explore options to reduce disturbance on steep slopes of 30 percent or greater, the need for high retaining walls and tree removals. Consistent with the comments provided by ABR, Staff has particular concerns about the appropriateness of Lots A (now Lot 5) and 4. In order to meet the (Single Family Residence) guidelines, it may be necessary to reduce the number of parcels proposed."

Response to Submittal 3 ***May 2002***

"This resubmittal does not propose alternative lot configurations and staff continues to be concerned with General Plan consistency with reference to Lots 4 and 5."

"The Planning Commission has a basis for denial of the subdivision if the proposal is inconsistent with General Plan policies."

"Staff recommends that a Concept Review hearing take place at the Planning Commission…"

"The purpose of the Concept Review hearing would be to give you an opportunity to obtain feedback and determine if General Plan consistency findings could be supported for your current development proposal with reference to Lots 4 and 5."

Response to Submittal* 4** ***September 2004

"The Commission restated concerns regarding proposed Lot 4. Although some Commissioners did not find that the overall density of the project to be an issue, the consensus was that Lot 4 was not accessible. Staff has previously stated concerns related to the subsequent development of this Lot in terms of potential visual impact from Elings

Park and the community, policy consistency for development in the City's Hillside, in addition to the access issues primarily related to the length of the driveway. As designed, Staff cannot support proposed Lot 4."

Response to Submittal* 5** ***July 2005

"Staff has continued to express concerns regarding the project's policy consistency related to a subdivision on steep slopes, specifically in areas where slopes are at or above 30%."

"…the slope overlay and geologic details further underscore staff's concerns that the subdivision cannot be supported as designed."

"The project as currently designed is not consistent with the Land Use, Conservation, and Open Space Elements in that development is proposed in areas that exceed an average of 30% slopes in addition to other geologic and biological issues."

"Staff believes that the proposed subdivision does not address (City Visual Resource) policies."

Response to Submittal* 6** ***October 2007

"Staff continues to have concerns with the project's potential inconsistency with the General Plan, as well as with environmental constraints on the property, which staff does not believe have been adequately studied or addressed."

"Although the application has been deemed incomplete, several options have been outlined below for your consideration with regard to how to continue through the process.

1. We take the project forward to the Planning Commission with the information as currently provided. As currently proposed, and with the environmental information that staff has, the staff recommendation would be to deny the proposal.

2. We take the project forward to the Planning Commission for another concept review with the new information provided. Planning staff does not think that the project has been revised in any substantive way so as to address the concerns raised by the Planning Commission in previous concept reviews. Additionally, the Planning Commission and City Council have recently reviewed several controversial hillside subdivisions, and the results of those decisions will affect their decisions/comments on this proposal.

3. You provide all of the information identified in Section IV below, and staff prepares an Initial Study for the project. Based on the findings of the Initial Study, a Mitigated Negative Declaration or possibly and Environmental Impact Report (EIR) would be prepared.

4. If you choose not to provide the additional environmental information requested, our conclusions in the Initial Study would be that there is a potentially significant impact, thus necessitating preparation of an EIR. This is an expensive route to choose, and will not necessarily result in staff

support of the project, given policy considerations. Staff would only consider this route after Planning Commission consideration under options 1 or 2 above. "

Response to Submittal 7 ***May 2008***

"Staff remains concerned with consistency of the proposed project with the City's General Plan as noted in the previous application review letters."

Response to Submittal 8 ***September 2008***

"Beginning with the Development Review Committee review in 1996, planning staff has consistently raised concerns regarding the consistency of the proposed subdivision with the City's General Plan policies. Although alterations to the project have been made through this process, staff feels that the concerns expressed in the seven previous application review letters and by the Planning Commission during concept reviews on July 25, 2002, and September 16, 2004, have not been sufficiently addressed. Further, despite submittal of multiple drainage, geologic, and biologic studies, adequate information has not been submitted to assess site constraints or environmental impacts from the proposed subdivision. Considering the policy and CEQA issues in light of recent Planning Commission decisions on controversial development proposals in Major Hillside areas, planning staff has chosen to bring this application, as submitted, before the Planning Commission, with a recommendation to deny the project rather than prolong project review further at the owner's expense by initiating the CEQA review process."