City of Santa Barbara
California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 002-10
825 DE LA VINA STREET
TENTATIVE SUBDIVISION MAP
MARCH 18 2010

APPLICATION OF KEITH RIVERA, ARCHITECT FOR POPP LLC PROPERTY, 825 DE LA VINA STREET, APN, 037-041-0024, C-2 (COMMERCIAL) ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL – 12 UNITS PER ACRE AND COMMERCIAL GENERAL COMMERCE (MST2007-00400).

This is a revised project. Changes to the project include elimination of a modification at the rear property line and architectural and landscape changes as requested by the Planning Commission and the Architectural Board of Review. The project consists of a one-lot subdivision to create a mixed-use development with two (2) three-story buildings consisting of seven residential condominium units, three with an attached commercial space, on a 14,750 square foot lot in the C-2 zone. The residential portion of the project would be comprised of four (4) one-bedroom and three (3) two-bedroom units between 700 and 1,700 square feet in size. Three of the units will have a small commercial office space and parking is proposed within seven vertically tandem parking garages. The proposal will result in 7,877 square feet of residential area, 686 square feet of commercial area and 1,890 square feet of garage space for a total of 10,453 square feet. There would also be two (2) uncovered guest spaces and three (3) uncovered commercial spaces. Approximately 200 cubic yards of grading is required.

The discretionary application required for this project is a Tentative Subdivision Map for a one-lot subdivision to create seven (7) residential condominiums units with three (3) attached commercial office spaces (SBMC 27.07 and 27.13).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15332 which provides for in-fill development projects in urban areas.

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

WHEREAS, 4 people appeared to speak in favor of the application, and 7 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, March 18, 2010
2. Site Plans
3. Correspondence received in support of the project:
   a. Mark Melchiori, Santa Barbara, CA

b. Derek A. Westen, Santa Barbara, CA

4. Correspondence received in opposition to the project:

a. Steve Hausz, Santa Barbara, CA

b. Paula Westbury, Santa Barbara, CA

c. Donald Sharpe, via email

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

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

A. THE TENTATIVE MAP (SBMC §27.07.100)

The Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the city of Santa Barbara as discussed in Sections VI and VII.A of this staff report. The site is physically suitable for the proposed development because the proposed lots would meet the minimum lot size specified in the R-3/R-4 zone and the density requirements of the General Land Use Designation of 12 units per acre. The site is physically suitable for the proposed development due to its generally flat topography and mid-block location. The project is consistent with the density provisions of the Municipal Code and the General Plan as demonstrated in Sections VI and VII.A of this staff report, and the proposed use is consistent with the vision for this neighborhood because it provides single-family in-fill housing that is compatible in size and scale with the surrounding development. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems as discussed in Section VII.A of this staff report.

B. THE NEW CONDOMINIUM DEVELOPMENT (SBMC §27.13.080)

1. There is compliance with all provisions of the City's Condominium Ordinance.

The project complies with density requirements and each unit includes adequate parking, with storage, laundry facilities, separate utility metering, adequate unit size and the required outdoor living space.

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

The project can be found consistent with policies of the City's General Plan including the Housing Element and Land Use Element. The project will provide infill mixed-use development that is compatible with the surrounding neighborhood. The project is an infill mixed-use project proposed in an area where commercial and residential development is a permitted use. The project is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts. The design has been reviewed by the City's ABR, which found the architecture and site design appropriate.

3. The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources.

The project is an infill mixed-use project proposed in an area where residential and commercial developments are permitted uses. The project is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts. Adequate public facilities exist nearby, and the project would not adversely impact other community resources, such as water, sewer, police, fire and schools. The ABR was able to make the compatibility analysis per SBMC 28.68.045 and found the project to be compatible with the surrounding neighborhood.

II. Said approval is subject to the following conditions:

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

1. **Landscape Screening.** Landscaping with low water use plants and/or a solid screen wall or fence shall be provided to buffer the parking area from the public Right of Way.

2. **Useable Common Open Space.** Adequate usable common open space shall be provided in a location accessible by all units within the development.

3. **Minimize Visual Effects of Paving.** Textured or colored pavement shall be used in paved areas of the project to minimize the visual effect of the expanse of paving, create a pedestrian environment, and provide access for all users.

4. **Screened Check Valve/Backflow.** The check valve backflow device for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.

5. **Permeable Paving.** Incorporate a permeable paving system for the project driveway that will allow a portion of the paved area runoff to percolate into the ground, except as necessary to meet Fire Department weight requirements. Materials in driveways and parking areas must be approved by the Public Works Director/Transportation Manager.

6. **Pedestrian Access.** The design be revised to provide some differentiated pavement treatment to enhance pedestrian access from the rear of the site to De la Vina Street.

7. **Drainage and Water Quality.** The project is required to comply with the Preliminary Drainage Analysis prepared by Flowers & Associates, Inc. dated March 13, 2009 and revised August 4, 2009.

8. **Trash Enclosures.** ABR shall evaluate a more appropriate location for trash enclosures.

9. **Front Parking Space.** ABR will study areas to which the front parking space might be relocated.

10. **Garage Door.** ABR will reevaluate the garage door design regarding the opening height.

B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an *Agreement Relating to Subdivision Map Conditions Imposed on Real Property*, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Planning Commission on March 18, 2010, is limited to a one lot subdivision to create a mixed use development with two (2) three-story buildings consisting of seven residential condominium units, three of which will have an associated commercial office space with tenants required to obtain and maintain a Business Tax Certificate with the City of Santa Barbara, and the improvements shown on the Tentative Subdivision Map signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.

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

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

4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.

5. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) in a functioning state (and in accordance with the Operations and Maintenance Procedure Plan prepared in accordance with the Storm Water Management Plan BMP Guidance Manual). Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture,

infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.

6. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:

   a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium units.

   b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.

   c. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.

   d. **Parking Lifts.** The seven parking lifts shall be maintained in good operating condition and remain available for the parking of vehicles owned by the residents of the property in the manner for which the parking lifts were designed and permitted.

   e. **Trash and Recycling.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the landscaping or be hauled off site by the landscaping maintenance company. If no green waste containers are provided for common interest developments, include an item in the CC&Rs stating that the green waste will be hauled off site.

f. **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.

7. **Residential Permit Parking Program.** Residents shall not participate in the Residential Permit Parking Program.

C. **Public Works Submittal Prior to Final Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Final Map and prior to the issuance of any permits for the project:

1. **Final Map.** The Owner shall submit to the Public Works Department for approval, a Final Map prepared by a licensed land surveyor or registered Civil Engineer. The Final Map shall conform to the requirements of the City Survey Control Ordinance.

2. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff will prepare said agreement for the Owner's signature.

3. **Required Private Covenants.** The Owner shall submit a copy of the draft private covenants, reciprocal easement agreement, or similar private agreements required for the project.

4. **Drainage Calculations.** The Owner shall submit drainage calculations prepared by a registered civil engineer or licensed architect demonstrating that the new development will not increase runoff amounts above existing conditions for a 25-year storm event. Any increase in runoff shall be retained on-site.

5. **Drainage and Water Quality.** Project drainage shall be designed, installed, and maintained such that stormwater runoff from the first inch of rain from any storm event shall be retained and treated onsite in accordance with the City's NPDES Storm Water Management Program. Runoff should be directed into a passive water treatment method such as a bioswale, landscape feature (planter beds and/or lawns), infiltration trench, etc. Project plans for grading, drainage, stormwater treatment methods, and project development, shall be subject to review and approval by City Building Division and Parks Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants, or groundwater pollutants would result from the project. The Owner shall maintain the drainage system and storm water pollution control methods in a functioning state.

   The Owner shall provide an Operations and Maintenance Procedure Plan (describing replacement schedules for pollution absorbing pillows, etc.) for the operation and use of the storm drain surface pollutant interceptors. The Plan

shall be reviewed and approved consistent with the Storm Water Management Plan BMP Guidance Manual.

6. **De La Vina Street Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on De La Vina Street. As determined by the Public Works Department, the improvements shall include the following: *new sidewalk for entire frontage, and new parkway to match existing, commercial thickness driveway apron modified to meet Title 24 requirements, saw-cut and grind top of curb where uplifted, crack seal to the centerline of the street along entire subject property frontage and a minimum of 20 feet beyond the limit of all trenching, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations curb drain outlet, supply and install one City standard residential Dome Style street light on opposite side of street from project site with final placement per City Facilities Manager, preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs per 2006 MUTCD w/CA supplements during construction, new street trees as determined by the Parks Commission and the City Arborist* and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

7. **Land Development Agreement.** The Owner shall submit an executed *Agreement for Land Development Improvements*, prepared by the Engineering Division, an Engineer's Estimate, signed, and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement.

8. **Removal or Relocation of Public Facilities**. Removal or relocation of any public utilities or structures must be performed by the Owner or by the person or persons having ownership or control thereof.

9. **Inclusionary Housing Fee.** Evidence shall be submitted that the Owner has paid the required inclusionary housing fee to the Community Development Department. The inclusionary fee for this project will be $100,800.00.

D. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.

1. **Recordation of Final Map and Agreements.** After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department.

2. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building Permit.

E. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits:

1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Architectural Board of Review, outlined in Section A above.

2. **Drainage and Water Quality.** The project is required to comply with the Preliminary Drainage Analysis prepared by Flowers & Associates, Inc. dated March 13, 2009 and revised August 4, 2009.

3. **Hazardous Substances.** Work shall stop immediately if visual contamination or chemical odors are detected during site work. Immediately contact the County fire Department, Hazardous Materials Unit (HMU) at 805-686-8170. Resumption of work requires approval of the HMU.

4. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

   If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

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

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

5. **Post-Construction Erosion Control and Water Quality Plan.** Provide an engineered drainage plan that addresses the existing drainage patterns and leads towards improvement of the quality and rate of water run-off conditions from the site by capturing, infiltrating, and/or treating drainage and preventing

erosion. The Owner shall employ passive water quality methods, such as bioswales, catch basins, or storm drain on the Real Property, or other measures specified in the Erosion Control Plan, to intercept all sediment and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) from the parking lot areas and other improved, hard-surfaced areas prior to discharge into the public storm drain system, including any creeks. All proposed methods shall be reviewed and approved by the Public Works Department and the Community Development Department. Maintenance of these facilities shall be provided by the Owner, as outlined in Condition A, above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.

6. **Project Directory.** A project directory, (including map and parking directional signs) listing all units on-site shall be indicated on the project plans. This directory shall be lit sufficiently for readability for site visitors and placed in a location or locations acceptable to the Fire Department, shall meet current accessibility requirements, and is subject to Sign Committee Approval.

7. **Conditions on Plans/Signatures.** The final Planning Commission Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner		Date
Contractor	Date	License No.
Architect	Date	License No.
Engineer	Date	License No.

F. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.

1. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize

construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met.

2. **Sandstone Curb Recycling.** Existing sandstone curb (if any) in the public right-of-way that is removed and not reused shall be salvaged and sent to the City Corporation Annex Yard.

3. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.

4. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below:

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Cesar Chavez Day	March 31st
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

5. **Construction Parking/Storage/Staging**. Construction parking and storage shall be provided as follows:

   a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.

   b. Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project.

   c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.

6. **Water Sprinkling During Grading.** The following dust control measures shall be required, and shall be accomplished using recycled water whenever the Public Works Director determines that it is reasonably available:

   a. Site grading and transportation of fill materials.

   b. Regular water sprinkling; during clearing, grading, earth moving or excavation.

   c. Sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied on-site to prevent dust from leaving the site.

   d. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

   e. Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement on-site damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph.

7. **Expeditious Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used, as directed by the Building Inspector.

8. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.

9. **Street Sweeping.** The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.

10. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.

11. **Existing Tree Preservation.** The existing tree(s) shown on the approved Tentative Subdivision Map to be saved shall be preserved and protected and fenced three feet outside the dripline during construction.

12. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.

13. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.

14. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the applicant shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

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

    If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City

Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

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

1. **Evidence of Private Covenants Conditions & Restrictions (CC&Rs) Recordation.** Evidence shall be provided that the private CC&Rs required in Section D have been recorded.

2. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.

3. **Complete Public Improvements.** Public improvements, as shown in the building plans, including utility service undergrounding and installation of street trees.

4. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.

5. **Manholes.** Raise all sewer and water manholes on easement to final finished grade.

H. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the

City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

NOTICE OF TENTATIVE SUBDIVISION MAP TIME LIMITS:

The Planning Commission's action approving the Tentative Map shall expire two (2) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110.

This motion was passed and adopted on the 18th day of March, 2009 by the Planning Commission of the city of Santa Barbara, by the following vote:

AYES: 7 NOES: 0 ABSTAIN: 0 ABSENT: 0

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

Julie Rodriguez

Julie Rodriguez, Planning Commission Secretary

April 8, 2010

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.

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

None.

C. Announcements and appeals.

Mr. Kato made the following announcements:

1. On April 22, 2010 the agenda will include an additional item, the Cater Water Treatment Plan, to follow the Community Development Department Budget item.

2. The Medical Cannabis Dispensary Permit Ordinance was continued by the Ordinance Committee from March 16, 2010 to March 30, 2010.

3. Today is the PlanSB Open House at the Faulkner Gallery from 10:00 A.M to 7:00 P.M. for public release of the Draft Housing Element, Draft Land Use Element/Land Use Map, and Draft Environmental Impact report (EIR). Everyone is welcome.

4. There will be a Planning Commission training session sometime in May or June covering LEED certification and other related topics. Chair Bartlett will join Kathleen Kennedy, Associate Planner, in conducting the training.

5. The Planning Commission's decision on 803 N. Milpas Street that was appealed to City Council, and originally scheduled for January 26, 2010, has been continued to March 23, 2010. Commissioner Lodge will represent the Commission at the appeal.

6. City Council heard the appeal of the Planning Commission's decision on 3714-3744 State Street (Sandman Inn) on Tuesday and denied the appeal by a unanimous vote of the Council and upheld the Planning Commission's approval of the project.

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

Chair Bartlett opened the public hearing at 1:06 P.M. and, with no one wishing to speak, closed the hearing.

III. CONTINUED ITEM:

ACTUAL TIME: 1:06 P.M.

APPLICATION OF KEITH RIVERA, ARCHITECT FOR POPP LLC PROPERTY, 825 DE LA VINA STREET, APN, 037-041-0024, C-2 (COMMERCIAL) ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL – 12 UNITS PER ACRE AND COMMERCIAL GENERAL COMMERCE (MST2007-00400).

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The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15332 which provides for in-fill development projects in urban areas.

Case Planner: Kelly Brodison, Assistant Planner
Email: KBrodison@SantaBarbaraCA.gov

Kelly Brodison, Assistant Planner, gave the Staff presentation.

Keith Rivera, gave the applicant presentation, joined by Laurie Romano, Landscape Architect.

Paul Zink, Architectural Board of Review (ABR), reiterated ABR's remaining concerns about elevation, landscaping, the rear elevation trellis, and massing. Would like to see more of an asymmetrical design but acknowledged the improvements made by the Applicant.

Chair Bartlett opened the public hearing at 1:44 P.M.

The following people spoke in support of the project:

1. Jeff Ridenour
2. Norm Popp
3. Scott Miners, Melchiori Investment Companies, LLC (neighboring properties)
4. Derek Westin

The following people spoke in opposition to the project or with concerns:

1. Kellam De Forest: too dense.
2. Susan Thompson: stacked parking.
3. Judy Lawrence: size and mass.
4. Susan Basham, Price Postal and Parma, on behalf of several neighbors: guest and tandem parking.

5. Don Sharpe: stacked and tandem parking; density.
6. Steve Hausz: multiple issues – submitted written comments.
7. Don Elconin: parking.

With no one else wishing to speak, the public hearing was closed at 2:15 P.M.

MOTION: Jostes/Jordan **Assigned Resolution No. 002-10**
Approved the project, making the findings for the Tentative Subdivision Map and New Condominium Development as outlined in the Staff Report, subject to the Conditions of Approval in Exhibit A of the Staff Report with the following revisions to the Conditions of Approval: 1) Augment condition B.1 with the requirement that the commercial uses obtain and maintain a business license; 2) The design be revised to provide some articulated pavement treatment to enhance pedestrian access from the rear of the site to De la Vina Street; 3) ABR be provided guidance to a) evaluate a more appropriate location for trash enclosures; b) consider areas to which the front parking space might be relocated; and c) reevaluate the garage door design regarding the opening height.

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

Chair Bartlett announced the ten calendar day appeal period.

IV. ADMINISTRATIVE AGENDA

ACTUAL TIME: 3:35 P.M.

A. Committee and Liaison Reports.

1. Staff Hearing Officer Liaison Report

   None was given.

2. Other Committee and Liaison Reports

   a. Commissioner Larson reported on Historic Landmarks Commission meeting of March 17, 2010.

   b. Commissioner Lodge reported on the Water Commission meeting of March 8, 2010.

   c. Commissioner Jordan reported on the Single Family Design Board meeting of March 15, 2010.

   d. Commissioner Jordan reported on the Creeks Advisory Committee meeting of March 10, 2010.

   e. Commissioner Bartlett reported on the Architectural Board of Review meeting of March 8, 2010.