Agenda Item No._____

File Code No. 110.01

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 24, 2009

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Alternative Building Heights Charter Amendment

RECOMMENDATION: That Council:

A. Review the draft language for the alternative building heights charter amendment and companion implementation ordinance; and
B. Declare the proposed charter amendment and implementation ordinance a project for purposes of environmental review.

EXECUTIVE SUMMARY:

The decision of whether to proceed with a ballot measure as an alternative to the Save El Pueblo Viejo (SEPV) initiative measure should be confirmed by the full Council and a draft of the measure processed through environmental review pursuant to the requirements of the California Environmental Quality Act. Since last April, the Ordinance Committee, Council, Planning Commission and design boards have been discussing whether to have some form of alternative measure on the November 3, 2009 ballot. Discussion has included key provisions that would be included should an alternative go forward.

The SEPV ballot initiative proposes to limit the maximum building height to 40 feet in El Pueblo Viejo and to 45 feet in all commercial zones of the City. Throughout the discussion with decision makers, significant and thoughtful input has been provided by the citizens; both those who support the SEPV initiative measure and those who feel that an alternative with exceptions to height for community benefit land uses is necessary.

At this point, the proponents of the SEPV initiative do not support having an alternative on the ballot, and believe that voters can simply choose between the status quo (60 feet) and the SEPV measure. While others agree that perhaps a 60-foot elevation for all commercial buildings is not the way the City should continue to develop, there is also concern that 40 feet does not accommodate a three-story building, and that exceptions should be made for projects beneficial to the community.

After considering whether a supplemental or alternative charter amendment to the SEPV measure should be considered, the Ordinance Committee has recommended the following:

- An alternative charter amendment to SEPV should be placed on the November 2009 ballot. The alternative would lower the existing 60-foot height in commercial zones to a base height of 40 feet in El Pueblo Viejo, and 45 feet in the other zones. (See draft amendment language below and Attachment 1, Draft Implementing Ordinance.)
- Exceptions could be approved by Council to exceed the 40/45-foot height up to an additional 15 feet in height for:
    - Community Priority Projects as currently defined; or
    - Projects with residential ownership units that provide at least 30% of the units affordable to households earning up to but not exceeding middle-income; or
    - Projects with rental units.
- A "special use permit" process similar to the existing one for Community Priority Projects be carried forward for projects requesting an exception to the established Charter section 1506 new height; and
- The process would include findings regarding open space, exemplary architecture, and the variable front yard setback.

There is apparently strong support for a new variable front yard setback from design boards, Planning Commission and Council members, as well as the public, regardless of the outcome of the charter amendments. Staff will continue to process the zoning ordinance amendment necessary for the new setback independent of the charter amendment.

In addition, the Ordinance Committee expressed support for changing the definition of building height to recognize grade changes due to the topography of the downtown and flood control standards and to allow 3-story buildings with sloped roofs within 40 feet.

Staff requests Council direction on whether to proceed with an alternative charter height limitation amendment. If the decision is to proceed, staff requests that the Council provide any further direction on the key provisions and process for those projects which would qualify for an exception to building height.

DISCUSSION:

Background

On November 18, 2008, the Council, on a 4 to 3 vote, initiated a possible Charter amendment to City Charter Section 1506 and a companion implementing ordinance with

regard to the 60-foot building height allowance for certain commercial zones, for submission to the City electorate at the City regular general election of November 2009.

On December 16, 2008, the Ordinance Committee considered provisions that could be included in an alternative charter amendment. The Ordinance Committee requested input from the Architectural Board of Review (ABR), Historic Landmarks Commission (HLC) and Planning Commission (PC) prior to reviewing the item again. (See Attachment 2, Final Ordinance Committee Agendas, December 16, 2008, March 3, 2009 and March 10, 2009.)

In summary, the HLC majority (6 to 3) supports a 40-foot height maximum, with no exceptions, in El Pueblo Viejo. The ABR generally does not support either charter amendment and believes that site design and appropriate mass, bulk, and scale compatibility findings are much more important than a new lower mandated across-the-board height limitation. The Planning Commission was split on whether an alternative charter amendment should go forward or not. (See Attachment 3, Minutes of ABR, HLC, and PC.)

Zones Affected

Currently, the zones that would be affected by a Charter Amendment relative to building height include the C-2, C-M, M-1, and OM-1 Zones (see attachment 4, Existing Building Height Limits Map). There is a significant amount of C-2 zoning along Upper State Street; however, the building height is already limited to a maximum of 45 feet because of SBMC Chapter 28.45 S-D-2 Zone overlay. It is not intended that projects located in zones that currently have a 45 or lower height limit, could apply for exceptions to increase the height than that currently allowed in the zone. This limitation would be expressly established in the companion implementation authority.

Charter Section 1506

Below is the existing charter language on building heights, the language recommended by the SEPV citizen initiative, and amendment recommended by the Ordinance Committee.

<u>Existing Building Heights Charter Section 1506</u>

Charter of the City of Santa Barbara - Section 1506 – Building Heights. Limitations

It is hereby declared the policy of the City that high buildings are inimical to the basic residential and historical character of the City. Building heights are limited to 30 feet in areas zoned for single-family and two-family residences; are limited to 45 feet in areas zoned for residences for three (3) or more families, for hotel, motel and office use; are limited to 60 feet in areas zoned for industrial, manufacturing and other commercial uses; and 30 feet for all other zones. The Council may, by ordinance, set limits of heights less than these maximums. The Council may, by ordinance, set up reasonable methods of

measuring the heights set forth in this section. (Approved by election held November 7, 1972)

Save El Pueblo Viejo Charter Amendment

Amend Section 1506 as follows: "It is hereby declared the policy of the City that high buildings are inimical to the basic residential and historical character of the City. Therefore, building heights are limited to 30 feet in areas zoned for single-family and two-family residences; and building heights in areas zoned for residences for three (3) or more families and all other building heights shall be limited to 45 feet except in the El Pueblo Viejo Landmark District where building heights shall be limited to 40 feet. The Council may, by ordinance, set limits of heights less than these maximums. The Council may, by ordinance, set up reasonable methods of measuring the heights set forth in this section."

Ordinance Committee Proposed Alternative Amendment

It is hereby declared the policy of the City that high buildings are inimical to the basic residential and historical character of the City. Building heights are limited to 30 feet in areas zoned for single-family and two-family residences; 40 feet in the area designated El Pueblo Viejo Landmark District by subsection (c) of City Charter Section 817 and limited to 45 feet in areas zoned for residences for three (3) or more families, for hotel, motel and office use~~; are limited to 60 feet in~~ and areas zoned for industrial, manufacturing and other commercial uses; and 30 feet for all other zones. The Council may, by ordinance, set limits of heights less than these maximums. The Council may, by ordinance, set up reasonable methods of measuring the heights set forth in this section. Notwithstanding the above, a Community Priority project or an affordable housing project may be allowed an additional fifteen (15) feet in height within those areas of the City zoned for industrial, manufacturing, and other commercial uses. In order to establish the planning process necessary to grant the additional building height, the City Council shall establish, by ordinance, a special use permit requirement which allows the City Council to determine those projects which are appropriate either as a Community Priority (as that term is currently defined by "Measure E" - City Charter Section 1508) or appropriate as an affordable housing project where at least thirty percent (30%) of the residential units are permanently restricted for ownership or occupancy by families qualifying for affordable housing under the City's established Affordable Housing Policies and Procedures.

Community Priority Projects

The Ordinance Committee and staff support using the existing definition of Community Priority that has been used for close to twenty years under Measure E. The Ordinance Committee stated that the process has not been abused and that the types of projects that have historically been designated Community Priority Projects are truly community beneficial projects. With the public scrutiny and approval required by the City Council, it

would be an appropriate definition to use for any project that requests an exception to the established building height.

Existing Definition of Community Priority Projects (Charter Section 1508 and Municipal Code)

Community Priority Projects are those which are found by the City Council as necessary to meet present or projected needs directly related to public health, safety or general welfare. A "general welfare project" is also defined in the Municipal Code as a project which has a broad public benefit (for example museums, childcare facilities, or community centers) and which is not principally operated for private profit.

Additional Provisions for Community Priority Projects.

The Ordinance Committee also recommends that a Community Priority Project include the following uses to qualify for an exception to the determined building height:

- Ownership Housing Projects with at least 30% of the Units Affordable to income ranges of up to Middle or Upper Middle Income Households (TBD)

Dedicated Rental Units – 30% of the units affordable to low-income households. Members of the Ordinance Committee agreed that a goal of the City is to provide incentives for workforce housing, but also should be consistent with the Affordable Housing Policies and Procedures. The Ordinance Committee recommends that rental projects that provide 30% of the rental units as affordable to low income households and 70% at market be able to qualify for additional height.

Mix of Uses for Projects Requesting Exception to Height

The Ordinance Committee recommends that the appropriate mix of land uses for a project to qualify for an exception to building height be as follows:

1. A building that is 100% residential must include 30% of the units as affordable ownership or include dedicated rental units (affordability TBD).

2. A mixed use building, with market commercial (not community priority use) and residential units must comply with #1 above for the units.

3. A mixed use building that includes community priority non-residential square footage and units must also comply with #1 above for the residential unit component.

Recommended Implementation Ordinance Provisions for Projects Exceeding 40/45 Feet in Height

Council Resolution 99-036 establishes the administrative procedures for processing a Community Priority Project. The applicant must provide a Needs Assessment to make the finding that the proposed project meets a "present or projected need directly related to public health, safety or general welfare." The City Council then makes a preliminary and non-binding identification of community priority status for the project which allows the project to continue through the planning process. Whether the project requires Planning Commission approval or not, the Planning Commission is the body required to make a recommendation to the Council for a Final Designation as a Community Priority Project. Staff expects that a similar Council Resolution specific to allowing projects to exceed the established building height will be required to implement this potential charter amendment.

In response to a draft ordinance prepared by the City Attorney, the Ordinance Committee recommended the following provisions to implement the charter amendment should it be approved by the voters:

1. The City Council would grant a Special Use Permit (SUP) for a building containing a "Community Priority," Affordable Housing, and/ or rental housing.

2. "Community Priority" would be defined for purposes of Charter Section 1506.

3. Definitions for "Affordable Housing" would reference the existing City Affordable Housing Policies and Procedures.

4. A process similar to the existing Measure E "Community Priority" designation process, i.e., it would involve a preliminary and final designation by the City Council, would be utilized.

5. Designating rental projects or an "affordable" project which may exceed the 40 or 45-foot height limitation would require the Council to issue a determination that said project was affordable and that it qualified for an exemption to the Charter Section 1506 height limitation of 40 or 45 feet.

6. A concept design review on the design and site planning from either ABR or HLC (depending on the location) would be required prior to the preliminary designation by City Council.

7. That the following possible criteria be used by Council in deeming the project a Community Priority Project for purpose of exception to the building height (this would be in addition to the Council finding on the land use for purposes of exceed building height and in addition to any findings required of the project application):

- Quality Architecture and Design
- Substantial Open Space
- Variable Front Yard Setback
- Significant amount of habitable square footage of project that includes housing is dedicated to rental or affordable housing consistent with City housing programs, goals, and policies.

8. An exemption to the Charter height limitation could not be obtained for specially zoned areas – Upper State Street zoned SD-2, and for the Coastal Zone, SD-3, where a 45-foot height limit is the current zoned maximum height.

9. A draft of the companion ordinance would accompany the voter materials and will have been introduced and possibly adopted by the Council prior to the election stating that it will not take effect until after the outcome of the election is determined. As an ordinance to amend the Zoning Ordinance (SBMC Title 28), the adoption of the Implementation Ordinance requires a super majority (five affirmative votes) of the City Council.

Building Heights Definition (SBMC Section 28.04.140)

Concerns have been expressed by staff and architects experienced at designing projects that a three story building with a sloping roof cannot be accommodated in a 40-foot height under the existing definition of building height (See Attachment 5, Building Sections). The Ordinance Committee recommends changing the definition to recognize grade changes due to the topography of the downtown and flood control standards and to allow 3-story buildings with sloped roofs within 40 feet.

The current definition of building heights is as follows:

> *The maximum vertical height of a building or structure at all points measured from natural or finished grade, whichever is lower. Architectural elements that do not add floor area to a building, such as chimneys, vents, antennae, and towers, are not considered a part of the height of a building, but all portions of the roof are included.*

The definition includes all roof areas up to the ridge line, and there are exemptions for architectural elements such as towers. The ground level from which the height is measured is currently the lower of either the existing grade or new finished grade. This definition was discussed extensively in the Neighborhood Preservation Ordinance Update and it works very well for residential developments, both infill and in the hillside areas. However, it does not work well for commercial and mixed use properties in the commercial areas where there are sloping sights, and flood control standards as well as preference for sloped roofs. A new measuring point could reference the Base Flood Elevation (BFE) for projects located within a Flood Plain.

RECOMMENDATION:

Staff requests that Council give direction on whether to proceed with an alternative charter amendment and Implementation Ordinance. If the decision is to proceed, staff requests direction on the affordability requirement for ownership units.

Next Steps

1. Environmental Review - Staff would complete environmental review under CEQA and work with the City Attorney's office on the draft companion ordinance.
2. Planning Commission Review - The Planning Commission would have public comment on the environmental document and make a recommendation to Council on the key components of the charter amendment and draft companion ordinance.
3. Council Hearing - Adoption of Environmental Review (assuming the project is a Negative or Mitigated Negative Declaration), approval of final language for charter amendment, and introduction of companion ordinance.
4. Council – Adoption of ordinance that would implement charter amendment provisions should the charter amendment pass.
5. Final charter language due to City Clerk by June 16, 2009
6. Election, November 3, 2009

BUDGET/FINANCIAL INFORMATION:

It is anticipated that the continued processing of the proposed charter amendment could be provided with existing staff resources.

SUSTAINABILITY IMPACT:

The Council policy direction for *PlanSB* integrates a Sustainability Framework and Principles for Santa Barbara. The principles directly address the key policy issues (or "drivers") the community faces today and into the future. These include issue areas with local, regional and global significance that affect both the guiding principles and the goals and policies. The policy drivers include growth management, energy and climate change, community character, economy and fiscal health, and public health. Public comment on the issue of building height has generated varying opinion on the sustainability effects of lowering heights.

ATTACHMENTS:

1. Draft Implementation Ordinance
2. Finished Ordinance Committee Agendas, 12/16/09, 3/3/2009, 3/10/09
3. Minutes of ABR, HLC, and Planning Commission
4. Map of Existing Building Height Limit
5. Building Sections

PREPARED BY: Beatriz E. Gularte, Project Planner
Bettie Weiss, City Planner

SUBMITTED BY: Paul Casey, Community Development Director

APPROVED BY: City Administrator's Office

Ordinance Committee Draft
March 24, 2009
All New Code provisions

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING THE CITY'S ZONING ORDINANCE, TITLE 28 OF THE SANTA BARBARA MUNICIPAL CODE, IN ORDER TO ENACT A NEW SECTION WITHIN CHAPTER 28.87 OF THE MUNICIPAL CODE IN ORDER TO IMPLEMENT A VOTER APPROVED AMENDMENT TO CITY CHARTER SECTION 1506 WITH RESPECT TO BUILDING HEIGHTS.

NOW THEREFORE, THE COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION ONE: Chapter 28.87 of Title 28 of the Santa Barbara Municipal Code is amended to read enact a new section, Section 28.87.550 entitled "Charter Section 1506 Community Priority Projects," which reads as follows

Section 28.87. 510 Charter Section 1506 Community Priority Projects.

In implementing City charter section 1506, as amended, the following provisions shall apply to a Community Priority or Affordable Housing project approved by the City Council in accordance with Charter section 1506.

A. **Definitions**. The following definitions shall apply to this Section.

1. Affordable Housing Project. A project defined as "Affordable" under the City adopted Affordable Housing Policies and Procedures Manual (the "AHP&P") provided that the project does not propose to be eligible to Upper Middle Income households as defined by the AHP&P.

2. Building Height. As defined by Santa Barbara Municipal Code Section 28.04.140 as currently enacted or hereinafter amended.

3. Community Priority Project. As defined in City Charter Section 1508 as it was worded at the time of the introduction of the ordinance approving this section and as follows: a project which is found by the City Council to meet present or projected needs directly related to public health, safety or general welfare and which has a broad public benefit (for example: museums, child care facilities, or community centers) and which is not principally operated for private profit.

B. Special Use Permit Required for Project Approved Pursuant to Charter Section 1506. A project which proposes to construct a building which will exceed the forty (40) and forty-five (45) foot height limitations of Charter Section 1506 shall obtain a special use permit issued by City Council.

C. Process for Obtaining a Charter Section 1506 Special Use Permit Community Priority or Affordable Housing Designation.

1. Conceptual Design Review. In order to be granted a special use permit pursuant to this section, a Project applicant shall first have obtained conceptual design review for the Project from either the Architectural Board of Review or the Historic Landmarks Commission as required in accordance with the requirements of Title 22 hereof.

2. City Council Hearing Process – Preliminary Community Priority or Affordable Housing Designation. Upon obtaining the required conceptual design review, the Project shall be scheduled for a hearing before the City Council for consideration of the possible issuance of a preliminary Charter Section 1506 Community Priority Designation. The Council hearing on the preliminary designation shall be noticed to the public and Project neighbors in accordance with the requirements of state Government Code section 65091 provided that all such notice shall be both by mail and published in accordance with section 65091 as well as posted on the Project site in accordance with City posting regulations for proposed new development.

3. City Council Issuance of a Charter Section 1506 Preliminary Community Priority or Affordable Designation; Required Findings. As required by Charter 1506, the City Council may issue a preliminary Community Priority or Affordable Housing Designation allowing a Project to exceed the standard height limits established by Charter Section 1506 only upon the making all of the following findings:

a. Community Priority or Affordable Project. The Project will qualify as either a Community Priority project or will be a Project containing Affordable Housing [as limited by subsection (A)(1) above] where not less than thirty percent (30%) of the residential units of the Project will be permanently deed restricted for ownership or occupancy by families eligible to live in Affordable Housing units;

b. Exemplary Architecture Compatible with the Neighborhood. The Project, as designed, will be an example of exemplary architect for Santa Barbara and will be compatible with and complimentary to the neighboring properties and the area of the City within which it will be constructed and be a Project which is protective of and consistent with the historic character of the site and neighboring properties;

c. Appropriate Setbacks and Open Space. The Project will provide an appropriate front set back (which may be variable) as well as provide adequate common and private open space for all occupants and users of the Project;

d. Availability of Apartment Units. If the Project is proposed to contain apartment units, the apartment units will be permanently deed restricted such that they may not be converted to condominium units for the useful life of the building.

D. Final Community Priority or Affordable Designation by City Council. No Project which exceeds the forty (40) and forty-five (45) height limitations of Charter Section 1506 shall be issued the necessary building permits unless and until it obtains a final Community Priority or Affordable Housing designation from the City Council pursuant to this section.

The City Council shall issue a final Community Priority or Affordable Housing designation to a Project pursuant to this section when the Project has obtained all of its City required land use approvals and is designed and proposed for operation in a manner which substantially conforms to the Project for which a preliminary Community Priority or Affordable Housing designation was previously granted by the City Council. Notice of the City Council's consideration of a request for final designation shall be provided in accordance with the published notice requirements of state Government Code section 65091.

E. Existing Zoning Where Lower Height is Required. Nothing herein shall allow the City Council to approve a Project exceeding forty-five (45) feet in height in those areas of the City within which the zoning in effect at the time of the adoption of the ordinance codifying this chapter precludes buildings in excess of forty-five (45) feet.

F. Administrative Regulations. The Community Development Director is hereby directed to prepare administrative regulations in order to establish appropriate administrative procedures for the processing and consideration of applications made pursuant to this section. Such regulations shall be approved by resolution of the City Council within ninety (90) days of the effective date of the ordinance adopting this section.

SECTION TWO: Chapter 28.04 of Title 28 of the Santa Barbara Municipal Code is hereby revised to amend Section 28.04.140 ["Building Height"] to read as follows:

28.04.140 Building Height.

The maximum vertical height of a building or structure at all points measured from natural or finished grade, whichever is lower. Architectural elements that do not add floor area to a building, such as chimneys, vents, antennae, and towers are not considered a part of the height of the building, but all portions of the roof are included. (*Existing definition - to be revised.)*

SECTION THREE: The ordinance shall not become effective unless and until the amendment to Charter Section 1506 submitted by the City Council to the voters of the City concurrently with the adoption of this ordinance is duly approved by the voters as amendment to the City Charter and in the manner otherwise required by the City Charter.

ATTACHMENT 2

CITY OF SANTA BARBARA

ORDINANCE COMMITTEE

Due to technical difficulties 25 minutes of this meeting are missing from the video.

SPECIAL MEETING
FINISHED AGENDA

x = Attendees

DATE: December 16, 2008
TIME: 12:00 p.m.
PLACE: Council Chambers

x Das Williams, Chair
x Dale Francisco
x Grant House

Office of the City Administrator

x Lori Pedersen, Administrative Analyst

x Beatriz Gularte, Project Planner
x John Ledbetter, Principal Planner
x Bettie Weiss, City Planner

Office of the City Attorney

x Stephen P. Wiley City Attorney

ITEM FOR CONSIDERATION

Subject: Alternative Building Heights Charter Amendment

Recommendation: That the Ordinance Committee discuss the amendment to City Charter Section 1506 and any necessary implementing ordinance with regard to changing the City Charter's 60-foot building height allowance for certain commercial zones and to require new front yard setback standards.

The Ordinance Committee heard staff presentation and public comment. It moved the following:

a) **Require a variable front yard setback for all buildings in the C-2 and C-M and for buildings that exceed the height limit in the M-1 zone;**
b) **The exemption for the 5 foot variable setback along State Street should go all the way to Sola Street and include the first blocks East and West of State Street;**
c) **The requirement to exceed the 45 foot height limit should be based on a percentage of square footage of the building being rental or affordable;**
d) **Rental projects that exceed the height limit should be prohibited from converting to condominiums;**
e) **Projects exceeding the height limit will be required to substantially increase the open space requirements, ABR and HLC to provide input;**

f) **Additional height request for affordable and rental projects would go before Council for approval (similar to Community Priority process), PC to suggest criteria;**
g) **In order to exceed the height limit, need a base number of 10 ownership units. 30% of the units (including employer provided housing) would be required to be middle income affordable for any projects to exceed the height limit, Planning Commission to provide guidance on minimum number of units and percentage required if upper middle income units;**
h) **100% of the commercial floor should be required for a Community Priority designation with the longest term possible and any change would required a conditional use permit or similar; The height limit requirement should be reduced to 45 feet; and**
i) **Discuss with advisory boards, 52 feet as the maximum height measured to plate height or 55 feet or taller to ridge line.**

CITY OF SANTA BARBARA

ORDINANCE COMMITTEE

FINISHED AGENDA

DATE: March 3, 2009
TIME: 12:30 p.m.
PLACE: Council Chambers

x Das Williams, Chair
x Dale Francisco
x Grant House

Office of the City Administrator

x Nina Johnson
Assistant to the City Administrator

x Bettie Weiss
x Beatriz Gularte
x John Ledbetter
x Paul Casey

Office of the City Attorney

x Stephen P. Wiley
City Attorney

ITEM FOR CONSIDERATION

Subject: Alternative Building Heights Charter Amendment

Recommendation: That the Ordinance Committee review and make a recommendation to Council on draft charter language amending City Charter Section 1506 with regard to changing the City Charter's 60-foot building height allowance for certain commercial zones.

The Ordinance Committee received a staff presentation, heard public comment and discussed components of a possible supplemental charter amendment to the Save El Pueblo Viejo charter amendment.

The Committee provided input and recommended an alternative charter amendment and companion ordinance.

The Ordinance Committee recommended lowering the height to a base height of 40 feet in El Pueblo Viejo, and 45 feet in the other zones that currently allow 60 feet. For projects that request an exception to exceed the 40/45 foot height limit they recommended that:

- **the existing definition of Community Priority be used**
- **all projects with ownership units provide 30% of the units affordable to middle-income households**
- **projects with rental units include 30% of the units affordable to middle income households**
- **findings be made regarding open space, exemplary architecture, and the variable front yard setback.**

The agenda item was continued to the March 10th Committee agenda to review draft charter amendment language and a draft companion ordinance.

CITY OF SANTA BARBARA

ORDINANCE COMMITTEE

FINISHED AGENDA

DATE: March 10, 2009
TIME: 12:30 p.m.
PLACE: Council Chambers

x Das Williams, Chair
x Dale Francisco
x Grant House

Office of the City Administrator

Lori Pedersen
Administrative Analyst

x Bettie Weiss
x Beatriz Gularte
x Steven Faulstich

Office of the City Attorney

x Stephen P. Wiley
City Attorney

ITEM FOR CONSIDERATION

Subject: Alternative Building Heights Charter Amendment

Recommendation: That the Ordinance Committee review and make a recommendation to Council on draft charter language amending City Charter Section 1506 with regard to changing the City Charter's 60-foot building height allowance for certain commercial zones.

The Ordinance Committee received a staff presentation and heard public comment on the draft amendment language and draft companion ordinance for the Alternative Charter Amendment.

The Committee forwarded the draft amendment language and draft companion ordinance to Council with the following changes:

- **Community Priority and residential projects that meet criteria for exception to building height would be allowed up to an additional 15 feet in height.**
- **That rental projects provide 30% of the rental units to low-income households, consistent with the City's Affordable Housing Policies and Procedures.**
- **That ownership residential projects provide 30% of the units as affordable up to Middle Income households to qualify for an exception to building height.**
- **That projects receive a concept review from design review on broad design issues before going to Council for a preliminary designation.**
- **Directed the City Attorney to revise charter amendment language to put emphasis on community priorities up front.**

MINUTES OF ABR, HLC, AND PLANNING COMMISSION DISCUSSION ON BUILDING HEIGHTS CHARTER AMENDMENT

ARCHITECTURAL BOARD OF REVIEW
MINUTES

Monday, January 26, 2009 David Gebhard Public Meeting Room: 630 Garden Street 3:02 P.M.

BOARD MEMBERS: CHRISTOPHER MANSON-HING, Chair - PRESENT
DAWN SHERRY, Vice-Chair - PRESENT
CLAY AURELL - PRESENT
JIM BLAKELEY - PRESENT
CAROL GROSS – PRESENT
GARY MOSEL - PRESENT
PAUL ZINK – PRESENT
CHRISTOPHER GILLILAND – PRESENT
KEITH RIVERA - PRESENT

CITY COUNCIL LIAISON: DALE FRANCISCO - PRESENT GRANT HOUSE (ALTERNATE) - ABSENT

PLANNING COMMISSION LIAISON: BRUCE BARTLETT - PRESENT

STAFF: JAIME LIMÓN, Design Review Supervisor – PRESENT UNTIL 8:27 P.M.
MICHELLE BEDARD, Planning Technician - PRESENT
KATHLEEN GOO, Commission Secretary - PRESENT

DISCUSSION ITEM

4. ALTERNATIVE BUILDING HEIGHTS CHARTER AMENDMENT

Staff Presentation: Jaime Limón, Senior Planner, and Beatriz E. Gularte, Project Planner

(The City Council has requested input on a possible Charter Amendment that would reduce building height limits in certain commercial zones (C-2, C-M and M-1). Staff will present and solicit input on the design and land use issues associated with reducing the heights from 60-feet to 45-feet in these commercial zones with some exceptions for affordable housing projects, rental housing and community priority uses. The discussion will include a variable front yard setback in the C-2 and C-M zones as well as additional open space requirements for projects that are determined to be exceptions.)

(Board comments are requested.)

(7:00) **PowerPoint Presentation.**

Public comment opened regarding Building Heights at 7:19 p.m.

Alex Pujo, (Santa Barbara for All-Representing Architects and Housing Advocates), concerns: zoning reflecting downtown conditions being currently tight at 18 feet, the 55-foot height limit, and the purpose and intent of an 18-foot ceiling.

Staff read two submitted emails/letter of concerns, and a comment slip with concerns from Cathie McCammon (League of Women Voters of SB) who had to leave the meeting early.

The Board acknowledged staff's announcement that 5 letters and emails expressing various concerns were received from the public.

Public comment closed at 7:23 p.m.

Public comment opened regarding Setbacks and Open Space at 7:54 p.m.

Alex Pujo (Santa Barbara For All), concerns: commented that setbacks would be appropriate in certain areas such as Anacapa Street.

Dale Francisco (City Council) clarified the variable front yard setback requirements.

Public comment closed again at 7:57 p.m.

A discussion was held and comments were made by the Board.

A detailed report on this item has been scheduled to be presented at City Council, and the final ABR Minutes will then be amended to include the Board's comments from this meeting.

HISTORIC LANDMARKS COMMISSION
MINUTES

Wednesday, February 4, 2009David Gebhard Public Meeting Room: 630 Garden Street
1:30 P.M.

COMMISSION MEMBERS: SUSETTE NAYLOR, *Chair* – Present
DONALD SHARPE, *Vice-Chair* – Present
ROBERT ADAMS – Present
LOUISE BOUCHER – Present
KEN CURTIS – Present
MICHAEL DRURY – Present
FERMINA MURRAY – Present
ALEX PUJO – Present until 4:45 p.m.
CRAIG SHALLANBERGER – Present

ADVISORY MEMBER: DR. MICHAEL GLASSOW – Absent
CITY COUNCIL LIAISON: ROGER HORTON – Absent
PLANNING COMMISSION LIAISON: STELLA LARSON – Present at 2:59 p.m.

STAFF: JAIME LIMÓN, Design Review Supervisor – Present
JAKE JACOBUS, Urban Historian – Present
SUSAN GANTZ, Planning Technician – Present
GABRIELA FELICIANO, Commission Secretary – Present

Website: www.SantaBarbaraCa.gov

DISCUSSION ITEM:

5. ALTERNATIVE BUILDING HEIGHTS CHARTER AMENDMENT
(3:21)

(The City Council has requested input on a possible Charter Amendment that would reduce building height limits in certain commercial zones (C-2, C-M and M-1/OM-1). Staff will present and solicit input on the design and land use issues associated with reducing the heights from 60-feet to 45-feet in these commercial zones with some exceptions for affordable housing projects, rental housing and community priority uses. The discussion will include a variable front yard setback in the C-2 and C-M zones as well as additional open space requirements for projects that are determined to be exceptions.)

Beatriz Gularte, Project Planner; and Jaime Limón, Senior Planner, gave the Staff presentation.

Ms. Gularte acknowledged receipt of correspondence from Paula Westbury, James and Mary Micallef, Monica DiVito, Phoebe Alex, and the Santa Barbara AIA.

Public comment opened at 3:45 p.m.

Cathy McCammon, League of Women Voters, expressed concern that the proposed alternative would allow another project similar to Chapala One, which is not acceptable to most of the community. She upports setbacks and open space for all structures.

Jim Westby, local resident, commented that large buildings like Chapala One should be prevented and that small buildings fit into the charm and character of Santa Barbara. He does not support sixty foot buildings since four-story buildings can be achieved with 45 feet.

Sue Adams, local resident, expressed concern that the City's alternative is not significantly better than the Citizens' initiative. The intimacy of neighborhoods is as important as city issues and mandates. She would like to see the City remain a one and two story community because it still works well.

Kellam de Forest, local resident, commented that effective affordable housing can be accomplished by housing in buildings under 45 feet. The Housing Authority has provided attractive, smaller buildings.

Brian Cearnal, Architect, spoke in support of the alternative height ordinance. A height reduction will be seen in EPV but the question is whether 40 or 45 feet. A 45 foot height limit would eliminate four-story proposals, resulting in three-story limitations, but still allowing roofs on buildings.

Public comment closed at 4:01 p.m.

The Commission made the following questions:

1. Are modifications allowed for charter items?
2. Which items are being proposed to be included within the charter amendment versus those proposed to be included in an implementing ordinance?
1. If both charter amendments work to get approved by the voters, which would prevail?
2. Why the City decided to craft a competing charter amendment?
3. Why is the variable setback part of the language proposed to be part of the charter amendment if it would make it much more difficult for voters to navigate?
4. Does the Citizens' petition have to be a single issue?
5. What is so sacred about four stories?
6. How many people in the community signed the initial charter ballot petition?
7. Would the additional standards regarding open space and setbacks along property lines apply when requesting a higher building exception to the 45 foot height limit?

<u>Straw votes:</u>

1. How many Commissioners would agree to go through each individual question that Staff is presenting? 1/8. (Pujo agreed.)

2. How many Commissioners could support a variable setback as a general concept? 8/0. (Pujo left at 4:45 p.m.)

3. How many Commissioners could support more open space requirements not related to a 45 foot building height limit? 8/0. (Pujo left at 4:45 p.m.)

The Commission made the following comments, specifically as to how the proposal affects El Pueblo Viejo Landmark District:

General comments:

1. City Council should not be acting as a planning commission.
2. It seems that the decision-making process as to whether a project provides a community benefit could become a loop-hole.
3. The initiative does not address how this charter would support our visual and historic resources in the city. There is a disconnect between the charter and Plan Santa Barbara.

Height limit:

4. Four stories in 40 feet would not be appropriate in EPV. Anything over three stories would not be supportable.
5. There could be a compromise between a 40 and 45 foot height limit with other amenities, such as setbacks.
6. At least four Commissioners would prefer not to go beyond 40 feet. A 45 foot height limit would drastically change the character of EPV.
7. One Commissioner would prefer to allow the General Plan update process to deal with the building height limit issue.
8. At least one Commissioner felt that the Urban Design and EPV Guidelines give all the power to design review boards and the Planning commission to keep buildings below a certain height. A charter amendment would result in an overregulated process.
9. The design of a building is priority over strict height limits.

Variable Front Yard Setback and Open Space:

10. The majority supports the idea of State Street and some of the side streets being exempt, however consider only a portion of the intersecting streets. Require the setback on Chapala and Anacapa Streets.
11. The open space location is as important as the quantity.
12. Variable setbacks belong in the zoning ordinance and not in a charter amendment.
13. Setbacks should be required to reduce the loss of the City's urban forest and the ability to soften buildings. Shade and habitat is needed in front of buildings, which can be realized through the use of vegetation and realistic canopy trees.
14. Generally prefer not to discuss new open space standards for buildings over 45 feet because do not support buildings over 45 feet.

HISTORIC LANDMARKS COMMISSION
DRAFT MINUTES

Wednesday, March 4, 2009David Gebhard Public Meeting Room: 630 Garden Street 1:30 P.M.

COMMISSION MEMBERS:
SUSETTE NAYLOR, *Chair* – Present
DONALD SHARPE, *Vice-Chair* – Present
ROBERT ADAMS – Present
LOUISE BOUCHER – Present
KEN CURTIS – Present
MICHAEL DRURY – Present
FERMINA MURRAY – Present
ALEX PUJO – Present at 2:04 p.m.
CRAIG SHALLANBERGER – Present

ADVISORY MEMBER: DR. MICHAEL GLASSOW – Absent

CITY COUNCIL LIAISON: ROGER HORTON – Present from 2:40 p.m. to 3:30 p.m.
PLANNING COMMISSION LIAISON: STELLA LARSON – Present at 5:07 p.m.

STAFF: JAIME LIMÓN, Design Review Supervisor – Present until 2:10 p.m. and again 3:53 p.m. to
JAKE JACOBUS, Urban Historian – Present
BEATRIZ GULARTE, Project Planner – Present until 2:10 p.m.
SUSAN GANTZ, Planning Technician – Present
GABRIELA FELICIANO, Commission Secretary – Present

DISCUSSION ITEM

1. Discussion of potential charter amendment regarding building height.
(1:41)

Present: Beatriz E. Gularte, Project Planner
Jaime Limón, Senior Planner

Beatriz E. Gularte, Project Planner, provided an update on the results of the Ordinance Committee meeting held on Tuesday, March 3.

Public comment opened at 1:45 p.m.

William La Voie, local architect, commented about the history of the Salvation Army building on Chapala Street. The argument was that the building was too big for Chapala Street. Now it is dwarfed with the new developments on that street. The community priorities are to preserve the character of the town and provide reasonable housing. A 30% affordable housing requirement is not enough.

Jim Westby, Save EPV member, commented about what lead Save EPV to initiate a charter amendment. Development such as the Chapala One building is not what the community wants.

Cathie McCammon, Allied Neighborhood Association, commented that neither ballot measure contain meaningful protection to historic resources and do not contain language to not allow special exceptions within El Pueblo Viejo Landmark District.

Public comment closed at 1:52 p.m.

The Commission made the following comments with regard to a potential for a maximum height in El Pueblo Viejo Landmark District:

1. Two Commissioners agreed with the 40 foot height limit in EPV.
2. Three Commissioners agreed with a 40 foot height limit in EPV with a 45 foot limit in the rest of the city. The 45 foot height limit outside EPV would maintain the character of Santa Barbara.

3. One Commissioner believes a 45 foot height would allow roof elements. It is difficult to get three stories to look like Santa Barbara within 40 feet in EPV.
4. One Commission would not like to add a restriction. Guidelines should not be in the City charter, but rather in the ordinance.
5. The Urban and EPV Guidelines and the compatibility description are the philosophy needed to make decisions. The proposed instrument to make the height limit 45 feet is a blunt instrument. Commissioners should be allowed to make decisions based on their own discretion and experience.
6. The character of the city is the basis on which it should be developed.
7. The Save EPV initiative should be allowed to take its course.

PLANNING COMMISSION DRAFT MINUTES

February 5, 2009

CALL TO ORDER:

Pro tempore Chair Larson called the meeting to order at 1:02 P.M.

I. ROLL CALL:

Present:

Chair Stella Larson
Vice-Chair Addison S. Thompson
Commissioners Bruce Bartlett, Charmaine Jacobs, John Jostes, Sheila Lodge, and Harwood A. White, Jr.

Staff Present:

N. Scott Vincent, Assistant City Attorney
Bettie Weiss, City Planner
John Ledbetter, Principle Planner – present at 2:14 p.m.
Jaime Limón, Senior Planner
Beatriz Gularte, Project Planner
Gabriela Feliciano, Commission Secretary

Staff Absent:

Julie Rodriguez, Planning Commission Secretary

II. DISCUSSION ITEM:

ALTERNATIVE BUILDING HEIGHTS CHARTER AMENDMENT

The City Council has requested input on a possible Charter Amendment that would reduce building height limits in certain commercial zones (C-2, C-M and M-1). Staff will present and solicit input on the design and land use issues associated with reducing the heights from 60-feet to 45-feet in these commercial

zones with some exceptions for affordable housing projects, rental housing and community priority uses. The discussion will include a variable front yard setback in the C-2 and C-M zones as well as additional open space requirements for projects that are determined to be exceptions.

Case Planner: Beatriz Gularte, Project Planner
Email: BGularte@santabarbaraca.gov

Bea Gularte, Project Planner, and Jaime Limón, Senior Planner, gave the Staff presentation.

Chair Larson opened the public hearing at 1:29 P.M.

Chair Larson acknowledged receipt of the following correspondence from the public:

1. Paula Westbury;
2. James Micallef;
3. Monica DiVito;
4. Phoebe Alexiades; and
5. Santa Barbara Chapter of the American Institute of Architects.

The following people spoke in support of the proposal:

1. Mickey Flacks, Santa Barbara For All, commented that ballot box planning is not the best procedure; those who signed the Citizens' petition are not necessarily aware of what 40, 45, and 60 foot buildings look like; and the intent of the alternative proposal is to provide voters with two options.
2. Debbie Cox-Bolton, Coastal Housing Coalition, commented on the impact that lowering building heights would have on affordable and workforce housing; supportive of alternative to give the public an option; height exemptions should be allowed for units targeted to upper-middle income households; City Council hearings for designation of affordable housing projects would increase fees and ultimately affect price of units; and concept of affordability by design.
3. Brian Cearnal, local architect, commented that the alternative proposal is about the creation of mechanisms, incentives, and exceptions to height for projects that are important to the community, such as a hospital or museum; the difference between 40 feet versus 45 feet is the ability to put a roof and have reasonable space on a building; supportive of variable setback; and supports exemptions without specific details at this time.

The following people spoke against the proposal or expressed concerns:

4. Bill Mahan, Chairman of Save EPV, commented that setbacks and open space issues can be worked out by the Planning Commission and City staff; look carefully at how buildings heights are measured in flood zone; properties on corners should have the open space at the corner to open up views; reviewed history of building heights in Santa Barbara; City Council should not be able to modify building heights; and suggested that the Commission advise City Council against the alternative.

5. Lanny Ebenstein, local resident, expressed concern with possible five or six stories; taller buildings not best course for the City; affordable housing units should be defined; three stories or less is the most affordable type of architecture; and there should be diverse housing in smaller projects throughout the community.
6. Lisa Plowman, Santa Barbara For All, commented that 60 foot buildings concentrated in the downtown area would be the most sustainable; the ten unit threshold is not critical; and additional open space should not take away increased density in a community priority project.
7. Connie Hannah, SB League of Women Voters, commented that the most profit is gained from higher buildings, but it is not what the City needs; the alternative is not needed because the Citizens' alternative would control heights to four stories; details belong in the City ordinances and not in a charter; and need to live within the resources.

Chair Larson closed the public hearing at 2:10 P.M.

Staff responded to the following questions posed by the Planning Commission:

1. Consideration of heights to the eves as a way to measure building height.
2. Concern that parking drives project design.
3. How two ballot initiatives came about from a year ago.
4. What would happen to other zones if Charter Amendment passes.
5. Determining how currently pending and approved projects would be affected if amendment passes.
6. Confirmed that the OM-1 zone is a coastal zone designation and is outside of El Pueblo Viejo Landmark District.
7. Deciding that a project is a community priority by providing affordable housing should be based on levels of income and percentage of affordable units. It should not reference the inclusionary ordinance because it could change.
8. The details of how the five foot variable setback would work in conjunction with the Pedestrian Master Plan have not been determined.
9. The measure that receives the greater number of votes would trump the other with respect to the charter amendment. If neither prevails, it would remain as status quo.

**** THE COMMISSION RECESSED FROM 2:48 P.M. TO 3:10 P.M. ****

The Commission made the following general comments:

Alternative Charter Amendment:

1. At least two Commissioners did not agree with having an alternative charter amendment.
2. At least three Commissioners believe having an alternative charter amendment to allow the people to choose is appropriate.
3. The charter language should be simple and easy to understand, but not open to different interpretations than what was intended.
4. An alternative charter amendment proposal should strive to accomplish the same underlying principles that the Save EPV lays out: living smaller

and more efficiently, and with a continuing respect for the historic and cultural values that make Santa Barbara special.

Variable setbacks:

1. At least two Commissioners support the concept of a variable setback to be in the zoning ordinance, but not in the charter. The process should be similar to the Neighborhood Preservation Ordinance (NPO) update process.
2. The Interim Building Regulations Ordinance ad hoc committee intended that additional open space apply to all projects.
3. There is a need to improve proposed projects and create more open space, greater livability and healthier living environments.
4. Open space at ground level should support canopy trees.
5. The proposed setback and open space standards should proceed regardless of the result of the building height charter amendment proposals.

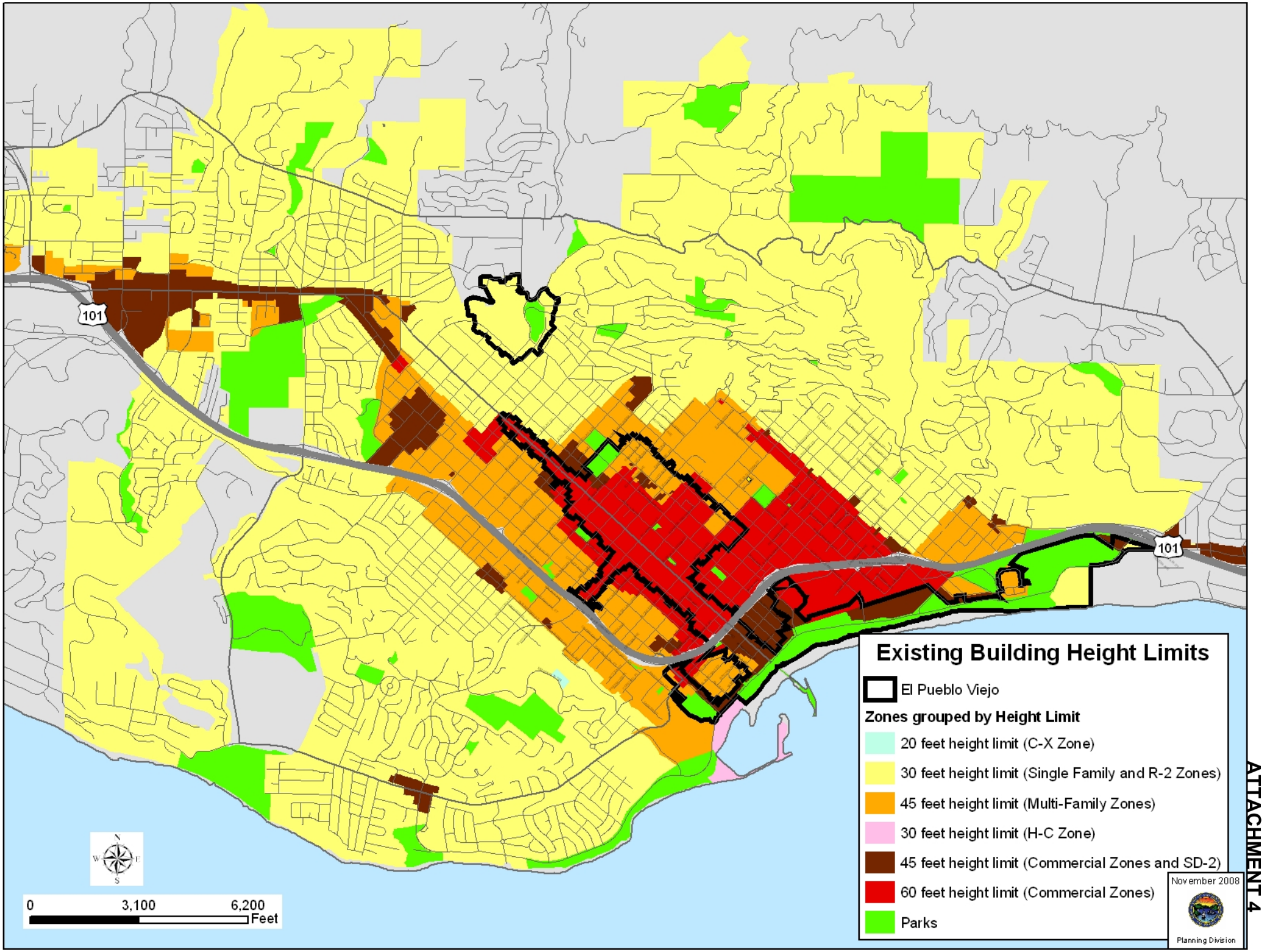
Height:

1. At least two Commissioners support a 45 foot height limit.
2. El Pueblo Viejo Landmark District exists to preserve the historic architectural style for which Santa Barbara is famous.
3. At least two Commissioners suggested further investigation on how building height is measured. Measuring to the ridge line is of concern because of the possible unintended consequences.
4. The permitted height should be brought down to a three story maximum.
5. The 40 and 45 foot height limit more than amply allows the allowable density. Density can be increased with modest size units and provide affordable housing that is closer to being affordable in the downtown.
6. Certain areas need to continue having a 60 foot height limit, such as the airport and maybe a portion of State Street.
7. The community character will be changed with the increasing number of tall buildings in the City.
8. The community may not be able to provide the resources and the infrastructure needed in the long term to support higher buildings.
9. Creating great architecture would be assisted by setting height limits that provide architects guidance ahead of time. Setting height limits also assists review boards.
10. There is an inherent clash between two city policies: one to conserve historic resources and the other to make the downtown core the densest in the community. These two policies cannot coexist.
11. The basic character of the City should be kept attractive to protect the City's main industry. Tourists come for relief of tall buildings.

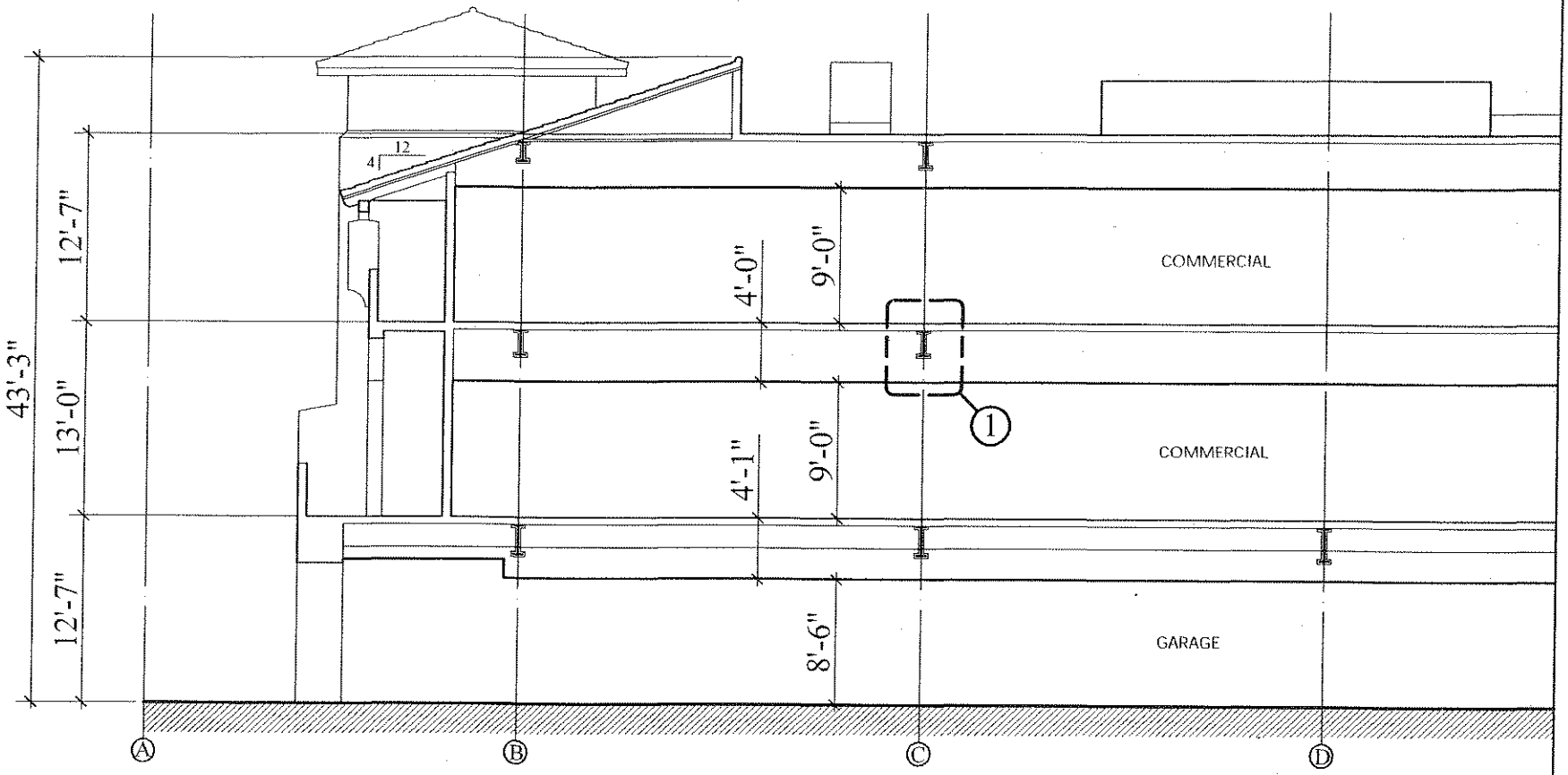
Community priority:

1. Community priority can be a complicated issue for voters to make a decision. The ballot should be kept as simple as possible.

2. Inclusionary housing has had some unintended consequences. Although affordable housing in mixed-use projects is required, it is not necessarily what families want to buy and live in.
3. The 30% affordable housing requirement does not provide a net public benefit to the community. The creation of more market rate units exacerbates the housing imbalance problem because more services are needed for the remaining 70% upscale, larger units.
4. An example of a community benefit would be a municipal building with a tight relationship to the functioning of the City. The exception would be rental housing, such as Section 8 rentals.
5. Exceptions to a 45 foot height limit would have to be based on community necessity.
6. The project would have to be "impact-neutral" with regard to the jobs/housing balance.
7. In the EPV, there should be a demonstrated linkage to the existing downtown employment opportunities for proposed housing.
8. Rental units should not convert to condominiums.



ATTACHMENT 4

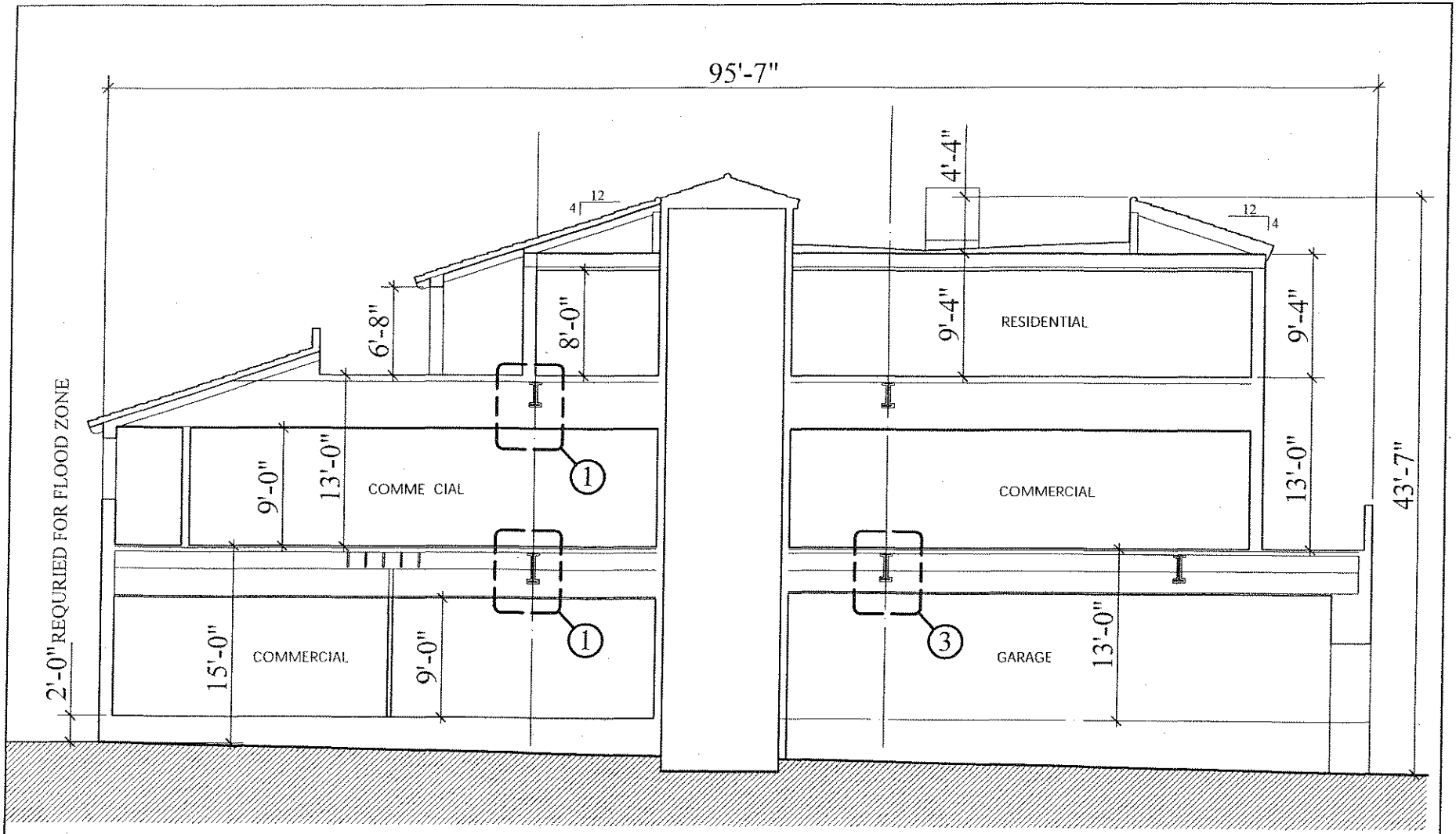


EXISTING COMMERCIAL BUILDING

SCALE 3/32" = 1'-0"

TWO FLOORS OF COMMERCIAL
OVER GROUND FLOOR GARAGE

ATTACHMENT 5

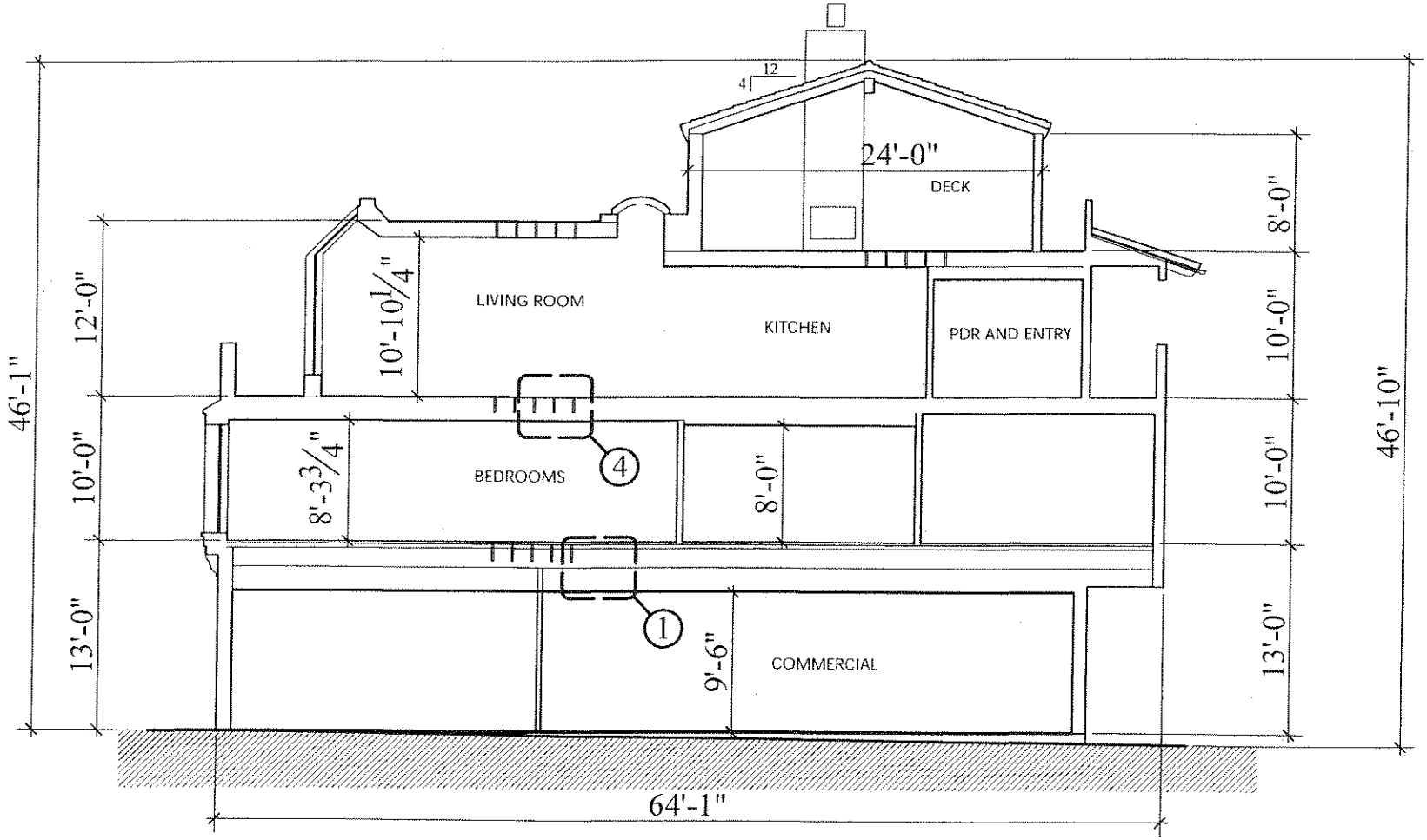


TYPICAL MIXED-USE BUILDING

SCALE 3/32" = 1'-0"

LOCATED IN A FLOOD ZONE
2% SLOPE

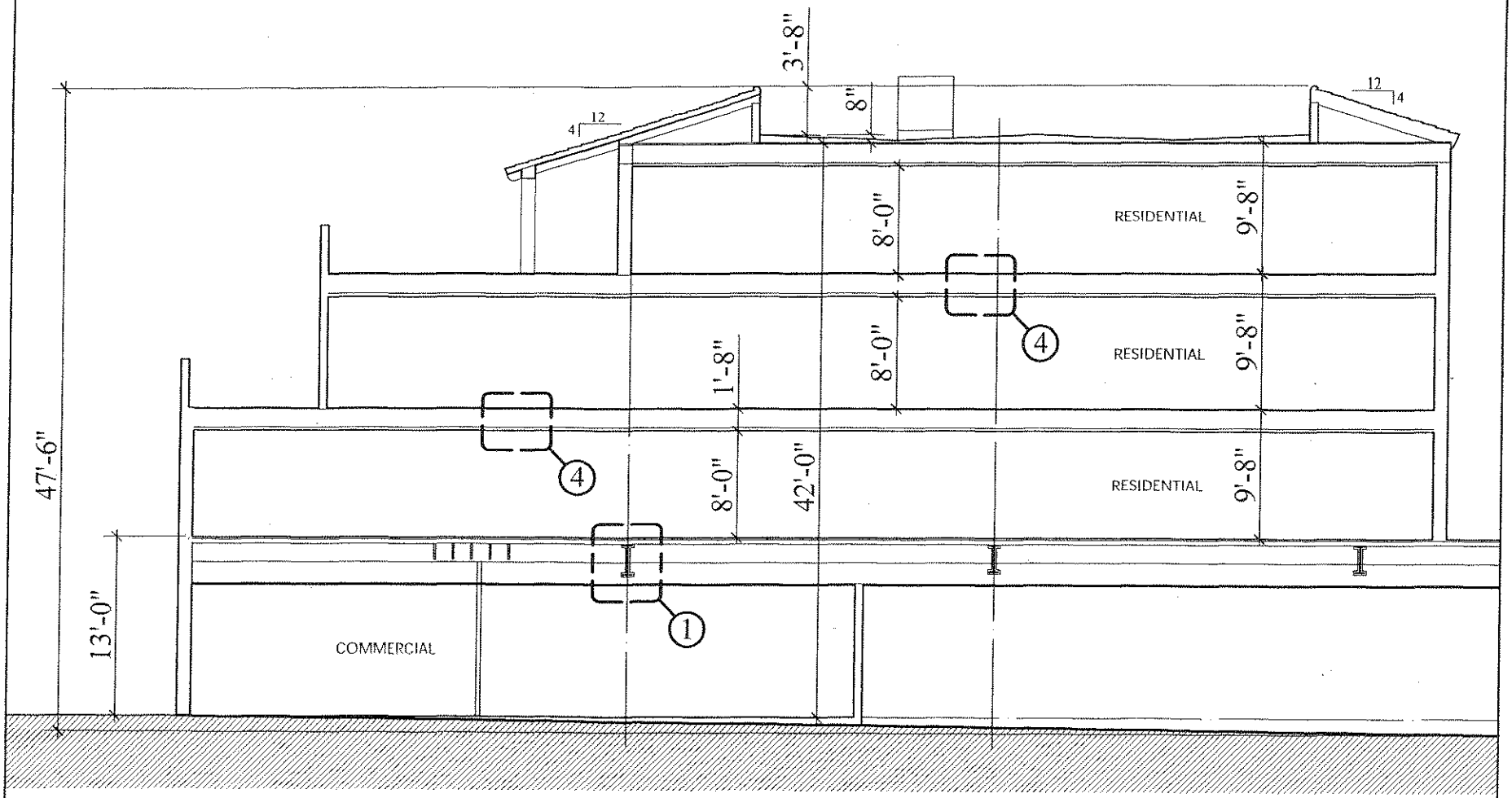
TWO FLOORS OF COMMERCIAL
ONE FLOOR OF RESIDENTIAL



PROPOSED MIXED-USE BUILDING

SCALE 3/32" = 1'-0"

THREE FLOORS OF RESIDENTIAL
OVER GROUND FLOOR COMMERCIAL



TYPICAL MIXED-USE BUILDING

SCALE 3/32" = 1'-0"

2% SLOPE

ONE FLOOR OF COMMERCIAL
THREE FLOORS OF RESIDENTIAL