

**CITY OF SANTA BARBARA
CITY COUNCIL**

Helene Schneider
Mayor
Grant House
Mayor Pro Tempore
Bendy White
Ordinance Committee Chair
Das Williams
Finance Committee Chair
Dale Francisco
Frank Hotchkiss
Michael Self



James L. Armstrong
City Administrator

Stephen P. Wiley
City Attorney

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

**MARCH 9, 2010
AGENDA**

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

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

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

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

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

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

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

ORDER OF BUSINESS

2:00 p.m. - City Council Meeting

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CEREMONIAL ITEMS

1. **Subject: Proclamation Declaring March 7, 2010, As Arbor Day (120.04)**
2. **Subject: Proclamation Declaring March 2010 As Colon Cancer Awareness Month (120.04)**

CHANGES TO THE AGENDA

PUBLIC COMMENT

CONSENT CALENDAR

3. **Subject: Minutes**

Recommendation: That Council waive the reading and approve the minutes of the regular meeting of February 23, 2010.

4. **Subject: Records Destruction For Community Development Department (160.06)**

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Relating to the Destruction of Records Held by the Community Development Department in the Housing and Redevelopment Division.

CONSENT CALENDAR (CONT'D)

5. Subject: Records Destruction For Waterfront Department (160.06)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Relating to the Destruction of Records Held by the Waterfront Department in the Administration Division.

6. Subject: Agreement With SCI Consulting Group For Engineering Services To Renew The Wildland Fire Suppression Assessment District (290.00)

Recommendation: That Council authorize the Fire Chief, subject to approval as to form by the City Attorney, to negotiate and execute a five-year professional services agreement with SCI Consulting Group (SCI) in the amount of \$34,375, which includes a 10% contingency, for the purpose of providing engineering services necessary for the annual renewal of the Wildland Fire Suppression Assessment District (WFSAD).

7. Subject: Contract For Construction Of Alisos Street Sidewalk Access Ramps (530.04)

Recommendation: That Council:

- A. Award a contract with Talcal Engineering, Inc. (Talcal), in the amount of \$145,015, for construction of the Alisos Street Sidewalk Access Ramps (Project), Bid No. 3597; and
- B. Authorize the Public Works Director to execute a contract with Talcal in the amount of \$145,015, and approve expenditures up to \$14,500 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment.

8. Subject: Contract For Construction Of Eastside Sidewalk Access Ramps (530.04)

Recommendation: That Council:

- A. Award a contract with Draper Construction (Draper), in the amount of \$88,675.75, for construction of the Eastside Sidewalk Access Ramps (Project), Bid No. 3598; and
- B. Authorize the Public Works Director to execute a contract with Draper in the amount of \$88,675.75, and approve expenditures up to \$8,900.00 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment.

CONSENT CALENDAR (CONT'D)

9. Subject: GeoSyntec Contract For Research Into Landfill Area At Garden And Montecito Streets (540.13)

Recommendation: That Council authorize the Finance Director to approve a change order in the amount of \$12,700, for a contract total of \$36,400 with Geosyntec Consultants, Inc., for the development of a final report on the old landfill area at Garden and Montecito Streets as requested by the Central Coast Regional Water Quality Control Board.

10. Subject: Purchase Order For Fire Department Breathing Air Compressor (520.03)

Recommendation: That Council find it in the best interest of the City to waive the bidding process as provided in Municipal Code Section 4.52.070(l) and authorize the General Services Manager to issue a purchase order to Bauer Compressors in the amount of \$50,144.18 to replace the Fire Department's main breathing air compressor.

NOTICES

11. The City Clerk has on Thursday, March 4, 2010, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.
12. Received a notification advising of a vacancy created on the Santa Barbara Metropolitan Transit District Board with the death of Member Sharon Anderson, and letters of resignation from Housing Authority Commissioner Stanley Eisele, and Parks and Recreation Commissioner Daniel Hochman; the vacancies will be part of the next City Advisory Group recruitment.
13. Cancellation of the regular Redevelopment Agency meeting of March 9, 2010.

This concludes the Consent Calendar.

CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS

CITY ADMINISTRATOR

14. Subject: Participation In The Santa Barbara County Municipal Financing Program (California AB 811) (150.04)

Recommendation: That Council:

- A. Adopt, by reading of title only, A Resolution Approving County of Santa Barbara Resolution of Intention, Consenting to Participation in Contractual Assessment Program and Approving the Financing of Installation of Distributed Generation Renewable Energy Sources, and Energy Efficiency and Water Efficiency Improvements Within the Incorporated Area of the City; and
- B. Authorize the City Administrator to execute a cooperative agreement to implement an AB 811 Contractual Assessment Program with the County of Santa Barbara.

PUBLIC HEARINGS

15. Subject: Appeal Of The City Planning Commission's Certification Of An Environmental Impact Report And Project Approval For 3714-3744 State Street (Sandman Inn Redevelopment Project) (640.07)

Recommendation: That Council:

- A. Certify the Final Environmental Impact Report for the Sandman Inn Redevelopment Project;
- B. Deny the appeal of Citizens Planning Association and Allied Neighborhoods Association;
- C. Uphold the Planning Commission approval of the development at 3714-3744 State Street; and
- D. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Denying the Appeal of the City Planning Commission's Certification of an Environmental Impact Report and Project Approval for Development Located at 3714-3744 State Street (Sandman Inn Redevelopment Project).

COUNCIL AND STAFF COMMUNICATIONS

COUNCILMEMBER COMMITTEE ASSIGNMENT REPORTS

CLOSED SESSIONS

16. **Subject: Conference With Legal Counsel - Pending Litigation (160.03)**

Recommendation: That Council hold a closed session to consider pending litigation pursuant to subsection (a) of section 54956.9 of the Government Code and take appropriate action as needed. The pending litigation is Valley Slurry Seal Company v. City of Santa Barbara, et. al., SBSC Case Number 1341521.

Scheduling: Duration, 30 minutes; anytime

Report: None anticipated

17. **Subject: Conference With Real Property Negotiator (330.03)**

Recommendation: That Council hold a closed session to consider instructions to its negotiators regarding the possible lease of property owned by the City, commonly known as 130 Harbor Way (APN 045-250-11). Instructions to negotiations will direct staff regarding the price and terms of payment of a possible lease of the City-owned property with the Santa Barbara Yacht Club for a 67,500 square-foot ground lease. Negotiations are held pursuant to the authority of Section 54956.8 of the Government Code. City Negotiators are: John Bridley, Waterfront Director, Scott Riedman, Waterfront Business Manager, and Sarah Knecht, Assistant City Attorney. Negotiators for Lessee are Robert Duncan and Tony Papa, Representatives of the Yacht Club, tenant. Under Negotiation: Price and terms of payment of a possible ground lease.

Scheduling: Duration, 30 minutes; anytime

Report: None anticipated

18. **Subject: Conference With Labor Negotiator (440.05)**

Recommendation: That Council hold a closed session, per Government Code Section 54957.6 to consider instructions to City negotiator Kristy Schmidt, Employee Relations Manager, regarding negotiations with the Police Officers Association, the Police Managers Association, the General Bargaining Unit, the Treatment and Patrol Bargaining Units, the Firefighters Association, the Hourly Bargaining Unit, and the Supervisory Employees Association, and regarding discussions with unrepresented management and confidential employees about salaries and fringe benefits.

Scheduling: Duration, 15 minutes; anytime

Report: None anticipated

ADJOURNMENT



PROCLAMATION

Arbor Day

March 7, 2010

WHEREAS, Arbor Day Observances will be held in California during the week of March 7th, 2010; and

WHEREAS, the City of Santa Barbara has been designated a "Tree City USA" for 30 years by the National Arbor Day Foundation; and

WHEREAS, the City of Santa Barbara is proud of its approximately 40,000 public open space, park, and street trees and recognizes the importance of professional tree care and annual tree planting programs that create a more livable community; and

WHEREAS, Arbor Day observances will be held at six local grade school campuses; and

WHEREAS, this spring, Santa Barbara is celebrating 108 years of City Parks, providing stewardship of trees, parks, and open space; and

WHEREAS, the City acknowledges Santa Barbara Beautiful's significant contribution to our urban forest through the planting of over 11,000 street trees in the past 44 years.

NOW, THEREFORE, I, HELENE SCHNEIDER, by virtue of the authority vested in me as Mayor of the City of Santa Barbara, California, do hereby proclaim March 7, 2010 as ARBOR DAY in the City of Santa Barbara and recognize the value that trees provide in enhancing the quality of our lives.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Santa Barbara, California, to be affixed this 7th day of March, 2010.


HELENE SCHNEIDER
Mayor





PROCLAMATION
COLON CANCER AWARENESS MONTH
March 2010

WHEREAS, the American Cancer Society reports that colon cancer is the second leading cause of cancer death among men and women combined. Annually, approximately 150,000 new cases of colorectal cancer are diagnosed in the United States and 56,000 people die from the disease.

WHEREAS, the Society of Gastroenterology Nurses and Associates, and the Endoscopy Department of Santa Barbara Cottage Hospital are dedicated to decreasing the number of cancer deaths in the city of Santa Barbara and throughout the country. It is imperative that access to colorectal cancer screening by colonoscopy be improved for Americans.

WHEREAS, colon cancer is a highly preventable disease and curable if found early, it is critical that screening, surveillance and healthy lifestyles be incorporated by the citizens of Santa Barbara. It is imperative that the citizens of Santa Barbara be educated and aware of appropriate colon cancer screening recommendations.

WHEREAS, Dress in Blue Day" is to be celebrated on the first Friday in March every year. This is to promote awareness about colorectal cancer and to encourage individuals to be screened. Beginning at age 50 (or earlier if you have a family history), everyone should be screened for colorectal cancer. Colonoscopy is the most effective screening method for colon cancer screening.

WHEREAS, colorectal cancer does not discriminate and it affects both women and men, it is critical that women be screened as well as men! With regular screening, colorectal cancer can be found early when treatment is most effective.

NOW, THEREFORE, I, HELENE SCHNEIDER, by virtue of the authority vested in me as Mayor of the City of Santa Barbara, do hereby proclaim March 2010 Colon Cancer Awareness Month.

IN WITNESS THEREOF, I have hereunto set my hand and caused the Official Seal of the City of Santa Barbara, California, to be affixed this 9th day of March 2010.


HELENE SCHNEIDER, MAYOR





CITY OF SANTA BARBARA CITY COUNCIL MINUTES

REGULAR MEETING February 23, 2010 COUNCIL CHAMBER, 735 ANACAPA STREET

CALL TO ORDER

Mayor Helene Schneider called the joint meeting of the Council and Redevelopment Agency to order at 2:00 p.m. (The Finance Committee and the Ordinance Committee met at 12:30 p.m.)

PLEDGE OF ALLEGIANCE

Mayor Schneider.

ROLL CALL

Councilmembers present: Dale Francisco, Frank Hotchkiss, Grant House, Michael Self, Bendy White, Das Williams, Mayor Schneider.

Councilmembers absent: None.

Staff present: City Administrator James L. Armstrong, City Attorney Stephen P. Wiley, Deputy City Clerk Susan Tschech.

PUBLIC COMMENT

Speakers: Cheri Rae, Bungalow Haven Neighborhood; Nikolai Lambert; Robert Burke; Jack Wilson; Darlena Moore; Bob Hansen; Kenneth Loch; Kate Smith.

CONSENT CALENDAR (Item Nos. 1 – 6 and 8)

The title of the resolution related to Item No. 2 was read.

Motion:

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

Vote:

Unanimous roll call vote.

1. Subject: Minutes

Recommendation: That Council waive the reading and approve the minutes of the regular meeting of February 2, 2010.

Action: Approved the recommendation.

2. Subject: Resolution For Purchase Of Property At 309 West Ortega Street For The Ortega Street Bridge Replacement Project (330.03)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Accepting Real Property Located at 309 West Ortega Street, and Authorizing the Public Works Director to Execute an Agreement for Acquisition of Real Property with Escrow Instructions and All Related Documents That May Be Required, Including, Among Others, Any Interim Rental Agreement, All Subject to Review and Approval as to Form by the City Attorney, Relating to the Proposed Ortega Street Bridge Replacement Project, and Consenting to the Recordation of the Related Deed in the Official Records, County of Santa Barbara.

Action: Approved the recommendation; Resolution No. 10-007; Agreement Nos. 23,296 and 23,297; Deed No. 61-347 (February 23, 2010, report from the Public Works Director; proposed resolution).

3. Subject: January 2010 Investment Report (260.02)

Recommendation: That Council accept the January 2010 Investment Report.

Action: Approved the recommendation (February 23, 2010, report from the Interim Finance Director).

4. Subject: Rental Agreement For Hilda Ray House (330.04)

Recommendation: That Council authorize the Parks and Recreation Director to enter into an agreement with Tatum Marie Sarinana for a 3-year and 4-month rental agreement, subject to approval of the form of the agreement by the City Attorney, for the Hilda Ray House at Hilda Ray McIntyre Ray Park, beginning March 1, 2010.

Action: Approved the recommendation; Agreement No. 23,298 (February 23, 2010, report from the Parks and Recreation Director).

5. Subject: Contract For Design Of The Lower Sycamore Creek Drainage Improvements Project (540.14)

Recommendation: That Council authorize the Public Works Director to execute a professional services contract with Penfield & Smith (P&S) in the amount of \$234,320 for design services for the Lower Sycamore Creek Drainage Improvements Project (Project), and authorize the Public Works Director to approve expenditures of up to \$23,430 for extra services of P&S that may result from necessary changes in the scope of work.

Action: Approved the recommendation; Contract No. 23,299 (February 23, 2010, report from the Public Works Director).

6. Subject: Proposed Changes To Projects Funded By Workforce Housing Reward Program (660.04)

Recommendation: That Council authorize staff to amend the projects funded by the State Workforce Housing Reward Program currently appropriated in the General Fund Capital Program.

Speakers:

Staff: Project Planner Simon Kiefer.

Action: Approved the recommendation (February 23, 2010, report from the Assistant City Administrator/Community Development Director).

Agenda Item No. 7 appears in the Redevelopment Agency minutes.

NOTICES

8. The City Clerk has on Thursday, February 18, 2010, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.

This concluded the Consent Calendar.

REPORT FROM THE FINANCE COMMITTEE

Finance Committee Chair Das Williams reported that the Committee reviewed and forwarded for Council's acceptance the January 2010 Investment Report and the Redevelopment Agency Interim Financial Statements for the six months ended December 31, 2009; these reports were approved by the Council/Redevelopment Agency as part of this agenda's Consent Calendar (Item Nos. 3 and 7, respectively). The Committee also heard a Staff report on the status of revenues and expenditures in relation to budget as of December 31, 2009, and reviewed the City's Interim Financial Statements for the six months ended December 31, 2009; these items will be considered by the Council as Agenda Item No. 11.

REPORT FROM THE ORDINANCE COMMITTEE

Ordinance Committee Chair Bendy White reported that the Committee met to consider a proposed amendment to the Santa Barbara Municipal Code establishing procedures for the appointment and service of a youth member on the Parks and Recreation Commission. The Committee voted to forward the proposed ordinance to the Council for possible introduction and subsequent adoption.

CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS

COMMUNITY DEVELOPMENT DEPARTMENT

9. Subject: Update On 2010 Census (610.01)

Recommendation: That Council hear a presentation by the United States Census Bureau regarding the 2010 Census.

Documents:

February 23, 2010, report from the Assistant City Administrator/
Community Development Director.

Speakers:

- Staff: Redevelopment Specialist Elizabeth Limón.
- United States Census Bureau: Priscilla Handley, Partnership Specialist for Santa Barbara and San Luis Obispo Counties.

Discussion:

Ms. Handley described outreach efforts being made for the 2010 United States Census and answered Councilmembers' questions.

10. Subject: Medical Cannabis Dispensary Ordinance Phase I Revisions (520.04)

Recommendation: That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending the Municipal Code by Revising Chapter 28.80 and Establishing Revised Regulations and Procedures for Medical Marijuana Dispensaries.

Documents:

- February 23, 2010, report from the Assistant City Administrator/
Community Development Director.
- Proposed Ordinance.
- Affidavit of Publication.
- PowerPoint presentation prepared and made by Staff.
- February 17, 2010, letter from L. Paul Golie.

(Cont'd)

10. (Cont'd)

Documents (Cont'd):

- February 18, 2010, letters from Santa Barbara Against Dispensaries; Gerald and Marian Groff.
- February 18, 2010, e-mail communications from Shirley Nelson; Carl Gans; Rick Lee; Karl Willig, Santa Barbara Rescue Mission Board of Directors.
- February 19, 2010, e-mail communication from Pat Johnson.
- February 21, 2010, e-mail communication from Richard Johnson.
- February 22, 2010, letter from Tony Vassallo.
- February 22, 2010, e-mail communication from Aida Cordero.
- February 23, 2010, letter from S. Timothy Buynak, Attorney representing The Pharmacy Santa Barbara.
- Undated letter from Janet Rowse.

The title of the ordinance was read.

Speakers:

- Staff: Senior Planner Danny Kato, Police Captain Armando Martel.
- Members of the Public: Hathor Hammett; Jeff Spangler; Jack Brandon; Tom Thomas, Fighting Back; John Donohue; Lilly Lawrence; Patrick Fourmy; William Leahy; Bud Andrews, Santa Barbara School Districts; Mark Russell; Sharon Palmer (letter read by Patrick Fourmy); Jen Lemberger, Fighting Back; Marge Schwartz; Denice Fellows; Tim Cooney; Cathy Oliverio, Goleta Valley Junior High PTA; Tamara Erickson; Ben Romo, Santa Barbara County Board of Education; Janet Rowse; Randy Rowse, Downtown Organization.

Recess: 3:44 p.m. - 3:57 p.m.

Speakers (Cont'd):

- Staff: City Attorney Stephen Wiley, Assistant City Administrator/Community Development Director Paul Casey.
- Members of the Public: Christina Pizarro, Juanita Merced, and Sharon Byrne, West Downtown Neighborhood Group; Marcus; Maryann Cassidy; Preston Maloney; Geoff Roland; Jerry Johnson and Derek Westen, Santa Barbara Patients Group; Hugh Marsh; Tony Vassallo; Bryce Maloney; Chris Guadagnini; Sergio Bautista; Bonnie Raisin; Jim Westby; Rolf Geyling, Santa Barbara Rescue Mission; Bonnie Donovan; Wendy Kaysing; Angela Franke; Becky Betancourt; Heather Poet; Hans Edwards; Robert Burke.

(Cont'd)

10. (Cont'd)

Motion:

Councilmembers Francisco/Hotchkiss to refer the proposed ordinance to Staff and the Ordinance Committee to 1) clarify the definition of a medical marijuana dispensary, 2) add a prohibition buffer around major substance abuse treatment facilities, but allow an exception for the siting of one dispensary in the Cottage Hospital area, 3) reduce the maximum number of dispensaries to five, and 4) delay ordinance implementation and the start of the amortization period until these revisions are finalized.

Substitute Motion:

Councilmembers Williams/House to revise the proposed ordinance to 1) reduce the maximum number of dispensaries to five, 2) remove the Mesa area and lower Chapala Street from consideration for the siting of dispensaries, and 3) revise the term "private-party" to "private patrol" (page 9 of ordinance).

Following a straw vote on the substitute motion, the substitute motion was withdrawn.

Amendment Motion:

Councilmembers Francisco/Hotchkiss to direct Staff and the Ordinance Committee to return to Council within 60 days with a revised ordinance which 1) clarifies the definition of a medical marijuana dispensary, 2) includes a prohibition buffer around major substance abuse treatment facilities, 3) excludes the Mesa area and lower Chapala Street from consideration for the siting of dispensaries, and 4) reduces the maximum number of dispensaries to five.

Vote on Original Motion as Amended:

Unanimous voice vote.

Councilmember Williams left the meeting at 7:03 p.m.

FINANCE DEPARTMENT

11. Subject: Fiscal Year 2010 Mid-Year Review (230.04)

Recommendation: That Council:

- A. Hear a report from staff on the status of revenues and expenditures in relation to budget as of December 31, 2009;
- B. Accept the Fiscal Year 2010 Interim Financial Statements for the Six Months Ended December 31, 2009; and

(Cont'd)

11. (Cont'd)

- C. Increase appropriations in the Miscellaneous Grants Fund by \$43,712 for the purchase of a Breathing Air Compressor Fill Station for fire operations from reserves accumulated in the Miscellaneous Grants Fund for Hazmat expenditures.

City Administrator Armstrong advised that the Staff report referred to in recommendation A would be postponed until a special meeting of Council to be held February 25, 2010.

Documents:

February 23, 2010, report from the Interim Finance Director.

Motion:

Councilmembers Francisco/White to approve recommendations B and C.

Vote:

Unanimous voice vote (Absent: Councilmember Williams).

CHANGES TO THE AGENDA

Item Continued to Future Agenda

City Administrator Armstrong stated that the following item would be continued to a future date:

12. Subject: Conference With Real Property Negotiator (330.03)

Recommendation: That Council hold a closed session pursuant to the authority of Section 54956.8 of the Government Code to consider instructions to City staff and the City Attorney regarding potential lease negotiations with R. D. Olson Development for a four-acre parcel of real property located at 6100 Hollister Avenue at the Airport, bounded by Hollister Avenue, Frederic Lopez Road, Francis Botello Road and David Love Place, owned by the City of Santa Barbara (Parcel 22 of the Airport Specific Plan Map [City Parcel Map No. 20,608]). City Negotiators are: Karen Ramsdell, Airport Director; Paul Casey, Assistant City Administrator/Community Development; and Sarah Knecht, Assistant City Attorney; and negotiator for Lessee is Robert D. Olson, owner.

Scheduling: Duration, 20 minutes; anytime

Report: None anticipated



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 9, 2010

TO: Mayor and Councilmembers

FROM: Community Development Department, Housing and Redevelopment Division

SUBJECT: Records Destruction For Community Development Department

RECOMMENDATION:

That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Relating to the Destruction of Records Held by the Community Development Department in the Housing and Redevelopment Division.

DISCUSSION:

The City Council adopted Resolution No. 09-098 on December 15, 2009, approving the City of Santa Barbara Records Management Policies and Procedures Manual. The Manual contains the records retention and disposition schedules for all City departments. The schedules are a comprehensive listing of records created or maintained by the City, the length of time each record should be retained, and the legal retention authority. If no legal retention authority is cited, the retention period is based on standard records management practice.

Pursuant to the Manual, the Community Development Director submitted a request for records destruction to the City Clerk Services Manager to obtain written consent from the City Attorney. The City Clerk Services Manager agreed that the list of records proposed for destruction conformed to the retention and disposition schedules. The City Attorney has consented in writing to the destruction of the proposed records.

The Community Development Director requests the City Council to approve the destruction of the Community Development Department records in the Housing and Redevelopment Division listed on Exhibit A of the resolution without retaining a copy.

SUSTAINABILITY IMPACT:

Under the City's Sustainable Santa Barbara Program, one of the City's goals is to increase recycling efforts and divert waste from landfills. The Citywide Records Management Program outlines that records approved for destruction be recycled, reducing paper waste.

Council Agenda Report
Records Destruction For Community Development Department
March 9, 2010
Page 2

PREPARED BY: Janette Carr, Administrative Specialist

SUBMITTED BY: Paul Casey, Assistant City Administrator - Community
Development

APPROVED BY: City Administrator's Office

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SANTA BARBARA RELATING TO THE DESTRUCTION OF
RECORDS HELD BY THE COMMUNITY DEVELOPMENT
DEPARTMENT IN THE HOUSING AND
REDEVELOPMENT DIVISION

WHEREAS, the City Council adopted Resolution No. 09-098 on December 15, 2009, approving the City of Santa Barbara Records Management Policies and Procedures Manual;

WHEREAS, the City of Santa Barbara Records Management Policies and Procedures Manual contains the records retention and disposition schedules for all City departments. The records retention and disposition schedules are a comprehensive listing of records created or maintained by the City, the length of time each record should be retained, and the legal retention authority. If no legal retention authority is cited, the retention period is based on standard records management practice;

WHEREAS, Government Code section 34090 provides that, with the approval of the City Council and the written consent of the City Attorney, the head of a City department may destroy certain city records, documents, instruments, books or papers under the Department Head's charge, without making a copy, if the records are no longer needed;

WHEREAS, the Community Development Director submitted a request for the destruction of records held by the Community Development Department to the City Clerk Services Manager to obtain written consent from the City Attorney. A list of the records, documents, instruments, books or papers proposed for destruction is attached hereto as Exhibit A and shall hereafter be referred to collectively as the "Records";

WHEREAS, the Records do not include any records affecting title to real property or liens upon real property, court records, records required to be kept by statute, records less than two years old, video or audio recordings that are evidence in any claim or pending litigation, or the minutes, ordinances or resolutions of the City Council or any City board or commission;

WHEREAS, the City Clerk Services Manager agrees that the proposed destruction conforms to the City's retention and disposition schedules;

WHEREAS, the City Attorney consents to the destruction of the Records; and

WHEREAS, the City Council of the City of Santa Barbara finds and determines that the Records are no longer required and may be destroyed.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA that the Community Development Director, or his designated representative, is authorized and directed to destroy the Records without retaining a copy.

COMMUNITY DEVELOPMENT DEPARTMENT
HOUSING AND REDEVELOPMENT DIVISION

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG)

<u>Record Series</u>	<u>Date(s)</u>
CDBG Files	2004
Community Development Block Grant Project Files	1999 and 2004

HUMAN SERVICES

<u>Record Series</u>	<u>Date(s)</u>
Human Services Project Files	2002

RENTAL HOUSING MEDIATION TASK FORCE (RHMTF)

<u>Record Series</u>	<u>Date(s)</u>
Intake Forms	2002 – 2004
Statistical Reports	2002 – 2004

HOUSING REHABILITATION LOAN PROGRAM (HLRP)

<u>Record Series</u>	<u>Date(s)</u>
HRLP and Project Files	1985 – 2004

REDEVELOPMENT AGENCY

<u>Record Series</u>	<u>Date(s)</u>
Contracts and Agreements	1991 – 1994
Reports and Studies	1972 - 1978 and 1985
Leases	1997 and 2005



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 9, 2010
TO: Mayor and Councilmembers
FROM: Administration Division, Waterfront Department
SUBJECT: Records Destruction For Waterfront Department

RECOMMENDATION:

That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Relating to the Destruction of Records Held by the Waterfront Department in the Administration Division.

DISCUSSION:

The City Council adopted Resolution No. 09-098 on December 15, 2009, approving the City of Santa Barbara Records Management Policies and Procedures Manual. The Manual contains the records retention and disposition schedules for all City departments. The schedules are a comprehensive listing of records created or maintained by the City, the length of time each record should be retained, and the legal retention authority. If no legal retention authority is cited, the retention period is based on standard records management practice.

Pursuant to the Manual, the Waterfront Director submitted a request for records destruction to the City Clerk Services Manager to obtain written consent from the City Attorney. The City Clerk Services Manager agreed that the list of records proposed for destruction conformed to the retention and disposition schedules. The City Attorney has consented in writing to the destruction of the proposed records.

The Waterfront Director requests the City Council to approve the destruction of the Waterfront Department records in the Administration Division listed on Exhibit A of the resolution without retaining a copy.

SUSTAINABILITY IMPACT:

Under the City's Sustainable Santa Barbara Program, one of the City's goals is to increase recycling efforts and divert waste from landfills. The Citywide Records Management Program outlines that records approved for destruction be recycled, reducing paper waste.

Council Agenda Report
Records Destruction For Waterfront Department
March 9, 2010
Page 2

PREPARED BY: Mary Adams, Executive Assistant

SUBMITTED BY: John N. Bridley, Waterfront Director

APPROVED BY: City Administrator's Office

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA RELATING TO THE DESTRUCTION OF RECORDS HELD BY THE WATERFRONT DEPARTMENT IN THE ADMINISTRATION DIVISION

WHEREAS, the City Council adopted Resolution No. 09-098 on December 15, 2009, approving the City of Santa Barbara Records Management Policies and Procedures Manual;

WHEREAS, the City of Santa Barbara Records Management Policies and Procedures Manual contains the records retention and disposition schedules for all City departments. The records retention and disposition schedules are a comprehensive listing of records created or maintained by the City, the length of time each record should be retained, and the legal retention authority. If no legal retention authority is cited, the retention period is based on standard records management practice;

WHEREAS, Government Code section 34090 provides that, with the approval of the City Council and the written consent of the City Attorney, the head of a City department may destroy certain city records, documents, instruments, books or papers under the Department Head's charge, without making a copy, if the records are no longer needed;

WHEREAS, the Waterfront Director submitted a request for the destruction of records held by the Waterfront Department to the City Clerk Services Manager to obtain written consent from the City Attorney. A list of the records, documents, instruments, books or papers proposed for destruction is attached hereto as Exhibit A and shall hereafter be referred to collectively as the "Records";

WHEREAS, the Records do not include any records affecting title to real property or liens upon real property, court records, records required to be kept by statute, records less than two years old, video or audio recordings that are evidence in any claim or pending litigation, or the minutes, ordinances or resolutions of the City Council or any City board or commission;

WHEREAS, the City Clerk Services Manager agrees that the proposed destruction conforms to the City's retention and disposition schedules;

WHEREAS, the City Attorney consents to the destruction of the Records; and

WHEREAS, the City Council of the City of Santa Barbara finds and determines that the Records are no longer required and may be destroyed.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA that the Waterfront Director, or his designated representative, is authorized and directed to destroy the Records without retaining a copy.

WATERFRONT DEPARTMENT – ADMINISTRATION DIVISION

<u>Records Series</u>	<u>Date(s)</u>
Slip Files	2003 & 2005
Watch Logs	2004
Administrative Files	1993, 1999 & 2003-4
Visitor Registration Cards	2004-05
Slip Checks	2006-07
Case Reports	1999
Harbor Patrol Subject Files	2004-07
Harbor Patrol Logs	1999
Business Activity Reports	2006-07
Special Events Files	2006
Daily Parking Kiosk Revenue Reports	2007
Stearns Wharf Administrative Subject Files	2001-04
Telephone Messages	2007
Correspondence	1998-2008
Stearns Wharf Safety Files	1980-2004
Training Records	2000-2007
Travel Expense Records	2000-2002



Agenda Item No. _____
File Code No. 290.00

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 9, 2010

TO: Mayor and Council Members

FROM: Fire Prevention Bureau, Fire Department

SUBJECT: Agreement With SCI Consulting Group For Engineering Services To Renew The Wildland Fire Suppression Assessment District

RECOMMENDATION:

That Council authorize the Fire Chief, subject to approval as to form by the City Attorney, to negotiate and execute a five-year professional services agreement with SCI Consulting Group (SCI) in the amount of \$34,375, which includes a 10% contingency, for the purpose of providing engineering services necessary for the annual renewal of the Wildland Fire Suppression Assessment District (WFSAD).

DISCUSSION:

In June 2006, the City Council established the Wildland Fire Suppression Assessment District (WFSAD) to expand vegetation road clearance, implement a defensible space inspection and assistance program, and implement a vegetation management program within the Foothill and Extreme Foothill Zones.

The assessment district must be renewed on an annual basis. In accordance with Proposition 218 (The Right to Vote on Taxes Act), a certified engineer's report is required to determine whether the benefit of the assessment is special to each parcel in the District and whether the assessment is proportional to the special benefit.

As part of the initial work and formation of the assessment district, the City contracted with Shilts Consultants Inc. (SCI), to undertake the studies, engineering and balloting work necessary under state law to form an assessment district.

Since the formation of the WFSAD in June 2006, the Fire Department has used SCI each year for the renewal because of their expertise with assessment districts, knowledge of the local community, and legal understanding of Proposition 218 requirements.

In addition to routine renewal of the WFSAD, SCI also provided the following services in the past year. Several important judicial opinions challenging the formation to assessment districts under Proposition 218 required SCI assistance, in consultation with the City Attorney's Office, to ensure that the assessments met the requirements for special benefit and proportionality. When the City was faced with the challenge of the Tea Fire, which affected property values, the City decided to reimburse levied assessments for property owners that had lost their homes. SCI provided the City with the mechanism to move forward with the reimbursements, required property calculations, reviewed the public letter to property owners and helped explain the reimbursement process to the City.

SCI is widely recognized as a leader in this highly specialized field and is the only firm hired by the State of California as a sole source for their Proposition 218 expertise. The Fire Department believes that SCI's expertise and professionalism continue to make them the best value.

Scope of Services

The specific scope of services provided by SCI for administration and renewal of the assessment district include:

- Provide initial planning, property research and assistance with preparation of assessment budgets.
- Complete acquisition and validation of current property data, comparison with other property data sources and data accuracy validation services.
- Complete comprehensive research and confirmation of all levies on a parcel-by-parcel basis, and submittal to Santa Barbara County Auditor.
- Prepare notices, Council Resolutions, and City of Santa Barbara review items.
- Prepare an annual Assessment Report that will meet all legal requirements for the continuation of the assessments and provide the specific assessment amount for each parcel.
- Levy collection reports and confirmation of the accuracy of the Auditor's Tax Roll for the District.
- Use SCI's toll-free 800 phone line for inclusion with tax bills and directly respond to property owner inquiries regarding their proposed assessments or other questions about the Wildland Fire Suppression Assessment or the services and improvements it funds.
- Keep the City apprised of any legal changes to Proposition 218 policies and procedures that may affect the Wildland Fire Suppression Assessment.

BUDGET/FINANCIAL INFORMATION:

The costs for SCI's services for a contract period of 5 years are as follows:

FY 2010-11	\$ 6,650
FY 2011-12	\$ 6,150
FY 2012-13	\$ 6,150
FY 2013-14	\$ 6,150
FY 2014-15	\$ 6,150
10% Contingency	<u>\$ 3,125</u>
	\$34,375

The total contract cost is \$34,375, including incidentals and a 10% contingency. The single year contract cost for SCI services has historically been \$6,500, plus \$650 for incidentals. The net savings to the City to enter into a professional services agreement with SCI for 5 years is \$4,500.

Pursuant to the proposed professional services agreement, the Fire Chief is authorized to execute, subject to Council's approval of the assessment district renewal each year, the annual renewal of the contract based on the assessment district's fiscal year budget.

Based on the cost savings, and SCI's exemplary record, the Fire Department requests approval for the Fire Chief to execute a five-year professional services agreement with SCI for the annual renewal of the Wildland Fire Suppression Assessment District through 2015.

The funds for engineering services are budgeted in the Wildland Fire Suppression Assessment Fund. These costs are added to the final assessment amount and recovered through the assessment to property owners.

In the upcoming months, the annual renewal of the assessment district will return to Council with the determined assessment value.

PREPARED BY: Joseph Poiré, Fire Marshal

SUBMITTED BY: Andrew DiMizio, Fire Chief

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 9, 2010

TO: Mayor and Councilmembers

FROM: Engineering Division, Public Works Department

SUBJECT: Contract For Construction Of Alisos Street Sidewalk Access Ramps

RECOMMENDATION: That Council:

- A. Award a contract with Talcal Engineering, Inc. (Talcal), in the amount of \$145,015, for construction of the Alisos Street Sidewalk Access Ramps (Project), Bid No. 3597; and
- B. Authorize the Public Works Director to execute a contract with Talcal in the amount of \$145,015, and approve expenditures up to \$14,500 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment.

DISCUSSION:

PROJECT DESCRIPTION

The Project is funded primarily through the American Recovery and Reinvestment Act of 2009 (Recovery Act), signed into law by President Obama on February 17, 2009. The Recovery Act awarded \$1 billion in Community Development Block Grant (CDBG-R) funds to be distributed to cities, counties, insular areas, and states. The City's portion of these funds total \$289,274. Based on this funding, the City's Community Development and Human Services Committee recommended CDBG-R funding in the amount of \$156,883 for this Project, to be administered by the Public Works Department.

Alisos Street is a heavily used pedestrian alternative to Milpas Street and has many locations where there are no sidewalk access ramps. In 2006, the Access Advisory Committee advised staff that Alisos Street is a priority for sidewalk access ramps in order to complete accessibility of the street corridor. The City subsequently completed a 2008 Community Development Block Grant (CDBG) project to construct sidewalk access ramps at three intersections on Alisos Street.

There are many intersections on Alisos Street that still need sidewalk access ramps. The Project consists of installing sidewalk access ramps at six intersections on Alisos Street. Curb extensions are not included in the construction plans for this Project.

The work locations are: the intersection of Alisos Street at Ortega Street (two ramps); Alphonse Street (two ramps); Haley Street (four ramps); Neil Park Street (two ramps); Yanonali Street (three ramps); and Mason Street (three ramps), as shown on the Project Location Map (Attachment 1). The completed Project will enhance accessibility along this route of travel in conformance with the Americans with Disabilities Act.

CONTRACT BIDS

A total of eight bids were received for the subject work. The bid ranges are shown on Attachment 2.

The low base bid of \$113,205, submitted by Talcal, is an acceptable bid that is responsive to and meets the requirements of the bid specifications. To maximize the use of available funds, this project was divided into two bid schedules. Favorable bids were received for the base bid in Bid Schedule 1, providing sufficient funding to award Bid Schedule 2 for an additional \$31,810. Bid Schedule 2 includes sidewalk access ramps at the intersection of Alisos Street and Mason Street.

The total contract amount is \$145,015, plus change order funding. The change order funding recommendation of \$14,500, or 10%, is typical for this type of work and size of project.

PUBLIC OUTREACH

Prior to construction, notices will be delivered to each business and residence located within 200 feet of the work included within this contract. The notice will include a brief outline of the work, project schedule, and phone contacts for the contractor and City. Notice will also be given to the Santa Barbara Metropolitan Transit District, Clean Air Express, and the Coastal Express.

FUNDING

This Project is funded with CDBG-R and Measure D funds. The CDBG-R amount of \$156,883 is for construction only. Measure D funding is for staff time and the small portion of the construction contract that exceeds the available CDBG-R funds. There are sufficient appropriated funds in the CDBG Fund and Streets Fund to cover the cost.

The following summarizes the expenditures recommended in this report:

CONSTRUCTION CONTRACT FUNDING SUMMARY

	Basic Contract	Change Funds	Total
Talcal Engineering, Inc.	\$145,015	\$14,500	\$159,515
TOTAL RECOMMENDED AUTHORIZATION			\$159,515

The following summarizes all Project design costs, construction contract funding, and other Project costs:

ESTIMATED TOTAL PROJECT COST

Task	City Share	CDBG-R Share	Total Amount
Design (by City staff)	\$22,750	\$0	\$22,750
Survey (by City staff)	\$10,250	\$0	\$10,250
Subtotal	\$33,000	\$0	\$33,000
Construction Contract	\$0	\$145,015	\$145,015
Construction Change Order Allowance	\$2,632	\$11,868	\$14,500
Subtotal	\$2,632	\$156,883	\$159,515
Construction Management/Inspection (by City Staff)	\$32,000	\$0	\$32,000
Other Construction Costs (testing, etc.)	\$1,750	\$0	\$1,750
Subtotal	\$33,750	\$0	\$33,750
TOTAL PROJECT COST	\$69,382	\$156,883	\$226,265

SUSTAINABILITY IMPACT:

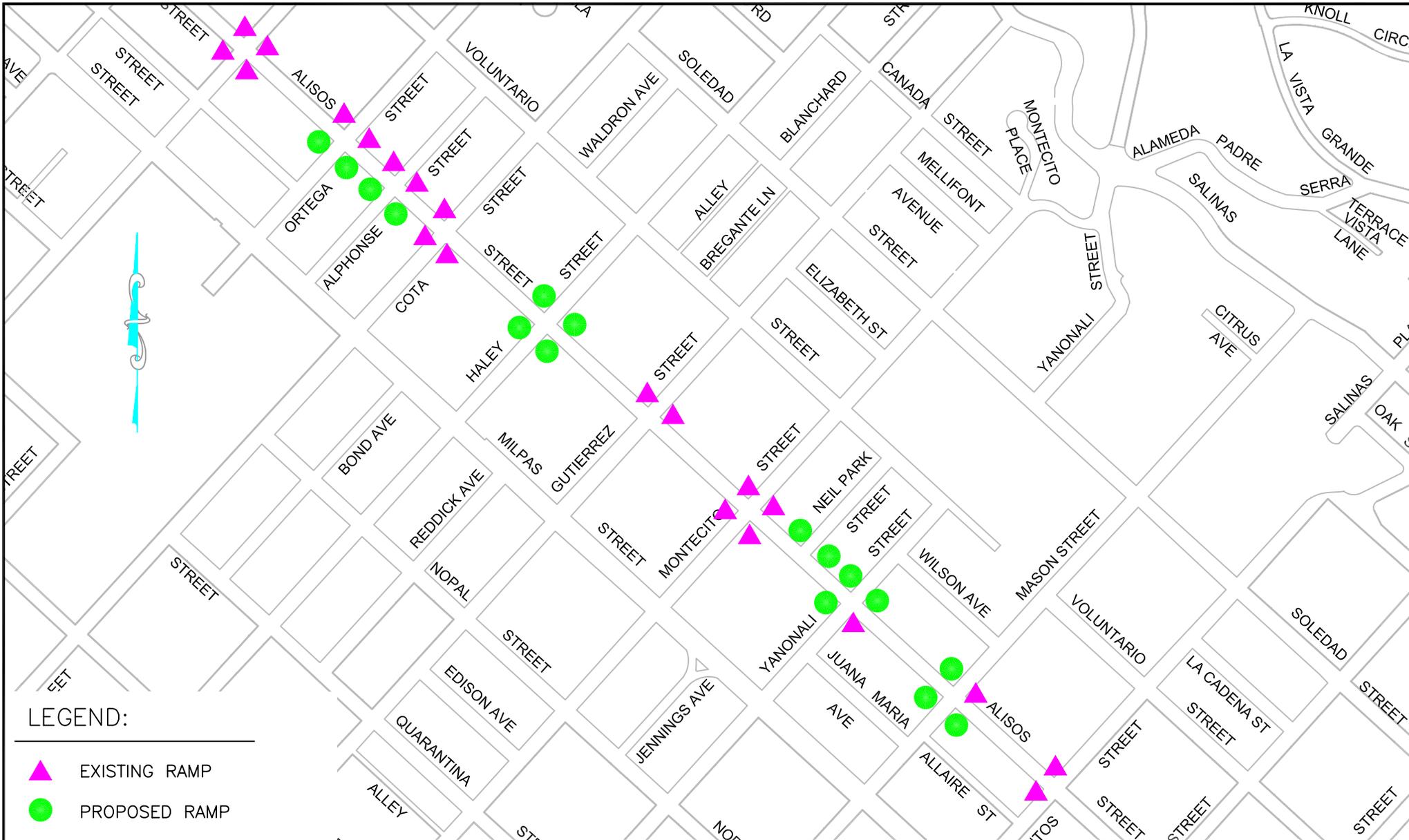
This Project will improve safety and accessibility for pedestrians along Alisos Street. It will also contribute to the City's sustainability goals by encouraging more people to walk along this corridor, reducing fuel consumption and air pollution.

ATTACHMENTS: 1. Alisos Street Sidewalk Access Ramps Project Location Map
 2. Contract Bid Schedules

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

SUBMITTED BY: Christine F. Andersen, Public Works Director

APPROVED BY: City Administrator's Office



LEGEND:

- ▲ EXISTING RAMP
- PROPOSED RAMP



ALISOS STREET SIDEWALK ACCESS RAMPS PROJECT LOCATION MAP

BID NO. 3597

DESIGN:	BD
DRAWN:	BD
CHECKED:	JE
DATE:	2/2/2010
SCALE:	N.T.S.

ALISOS SIDEWALK PROJECT CONTRACT BID SCHEDULES

BIDDER	BID SCHEDULE				
	1	2	3	4	5
1. Talcal Engineering, Inc. West Hills, CA	\$113,205.00	\$31,810.00	\$17,985.00	\$21,115.00	\$19,155.00
2. PE Pacific Engineering Company Bakersfield, CA	\$113,318.75**	\$28,554.50**	\$13,113.00**	\$16,161.50	\$14,550.50**
3. Aguilera Brothers Construction, Inc. Santa Paula, CA	\$114,610.00	\$32,800.00	\$15,890.00	\$21,385.00	\$17,415.00
4. Lash Construction, Inc. Santa Barbara, CA	\$130,890.00	\$31,777.86	\$15,510.00	\$22,075.00	\$21,400.00
5. B + T Works, Inc. Wildomar, CA	\$151,570.00	\$39,055.00	\$18,350.00	\$24,540.00	\$21,355.00
6. Granite Construction Company Watsonville, CA	\$170,208.75**	\$34,105.00	\$14,240.00	\$21,310.00	\$16,870.00
7. V. Lopez Jr. & Sons, Inc. Santa Maria, CA	\$212,823.25	\$44,953.20	\$18,815.05**	\$29,582.65	\$17,606.25**
8. G. Sosa Construction, Inc. Santa Maria, CA	\$232,110.00	\$70,135.00	\$34,890.00	\$46,810.00	\$39,165.00

* Award of contract based on low bid Bid Schedule 1 (Base Bid)

**Corrected bid total



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 9, 2010

TO: Mayor and Councilmembers

FROM: Engineering Division, Public Works Department

SUBJECT: Contract For Construction Of Eastside Sidewalk Access Ramps

RECOMMENDATION: That Council:

- A. Award a contract with Draper Construction (Draper), in the amount of \$88,675.75, for construction of the Eastside Sidewalk Access Ramps (Project), Bid No. 3598; and
- B. Authorize the Public Works Director to execute a contract with Draper in the amount of \$88,675.75, and approve expenditures up to \$8,900.00 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment.

DISCUSSION:

PROJECT DESCRIPTION

The Project is funded primarily through the City's annual Community Development Block Grant (CDBG). The Community Development and Human Services Committee recommended use of 2010 CDBG funding in the amount of \$90,000 for this Project, to be administered by the Public Works Department.

The Eastside is a heavily used pedestrian area and has many areas where there are no sidewalk access ramps. The Project consists of installing sidewalk access ramps at seven intersections in the Eastside neighborhood. Curb extensions are not included in the construction plans for this Project.

The work will be completed at the following intersections: Alisos Street at Cacique Street (two ramps), Canada Street at Indio Muerto Street (four ramps), Soledad Street at Carpinteria Street (two ramps), Soledad Street at Indio Muerto Street (two ramps), Salinas Street at Indio Muerto Street (two ramps), Voluntario Street at Quinientos Street (one ramp), and Salinas Street at Carpinteria Street (four ramps), as shown on Attachment 1. The Access Advisory Committee supported sidewalk access ramps at these locations in the Eastside area. The completed Project will enhance accessibility along this route of travel in conformance with the Americans with Disabilities Act.

CONTRACT BIDS

A total of nine bids were received for the subject work. The bid range is shown on Attachment 2.

The low base bid of \$55,886, submitted by Draper, is an acceptable bid that is responsive to and meets the requirements of the bid specifications. To maximize the use of available funds, this project was divided into multiple bid schedules. Favorable bids were received for the base bid in Bid Schedule 1, providing sufficient funding to award alternate Bid Schedules 2 and 3 for an additional \$32,789.75. Bid Schedule 2 includes sidewalk access ramps at the intersection of Voluntario Street and Quinientos Street. Bid Schedule 3 includes sidewalk access ramps at the intersection of Salinas Street and Carpinteria Street.

The total contract amount is \$88,675.75, not including the change order funding. The change order funding recommendation of \$8,900, or 10%, is typical for this type of work and size of project.

PUBLIC OUTREACH

Prior to construction, notices will be delivered to each business and residence located within 200 feet of the work included within this contract. The notice will include a brief outline of the work, Project schedule, and the Contractor and City contact representatives with phone numbers. Notice will also be given to the Santa Barbara Metropolitan Transit District, Clean Air Express, and the Coastal Express.

FUNDING

This Project is funded with CDBG and Measure D funds. The CDBG amount of \$90,000 is for construction only. Measure D funding is for City staff time and the small portion of the construction contract that exceeds the available CDBG funds. There are sufficient appropriated funds in the CDBG Fund and Streets Fund to cover the cost of this Project.

The following summarizes the expenditures recommended in this report:

CONSTRUCTION CONTRACT FUNDING SUMMARY

	Basic Contract	Change Funds	Total
Draper Construction	\$88,675.75	\$8,900	\$97,575.75
TOTAL RECOMMENDED AUTHORIZATION			\$97,575.75

The following summarizes all Project design costs, construction contract funding, and other costs:

ESTIMATED TOTAL PROJECT COST

Task	City Share	CDBG Share	Total Amount
Design (by City staff)	\$12,250.00	\$0	\$12,250.00
Survey (by City staff)	\$5,500.00	\$0	\$5,500.00
Subtotal	\$17,750.00	\$0	\$17,750.00
Construction Contract	\$0	\$88,675.75	\$88,675.75
Construction Change Order Allowance	\$7,575.75	\$1,324.25	\$8,900.00
Subtotal	\$7,575.75	\$90,000.00	\$97,575.75
Construction Management/Inspection (by City Staff)	\$20,000.00	\$0	\$20,000.00
Other Construction Costs (testing, etc.)	\$1,000.00	\$0	\$1,000.00
Subtotal	\$21,000.00	\$0	\$21,000.00
TOTAL PROJECT COST	\$46,325.75	\$90,000.00	\$136,325.75

SUSTAINABILITY IMPACT:

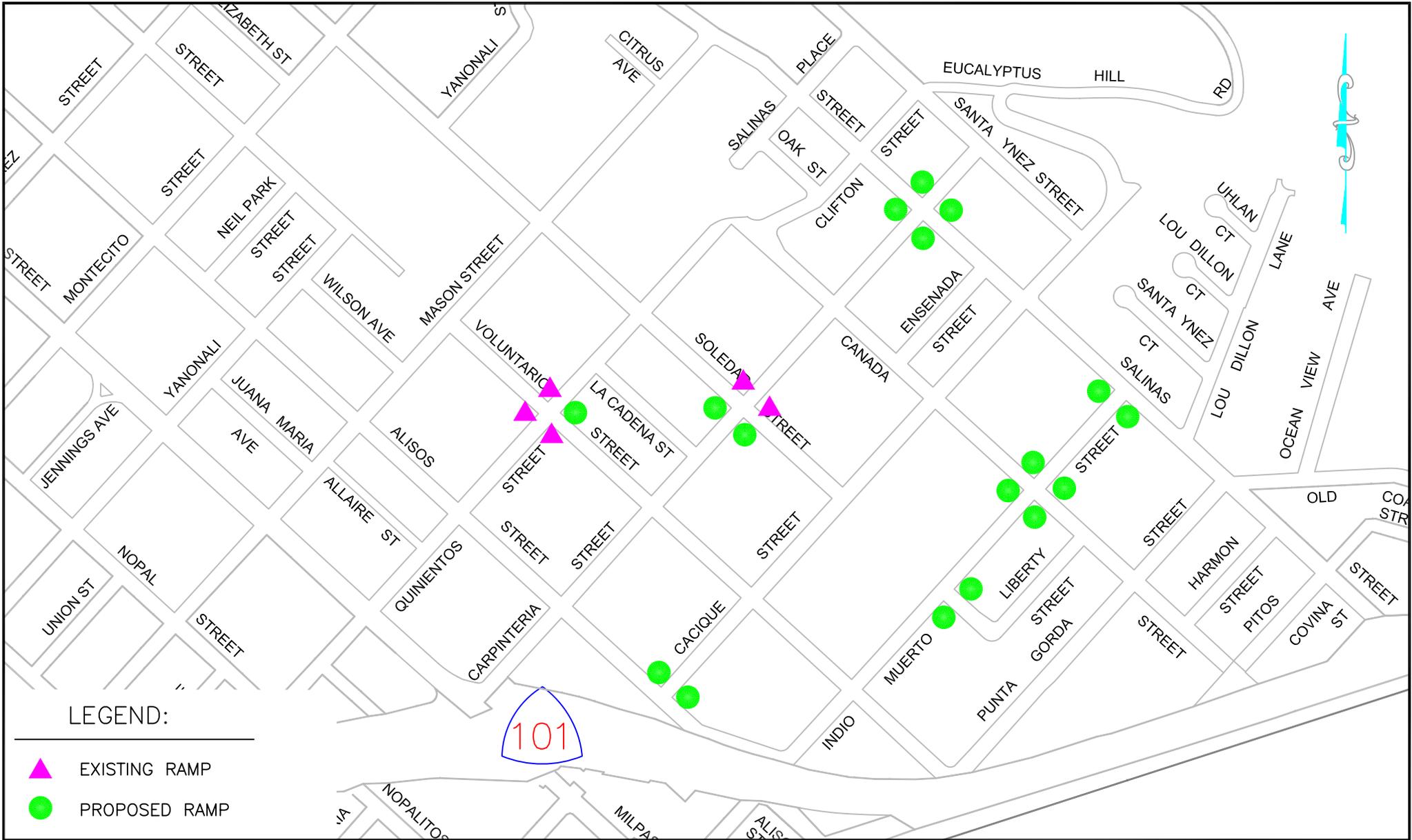
This Project will improve safety and accessibility for pedestrians in the Eastside neighborhood. This Project will contribute to the City's sustainability goals by encouraging more people to walk along this corridor, reducing fuel consumption and air pollution.

ATTACHMENTS: 1. Eastside Sidewalk Access Ramps Project Location Map
 2. Eastside Sidewalk Project Contract Bid Schedules

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

SUBMITTED BY: Christine F. Andersen, Public Works Director

APPROVED BY: City Administrator's Office



LEGEND:

-  EXISTING RAMP
-  PROPOSED RAMP



EASTSIDE SIDEWALK ACCESS RAMPS PROJECT LOCATION MAP

BID NO. 3598

DESIGN:	BD
DRAWN:	BD
CHECKED:	JE
DATE:	2/2/2010
SCALE:	N.T.S.

EASTSIDE SIDEWALK PROJECT CONTRACT BID SCHEDULES

BIDDER	BID SCHEDULE		
	1*	2	3
1. Draper Construction Somis, CA	\$55,886.00	\$7,268.75**	\$25,521.00
2. PE Pacific Engineering Company Bakersfield, CA	\$62,212.00**	\$5,970.00	\$23,265.00**
3. Aguilera Brothers Construction, Inc. Santa Paula, CA	\$114,610.00	\$14,685.00	\$34,225.00
4. Granite Construction Company Watsonville, CA	\$130,890.00	\$9,960.00	\$29,667.00
5. Toro Enterprises, Inc. Oxnard, CA	\$151,570.00	\$12,652.50	\$37,550.00
6. Lash Construction, Inc. Santa Barbara, CA	\$169,992.75*	\$8,510.00	\$37,170.00
7. Talcal Engineering, Inc. West Hills, CA	\$212,823.25	\$11,125.00	\$45,800.00
8. G. Sosa Construction, Inc. Santa Maria, CA	\$232,110.00	\$24,175.00	\$75,660.00
9. V. Lopez Jr. & Sons, Inc. Santa Maria, CA	\$232,110.00	\$11,288.65**	\$53,022.40

*Contract awarded to low bidder of Bid Schedule 1 (Base Bid)

**corrected bid total



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 9, 2010

TO: Mayor and Councilmembers

FROM: Environmental Services Division, Finance Department

SUBJECT: GeoSyntec Contract For Research Into Landfill Area At Garden And Montecito Streets

RECOMMENDATION:

That Council authorize the Finance Director to approve a change order in the amount of \$12,700, for a contract total of \$36,400 with Geosyntec Consultants, Inc., for the development of a final report on the old landfill area at Garden and Montecito Streets as requested by the Central Coast Regional Water Quality Control Board.

DISCUSSION:

On February 6, 2004, the Central Coast Regional Water Quality Control Board (Water Board) adopted a General Order designed to more closely regulate closed, inactive or abandoned landfills in the State of California. The General Order's general discharge requirements stated that owners/operators of landfills on this list were required to perform regular monitoring of their respective sites to determine whether and to what extent a closed, inactive or abandoned landfill might be impacting surface and/or groundwater. Contained on the 2004 General Order list of landfill sites is an area formerly owned by Southern Pacific Transportation Company in the area south of the 101 freeway, near Montecito and Garden Streets.

In response to the General Order, the City hired Padre Associates (Padre) to conduct an investigation of the area and to determine whether and the extent to which the fill in this area had any impacts on surface or groundwater. On March 1, 2004, after researching the site, Padre Associates requested a waiver on behalf of the City to the General Discharge Requirements. Padre asserted that any remaining fill at the site primarily consists of inert soil and debris associated with the 1925 earthquake and, as a result, does not contain significant quantities of decomposable waste. Padre also cited the County Environmental Health Services Department's annual monitoring and reporting program for the site that has been in place since 1992. The results of County's monitoring and reporting program have not indicated the presence or evidence of leachate from the fill or any potential degradation to surface or groundwater.

On July 31, 2007, Water Board staff responded, stating that they were unable to grant a waiver without first receiving a Report of Waste Discharge (ROWD) from the City and, with it, a more compelling explanation of why the fill material poses no threat to surface or groundwater.

In response, the City hired Padre again to develop a ROWD. On June 12, 2008, Padre submitted the ROWD on behalf of the City and reiterated that the fill material contained within the area does not appear to be a threat to the environment or human health. They also reiterated the findings of the county Environmental Health Services Department's monitoring and reporting program indicating no evidence of leachate from the site or any potential degradation of surface and/or groundwater. In their response to the ROWD, the Water Board staff requested that the City submit several additional reports, including a: 1) Wet Weather Preparedness Report; 2) Sampling and Analysis Plan; 3) Existing Monitoring Data Report; 4) Proposed Deed Notice or similar mechanism.

Before spending additional taxpayer funds to create additional reports and plans, staff felt it was prudent to first determine, without a doubt, whether the City actually owned or operated a landfill operation in the area at any time, and what the true boundaries of such a landfill were. If it was determined that the City did own or operate a landfill in the area, additional research would be conducted to determine if there are real threats to surface and/or groundwater and the requested reports would be prepared. Staff believes this prudent approach satisfies dual interests of being good stewards of public funds while taking responsibility for the assessment of environmental contamination if the City is determined to be responsible.

To accomplish these objectives the City hired Geosyntec Consultants (Geosyntec) at a cost of \$23,700 in October, 2009 to determine historical ownership and land uses of the site and to analyze all existing groundwater monitoring data. Geosyntec is a national firm that specializes in the design and construction of solid waste disposal facilities, and has prior experience working on local landfill projects, including those at Elings Park.

On December 9, 2009, after the bulk of Geosyntec's research had been conducted, City staff and Geosyntec met with Water Board staff to discuss their preliminary findings and the next steps for the site. One of the major topics of discussion at the meeting was the fact that, while it is clear that landfilling occurred throughout the lower eastside area, it does not appear that the City ever owned or operated a landfill in the area in question. Water Board staff have now requested a summary report from the City demonstrating Geosyntec's findings.

Because staff did not know whether or in what format a report to the Water Board might be required at the time, a formal summary report of Geosyntec's research was not a part of their original scope of work. As a result, they have requested additional funds of \$12,700 to develop and revise a final written report documenting all of their findings for the Water Board. Of this total amount, \$7,500 is for the initial written report and staff expects that the remaining \$5,200 will only be used in or part or full, as needed, if revisions are necessary.

In the meeting of December 9, 2009, Water Board staff also requested that City staff work to develop a mechanism by which the City could educate developers in the proper handling and disposal of any debris-impacted soils in the City. To that end, Environmental Services staff has been working with Community Development to develop educational materials that will be included in all ministerial and discretionary permit packages. Water Board staff have indicated satisfaction with these actions.

BUDGET/FINANCIAL INFORMATION:

If approved, the cost of this change order would be \$12,700 with a revised contract total of \$36,400 paid with Solid Waste Funds. There is no impact on the General Fund.

PREPARED BY: Stephen MacIntosh, Environmental Services Supervisor

SUBMITTED BY: Robert Samario, Interim Finance Director

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 9, 2010

TO: Mayor and Councilmembers

FROM: Administration Division, Fire Department

SUBJECT: Purchase Order For Fire Department Breathing Air Compressor

RECOMMENDATION:

That Council find it in the best interest of the City to waive the bidding process as provided in Municipal Code Section 4.52.070(l) and authorize the General Services Manager to issue a purchase order to Bauer Compressors in the amount of \$50,144.18 to replace the Fire Department's main breathing air compressor.

DISCUSSION:

The Fire Department's primary breathing air compressor is located at Fire Station One, 121 W. Carrillo Street. The compressor requiring replacement was manufactured by American Bristol Breathing Air Systems and purchased in 1999 for \$27,434. The compressor was in serviceable order prior to being placed in storage during the recent remodel of Station One. After reinstallation, it was determined that the compressor had suffered a malfunction in the central operating unit and would not function correctly. A replacement operating unit was sought, but was found to be unavailable because the manufacturer is no longer in business, having been purchased by Scott/Tyco in 2002.

The Fire department is currently using a mobile air compressor to fill self-contained breathing cylinders, but it lacks the capacity to recharge large amounts of air bottles in the case of long duration, high intensity events. Staff is recommending that the normal bidding procedures be waived and the City purchase and install a Bauer Unicus III air compressor because:

- A) A dependable source providing predictable volumes of breathing air is a critical need for firefighting and emergency services (including Harbor Patrol)
- B) A same source maintenance contract can be established for both the mobile and the stationary units through Bauer Compressors, resulting in cost savings from both machines being serviced at the same time by one technician
- C) Bauer Compressors has a unit located in Los Angeles, California, available for immediate installation, with minimal freight charges
- D) Vendor is offering training on site for fire department operators

BUDGET/FINANCIAL INFORMATION:

Following Council's approval of a mid-year appropriation for the Fiscal Year 2010 budget, there are sufficient funds in the Fire Department budget to purchase the breathing air compressor.

PREPARED BY: Dean Sylvies, Operations Division Chief

SUBMITTED BY: Andrew DiMizio, Fire Chief

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 9, 2010

TO: Mayor and Councilmembers

FROM: City Administrator's Office

SUBJECT: Participation In The Santa Barbara County Municipal Financing Program (California AB 811)

RECOMMENDATION: That Council:

- A. Adopt, by reading of title only, A Resolution Approving County of Santa Barbara Resolution of Intention, Consenting to Participation in Contractual Assessment Program and Approving the Financing of Installation of Distributed Generation Renewable Energy Sources, and Energy Efficiency and Water Efficiency Improvements Within the Incorporated Area of the City; and
- B. Authorize the City Administrator to execute a cooperative agreement to implement an AB 811 Contractual Assessment Program with the County of Santa Barbara.

BACKGROUND:

In July 2008 California passed Assembly Bill 811 permitting local governments to create municipal financing programs that allow property owners to enter into voluntary contractual assessment to finance the installation of energy efficiency or distributed renewable energy generation improvements on their property. By entering into a voluntary contractual assessment, property owners are able to borrow the funds they need to improve the energy and water efficiency of their home or business real property. The property owners would repay the borrowed funds through a fully amortized assessment billed as part of their property taxes over a period of up to 20 years. In November 2009 Assembly Bill 474 was enacted; it now permits the inclusion of water efficiency projects as part of a municipal financing program.

In June 2009 the County of Santa Barbara Board of Supervisors (Board) directed County staff to determine the feasibility of an AB 811 municipal financing program, to explore initial and ongoing funding and design a program. Since that time, the County staff completed a feasibility study, identified sources of funding and began program design. The feasibility study acknowledged that, in order for the program to be successful in Santa Barbara County, regional participation by all of the cities located within the County is necessary. With regional participation the program can achieve economies of scale and generate sufficient interest from the public.

As part of the financial analysis, the County estimates that the initial start-up cost for funding the AB 811 municipal energy and water financing program (Program) is \$1 million. County staff identified and submitted applications for American Recovery and Reinvestment Act (ARRA) funding opportunities for the start up costs. As part of the requirements for the State Energy Program and Energy Efficiency Conservation Block Grant applications, the County was required to submit resolutions of intention to participate in the municipal financing program from partnering agencies. On November 17, 2009, in support of these applications, the City of Santa Barbara passed a resolution declaring its intention to participate in the program.

On January 12, 2010, the Board directed County staff to provide participating cities a draft resolution approving formal participation in the County's program.

DISCUSSION:

This program will provide financial incentives for building retrofits to residential and commercial properties located throughout the region, thereby stimulating the local economy and reducing energy and water consumption in our community.

Staff has reviewed the County's Draft Administrative Guidelines (Guidelines) and has worked closely with County staff on the authorized improvement projects. All authorized improvement projects within City boundaries will be required to comply with the City of Santa Barbara Building Code. The majority of projects specified in the Guidelines will require building permits and are covered by our standard Municipal Code requirements.

The cooperative agreement requires potential carbon credits generated by improvements in the City of Santa Barbara be held by the County on behalf of the Program. Due to the uncertainty regarding state regulation and the potential value of the credits, the agreement also requires the future use, sale, or transfer of the credits to be determined by the mutual agreement of the City and County.

As part of the agreement, the City is also requiring participating property owners to complete a water check-up as part of proposed water efficiency projects. If solar projects are proposed, program participation will require compliance with the City's Solar Design Guidelines.

FINANCIAL IMPACT:

The City of Santa Barbara will not be required to provide administrative funding in order to participate in the Program since these costs will be included in the total assessment amounts. However, the City will receive revenue generated by the building permits issued for these energy and water efficiency projects. Staff does not anticipate that the Program will generate additional workload for staff, beyond the current practice of conducting building permit inspections.

SUSTAINABILITY IMPACT:

By assisting property owners with the financing of renewable energy projects and energy and water efficiency projects, this Program will help the community reduce energy use and conserve water.

NEXT STEPS:

In order for the County to move forward on March 16, 2010, with its Resolution of Intention to establish the program, each of the Santa Barbara County cities must adopt a resolution agreeing to participate in the program.

Final action to approve program financing will be considered by the County Board of Supervisors on April 13, 2010 with an anticipated program start date of April 22, 2010.

Draft Administrative Guidelines for the program are on file in the City Clerk's Office.

PREPARED BY: Lori Pedersen, Administrative Analyst

SUBMITTED BY: James L. Armstrong, City Administrator

APPROVED BY: City Administrator's Office

RESOLUTION NO. _____

RESOLUTION APPROVING COUNTY OF SANTA BARBARA RESOLUTION OF INTENTION, CONSENTING TO PARTICIPATION IN CONTRACTUAL ASSESSMENT PROGRAM AND APPROVING THE FINANCING OF INSTALLATION OF DISTRIBUTED GENERATION RENEWABLE ENERGY SOURCES, AND ENERGY EFFICIENCY AND WATER EFFICIENCY IMPROVEMENTS WITHIN THE INCORPORATED AREA OF THE CITY

WHEREAS, the County of Santa Barbara (the “County”) is authorized under Chapter 29 of Part 3 of Division 7 of the Streets & Highways Code of the State of California (“Chapter 29”) to enter into contractual assessments to finance the installation of distributed generation renewable energy sources, and energy efficiency and water efficiency improvements that are permanently fixed to real property (“Authorized Improvements”);

WHEREAS, the County has notified the City of Santa Barbara (the “City”) that the Board of Supervisors of the County will consider forming a contractual assessment program (the “Program”), pursuant to which the County will enter into contractual assessments to finance the installation of Authorized Improvements;

WHEREAS, the County has provided the City with a form of a resolution to be considered by the Board of Supervisors of the County entitled “Resolution Declaring Intention to Finance Installation of Distributed Generation Renewable Energy Sources, and Energy Efficiency and Water Efficiency Improvements” (the “County Resolution of Intention”), which form of County Resolution of Intention is attached as Exhibit A; and

WHEREAS, the City Council has reviewed the County Resolution of Intention, and the City Council wishes to provide for the contractual assessment financing of the installation of Authorized Improvements through the Program within the incorporated territory of the City; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Barbara as follows:

Section 1. Findings. The City Council hereby finds and declares the following:

(a) The above recitals are true and correct.

(b) A public purpose will be served by establishing a contractual assessment program, pursuant to which the County will finance the installation of Authorized Improvements to residential, commercial, industrial, or other real property in the incorporated territory of the City. Properties in the incorporated territory of the City will benefit from the Program.

(c) The upfront cost of making residential, commercial, industrial, or other real property more energy and water efficient, along with the fact that most commercial loans for that purpose are due on the sale of the property, prevents many property owners from installing Authorized Improvements.

(d) Energy conservation efforts, including the promotion of energy-related Authorized Improvements to residential, commercial, industrial, or other real property, will support efforts to foster communitywide sustainability and lowered greenhouse gas emissions by promoting economic stability and environmental stewardship through participation in the green economy.

(e) Energy conservation efforts, including the promotion of energy-related Authorized Improvements to residential, commercial, industrial, or other real property, are necessary to address the issue of global climate change and the reduction of greenhouse gas emissions in the City.

(f) Water conservation efforts, including the promotion of water-related Authorized Improvements to residential, commercial, industrial, or other real property, are necessary to address the issue of chronic water shortages in California.

Section 2. Approval of Resolution of Intention and Other Related Matters. The City Council hereby approves the County Resolution of Intention, in substantially the form attached to this Resolution as Exhibit A, which County Resolution may be amended by the Board of Supervisors at the time of its adoption without further approval by the City Council. The City Council hereby consents to including the incorporated territory of the City within the territory covered by the Program. The City Council hereby approves the financing by the County of installation of the Authorized Improvements within the incorporated territory of the City.

The City Council's consent to including the incorporated territory of the City within the territory covered by the Program constitutes the City's Council's assent to the assumption by the County of jurisdiction over such incorporated territory for all purposes of the financing of installation of Authorized Improvements on property within the incorporated territory of the City and authorizes the Board of Supervisors to take each and every step required for or suitable for the consummation of the Program within the incorporated territory of the City, and the levying, collecting and enforcement of the contractual assessments to finance the Authorized Improvements and to cover the expenses of the Program, and the issuance and enforcement of bonds to represent unpaid contractual assessments.

Section 3. Approval of Cooperation Agreement. The City Council hereby authorizes the City Administrator, on behalf of the City, to execute a cooperation agreement with the County, which agreements shall be in substantially the form considered by the City Council when adopting this resolution, to reflect the terms on which the County and the City will cooperate to offer the Program within the incorporated territory of the City.

Section 4. Official Actions. The City Administrator is authorized and directed in the name and on behalf of the City to undertake any and all actions necessary to accomplish the purposes of this Resolution.

Section 5. Effective Date. This resolution shall take effect immediately upon its adoption.

* * * * *

I hereby certify that the foregoing resolution was duly and regularly adopted and passed by the City Council of the City of Santa Barbara, California, at a regular meeting thereof held on the _____ day of _____, 20__, by the following vote of the members thereof:

AYES, and in favor of, thereof

NOES, Councilmembers:

ABSENT, Councilmembers:

City Clerk

APPROVED:

Mayor

EXHIBIT A

FORM OF RESOLUTION OF INTENTION

Jan 6, 2010 DRAFT provided by Jones Hall

RESOLUTION NO. _____

**RESOLUTION DECLARING INTENTION TO FINANCE INSTALLATION OF
DISTRIBUTED GENERATION RENEWABLE ENERGY SOURCES, AND
ENERGY EFFICIENCY AND WATER EFFICIENCY IMPROVEMENTS**

WHEREAS, the County of Santa Barbara (the "County") is authorized under Chapter 29 of Part 3 of Division 7 of the Streets & Highways Code of the State of California ("Chapter 29") to enter into contractual assessments to finance the installation of distributed generation renewable energy sources, and energy efficiency and water efficiency improvements that are permanently fixed to real property ("Authorized Improvements"); and

WHEREAS, the Board of Supervisors wishes to declare its intention to establish a contractual assessment program (the "Program"), pursuant to which the County would enter into contractual assessments to finance the installation of Authorized Improvements in the County;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Santa Barbara as follows:

Section 1. Findings. The County hereby finds and declares the following:

- (a) The above recitals are true and correct.
- (b) A public purpose will be served by establishing a contractual assessment program, pursuant to which the County will finance the installation of Authorized Improvements to residential, commercial, industrial, or other real property in the County.
- (c) The upfront cost of making residential, commercial, industrial, or other real property more energy and water efficient, along with the fact that most commercial loans for that purpose are due on the sale of the property, prevents many property owners from installing Authorized Improvements.
- (d) Energy conservation efforts, including the promotion of energy-related Authorized Improvements to residential, commercial, industrial, or other real property, will support efforts to foster communitywide sustainability and lowered greenhouse gas emissions by promoting economic growth and stability, and environmental stewardship through participation in the green economy.
- (e) Energy conservation efforts, including the promotion of energy-related Authorized Improvements to residential, commercial, industrial, or other real property, are necessary to address the issue of global climate change and the reduction of greenhouse gas emissions in the County.
- (f) Water conservation efforts, including the promotion of water-related Authorized Improvements to residential, commercial, industrial, or other real property, are necessary to address the issue of chronic water shortages in California.

Section 2. Determination of Public Interest. The Board of Supervisors hereby determines that (a) it would be convenient, advantageous, and in the public interest to designate an area, which shall encompass the territory described in Section 4 below, within which the County and property owners within the County may enter into contractual assessments to finance the installation of Authorized Improvements pursuant to Chapter 29 and (b) it is in the public interest for the County to finance the installation of Authorized Improvements in the County pursuant to Chapter 29.

Section 3. Identification of Authorized Improvements. The Board of Supervisors hereby declares that it proposes to make contractual assessment financing available to property owners to finance installation of Authorized Improvements, including but not limited to those improvements detailed in the Report described in Section 8 below, as that Report may be amended from time to time.

Section 4. Identification of Boundaries. Contractual assessments may be entered into by property owners located within the entire geographic territory of the County. The County provided a form of this Resolution to each of the eight incorporated cities in the County, and the legislative body of each of the eight cities has (i) approved this Resolution, (ii) consented to including its incorporated territory within the territory covered by the Program and (iii) approved the financing of installation of the Authorized Improvements within such incorporated territory. The Board of Supervisors hereby finds that including the incorporated territory within the boundaries of the Program will benefit such territory.

The Board of Supervisors intends to enter into agreements with each of the eight cities in the County to reflect the terms on which the County and the City will cooperate to offer the Program within the incorporated territory.

Section 5. Proposed Financing Arrangements. Under Chapter 29, the County may issue bonds or enter into other financing relationships pursuant to Chapter 29 that are payable by contractual assessments and the County may advance its own funds to finance work to be repaid through contractual assessments, and may from time to time sell bonds to reimburse itself for such advances. Division 10 (commencing with Section 8500) of the Streets & Highways Code of the State (the "Improvement Bond Act of 1915") shall apply to any bonds issued pursuant to Chapter 29, insofar as the Improvement Bond Act of 1915 is not in conflict with Chapter 29.

The County shall determine the creditworthiness of a property owner to participate in the financing of Authorized Improvements based on the criteria developed by the County in consultation with the Program financing team, as such criteria shall be set forth in the Report described in Section 8 below, as that Report may be amended from time to time.

In connection with bonds issued under the Improvement Bond Act of 1915 that are payable from contractual assessments, serial and/or term improvement bonds shall be issued in such series and shall mature in such principal amounts and at such times (not to exceed 20 years from the second day of September next following their date) and at such rate or rates of interest (not to exceed the maximum rate permitted by applicable law) as shall be determined by the County at the time of the issuance and sale of the bonds. The provisions of Part 11.1 of the Improvement Bond Act of 1915 shall apply to the calling of the bonds. It is the intention of the County to create a special reserve fund for the bonds under Part 16 of the Improvement Bond Act of 1915. The County will not advance available surplus funds from its treasury to cure any deficiency in the redemption fund to be created with respect to the bonds; provided, however, that this determination shall not prevent the County from, in its sole discretion, so advancing funds. The bonds may be refunded under Division 11.5 of the California Streets

and Highways Code or other applicable laws permitting refunding of the bonds, upon the conditions specified by and at the determination of the County.

In connection with the issuance of bonds payable from contractual assessments, the County expects to obligate itself, through a covenant with the owners of the bonds, to exercise its foreclosure rights with respect to delinquent contractual assessment installments under specified circumstances.

Section 6. Public Hearing. Pursuant to the Act, the Board of Supervisors hereby orders that a public hearing be held before this Board at _____, on _____, _____, 2010 at _____ a.m., for the purposes of allowing interested persons to object to or inquire about the proposed Program or any of its particulars. The public hearing may be continued from time to time as determined by the Board of Supervisors for a time not exceeding a total of 180 days.

At the time of the hearing, the Report described in Section 8 below shall be summarized and the Board of Supervisors shall afford all persons who are present an opportunity to comment upon, object to, or present evidence with regard to the proposed Program, the extent of the area proposed to be included within the Program, the terms and conditions of the draft Contract described in Section 8 below, or the proposed financing provisions. Following the public hearing, the Board of Supervisors may adopt a resolution confirming the Report (the "Resolution Confirming Report") or may direct the Report's modification in any respect, or may abandon the proceedings.

The Board of Supervisors hereby orders the Clerk to publish a notice of public hearing once a week for two successive weeks. Two publications in a newspaper published once a week or more often, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient. The period of notice will commence upon the first day of publication and terminate at the end of the fourteenth day. The first publication shall occur not later than 20 days before the date of the public hearing.

Section 7. Notice to Water and Electric Providers. Pursuant to Section 5898.24 of the Streets & Highways Code, the Board of Supervisors has provided written notice of the proposed Program within the County to all water and electric providers within the boundaries of the County.

Section 8. Report. The Board of Supervisors hereby directs the Director of Housing & Community Development to prepare and file with the Board of Supervisors a report (the "Report") at or before the time of the public hearing described in Section 6 above containing all of the following:

(a) A map showing the boundaries of the territory within which contractual assessments are proposed to be offered, as set forth in Section 4 above.

(b) A draft contract (the "Contract") specifying the terms and conditions that would be agreed to by the County and a property owner within the County. The Contract may allow property owners to purchase directly the related equipment and materials for the installation of the Authorized Improvements and to contract directly for the installation of such Authorized Improvements.

(c) A statement of the County's policies concerning contractual assessments including all of the following:

(1) Identification of types of Authorized Improvements that may be financed through the use of contractual assessments.

(2) Identification of the County official authorized to enter into contractual assessments on behalf of the County.

(3) A maximum aggregate dollar amount of contractual assessments in the County.

(4) A method for setting requests from property owners for financing through contractual assessments in priority order in the event that requests appear likely to exceed the authorization amount.

(d) A plan for raising a capital amount required to pay for work performed pursuant to contractual assessments. The plan may include amounts to be advanced by the County through funds available to it from any source. The plan may include the sale of a bond or bonds or other financing relationship pursuant to Section 5898.28 of Chapter 29. The plan shall include a statement of or method for determining the interest rate and time period during which contracting property owners would pay any assessment. The plan shall provide for any reserve fund or funds. The plan shall provide for the apportionment of all or any portion of the costs incidental to financing, administration, and collection of the Program among the consenting property owners and the County.

(e) A report on the results of the consultations with the County Auditor-Controller described in Section 10 below concerning the additional fees, if any, that will be charged for incorporating the proposed contractual assessments into the assessments of the general taxes of the County on real property, and a plan for financing the payment of those fees.

Section 9. Nature of Assessments. Assessments levied pursuant to Chapter 29, and the interest and any penalties thereon, will constitute a lien against the lots and parcels of land on which they are made, until they are paid. Unless otherwise directed by the Board of Supervisors, the assessments shall be collected in the same manner and at the same time as the general taxes of the County on real property are payable, and subject to the same penalties and remedies and lien priorities in the event of delinquency and default.

Section 10. Consultations with County Auditor-Controller. The Board of Supervisors hereby directs the Director of Housing & Community Development to enter into consultations with the County Auditor-Controller in order to reach agreement on what additional fees, if any, will be charged to the County for incorporating the proposed contractual assessments into the assessments of the general taxes of the County on real property.

Section 11. Preparation of Current Roll of Assessment. Pursuant to Section 5898.24(c), the County hereby designates the Director of Housing & Community Development (or his/her designee) as the responsible official for annually preparing the current roll of assessment obligations by assessor's parcel number on property subject to a voluntary contractual assessment in consultation with other responsible officials.

Section 12. Procedures for Responding to Inquiries. The Director of Housing & Community Development shall establish procedures to promptly respond to inquiries concerning current and future estimated liability for a voluntary contractual assessment in consultation with other responsible officials.

Section 13. Effective Date. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Santa Barbara held on this ____ day of _____, 2010, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

CHAIR, BOARD OF SUPERVISORS

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

By: _____
Deputy

APPROVED AS TO FORM:

DENNIS A. MARSHALL
COUNTY COUNSEL

By: _____
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:

ROBERT GEIS
AUDITOR-CONTROLLER

By: _____



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 9, 2010

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Appeal Of The City Planning Commission's Certification Of An Environmental Impact Report And Project Approval For 3714-3744 State Street (Sandman Inn Redevelopment Project)

RECOMMENDATION: That Council:

- A. Certify the Final Environmental Impact Report for the Sandman Inn Redevelopment Project;
- B. Deny the appeal of Citizens Planning Association and Allied Neighborhoods Association;
- C. Uphold the Planning Commission approval of the development at 3714-3744 State Street; and
- D. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Denying the Appeal of the City Planning Commission's Certification of an Environmental Impact Report and Project Approval for Development Located at 3714-3744 State Street (Sandman Inn Redevelopment Project).

EXECUTIVE SUMMARY:

On December 17, 2009, the Planning Commission approved a mixed-use office/residential development located at 3714-3744 State Street (hereinafter referred to as the "Current Project.") At that time, the Planning Commission also certified the Final Environmental Impact Report (EIR) for the Project. The EIR analyzed two versions of the Project at a project-specific level: 1. the "Proposed Project" (hotel and residential development), and 2. the "Applicant's Alternative" (office and residential development). On January 7, 2010, an appeal of that Planning Commission decision was filed (Attachment 1) that primarily focuses on the potential consequences of the EIR not having identified an environmentally superior alternative in the Final EIR. This staff report addresses the concerns raised in the appeal letter, and why the Planning Commission's certification of the Final EIR and subsequent approval of the Sandman Inn Redevelopment Project (hereinafter referred to as the "Current Project") was appropriate.

DISCUSSION:

Project Description

The Current Project consists of the demolition of the existing 113 room Sandman Inn Hotel, Downtown Brewing Co. restaurant building and all existing site improvements, and the construction of a new office complex on Lot A, and two commercial condominiums and 73 residential condominium units on Lot B. Total square footage of development would be approximately 105,693 net square feet, plus a 121,800 gross square foot underground garage. A total of 238 parking spaces would be provided. More project details can be found in Attachment 4, the Planning Commission Staff Report.

Environmental Review Process

In spring 2008, an Initial Study was prepared to evaluate the potential for the project (called the "Proposed Project") to result in potentially significant adverse environmental impacts. The Initial Study determined that further study in an EIR was needed to determine whether the Proposed Project may have the potential to result in significant adverse impacts in the areas of: Visual Aesthetics, Transportation/Circulation, and Air Quality (short-term).

An EIR is intended by the California Environmental Quality Act (CEQA) to be an informational document that is considered in conjunction with other planning documents and project analysis as part of the overall permitting process. The CEQA environmental review process has two overall purposes: first, to disclose potential environmental impacts so that the public and decision-makers can fully consider the possible environmental consequences of a project before it is approved, and second, to allow the approving lead agency to impose project conditions which will avoid or reduce the potentially significant environmental effects to the extent feasible. CEQA requires that the Final EIR be certified by the Lead Agency (City) prior to actions approving the project. The City CEQA Guidelines provide for certification of EIRs by the Planning Commission, with this action appealable to the City Council.

The Sandman Inn Redevelopment Project EIR analyzed two distinct versions of the project at a project-specific level: the "Proposed Project," which consisted of redevelopment of the site with a 106-room hotel and 73 residential condominium units, and the "Applicant's Alternative," which consisted of the redevelopment of the site with 14,254 net square feet of office space and 73 residential condominium units. The EIR also analyzed four alternatives to the Proposed Project and Applicants Alternative.

The Draft EIR was released by the City for a 30-day public review and comment period between April 22, 2009, and May 22, 2009, and a Draft EIR hearing was held by the Planning Commission on May 14, 2009. The City received 16 comment letters during the Draft EIR public review period, and comments were made by the Planning Commission and the public at the Draft EIR hearing. The Final EIR includes responses to all comments received on the Draft EIR, and concludes that the Applicant's Alternative project would not result in any significant, unavoidable (Class I) impacts.

The project approved by the Planning Commission (Current Project) was slightly revised from the "Applicant's Alternative" that was reviewed in the EIR (refer to Exhibit 4, Planning Commission staff report, for a complete discussion of these revisions). These project changes were analyzed by staff and were determined to be minor in nature because they did not change the potential scope or severity of any environmental impacts identified in the EIR for the "Applicant's Alternative." Therefore, the Planning Commission determined that the Final EIR addressed all project impacts, and all applicable mitigation measures were applied to the approved Current Project.

Planning Commission Approval

On December 17, 2009, the Planning Commission certified the Final EIR and approved the Current Project on a vote of 6-0 (Attachment 2, Resolution 049-09; Attachment 3, Planning Commission Minutes). That hearing and decision was the culmination of approximately six years of review of development proposed on the project site (refer to Attachment 4, Planning Commission Staff Report, for a more detailed history of the review process).

Appeal Issues:

An appeal of the Planning Commission's certification of the Final EIR and approval of the Current Project was filed by Citizen's Planning Association and Allied Neighborhoods Association on January 7, 2010. The appeal addresses six areas of concern, as detailed below:

1. *Final EIR does not identify an "environmentally superior alternative" / Lack of directness and clarity in illustrating the environmental superiority of the Applicant's Alternative over the originally Proposed Project to decision makers and the public.*

The purpose of an EIR is not to approve or disapprove a project, but rather to provide decision makers with detailed environmental impact information which enables them to make land use decisions which intelligently take account of potential environmental consequences. (CEQA Guidelines, §15151). The purpose of an environmental document is to identify potentially significant impacts of a proposed project and to explore mitigation measures and alternatives that avoid or lessen any identified significant impacts. The CEQA Guidelines (§15126.6 (a)) require the consideration of alternatives to a project that could "feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project..."

In the case of the Sandman Inn Redevelopment Project, the EIR indicates that all potentially significant environmental impacts identified can be reduced to a less than significant level through mitigation measures. Therefore, no unavoidable, significant impacts were identified. As such, the EIR presents alternatives to the project that could further lessen impacts already considered less than significant after mitigation, and alternatives that are more consistent with City goals and policies than either the "Proposed Project" or the "Applicant's Alternative."

The EIR includes analysis of two projects: the “Proposed Project” and the “Applicant’s Alternative,” and four other alternatives. At the time that the Notice of Preparation was issued, the applicant began to seriously consider potentially changing their project to the “Applicant’s Alternative” to be more consistent with City policies. As with the original hotel and condominium project, the “Applicant’s Alternative” was analyzed at a project-specific level in the EIR so that if the applicant chose to modify the project description to reflect the project identified as the “Applicant’s Alternative,” it would be less likely that additional environmental review would be necessary. The practice of analyzing multiple projects (i.e., alternatives) in detail and to the same degree as the proposed project in CEQA documents is not typical for the City. However, this practice is relatively common in other jurisdictions, particularly for projects requiring both CEQA and National Environmental Policy Act (NEPA) review. CEQA has requirements for the minimum analysis needed for alternatives, but does not expressly require an in-depth study of all alternatives.

As previously stated, the purpose, according to CEQA, of an alternatives analysis is to identify alternatives to a project that would attain most of the basic objectives of the project but would lessen or avoid any significant adverse impacts of a project. According to CEQA Guidelines §15126.6 (e) (2), when comparing alternatives, “If the environmentally superior alternative is the “no project” alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.” There is thus no explicit requirement for any of the alternatives to be designated the “environmentally superior alternative” unless the “no project” alternative is determined to be the environmentally superior alternative.

In the Alternatives section of the subject EIR, the various environmental effects of the alternatives are evaluated and compared, but, given the absence of significant and unavoidable adverse impacts with respect to the Current Project, the EIR concludes that none of the alternatives truly constitute an environmentally superior alternative. Table 9.0-1 provides a comparative analysis of the “Proposed Project” and “Applicant’s Alternative” to the alternatives analyzed. It is noted that Table 9.0-1 does not provide a direct comparison between the “Proposed Project” and the “Applicants Alternative”, nor does the EIR suggest a preferred project for consideration. However, throughout the EIR, the “Applicant’s Alternative” is compared to the “Proposed Project” and the EIR provides a comprehensive analysis of potentially significant issues from both projects. For example, page 7.0-36 of the Final EIR notes that the Applicant’s Alternative generates fewer traffic trips than the Proposed Project, and page 8.0-26 of the Final EIR notes that “The impact [of the applicant’s alternative] on views from this location would be less than that of the proposed project.” As stated in the Responses to Comments in the Final EIR, if a comparison of the “Applicant’s Alternative” to the “Proposed Project” were made, similar to the comparison of alternatives in Table 9.0-1 of the EIR, it would state that the “Applicant’s Alternative” would have less impact in the areas of Air Quality, Transportation/Circulation and Visual Aesthetics as compared to the “Proposed Project” (Final EIR, Section 12.0, Responses 14-11 and 14-12).

The Planning Commission recognized the validity of the analysis done in the EIR; however, and although not required by any state statute, the Commission preferred to acknowledge that the Current Project was “environmentally superior” to all other projects/alternatives evaluated in the EIR. Therefore, the Planning Commission added the following statement to their findings in certifying the Final EIR:

“The Planning Commission finds the project dated December 3, 2009 to be environmentally superior in terms of relative environmental impacts to all other alternatives evaluated in the EIR.”

The Planning Commission’s CEQA findings, Final EIR certification findings, including the statement above, and Final EIR constitute the complete environmental administrative record for the Commissioners’ approval of the land use entitlements for the project. Staff believes the Final EIR as certified by the Planning Commission is adequate as defined by the CEQA statutes with regards to alternatives analysis.

The Planning Commission determined that the EIR set forth sufficient information to foster informed public participation and to enable decision makers to consider the environmental factors necessary to make an informed decision. The Planning Commission also determined that the Current Project was superior to the projects evaluated in the EIR. The fact that the “Applicant’s Alternative” was not formally identified as environmentally superior to the “Proposed Project” does not make the EIR inadequate or non-compliant.

2. Concern that the alternatives analysis in EIR would lead to de facto environmental approval of all the alternatives and project iterations outlined in the EIR / Request for imposition of a condition that requires enhanced public and decision maker review of any changes to the project description from the analyzed “Applicant’s Alternative”.

As with any project, the applicant may choose not to pursue the approved development, or may make design or aesthetic changes to the Current Project as it moves through its final design stages.

Design changes to projects after Planning Commission approval, typically the result of completing the design review and plan check process, are not uncommon. Land use changes to a project after Planning Commission approval require the review and approval of either a revised application by the Planning Commission or, for non-substantial “land use” changes, a “Substantial Conformance Determination (SCD)”. If the changes are deemed minor, as provided for in the Planning Commission Guidelines adopted by City Council in 1997, they may be approved on an SCD basis. As a discretionary determination this SCD also requires environmental review under CEQA. If a determination of substantial conformance cannot be made because the changes go beyond the scope of the prior project approval, then a revised project submittal would be required, thereby triggering complete review by City staff and any applicable decision-making bodies including a new environmental review of the revised project.

Staff does not believe it is appropriate to impose a condition on the Current Project that treats it any differently than other projects going through the City's review process.

The Appellants also express concern that a revised project (such as the inclusion of a hotel component) could be submitted, and that further detailed environmental review would be precluded, as long as that project's environmental impacts are not significantly more severe than those of the "Proposed Project" analyzed in the EIR. This is essentially correct but only with respect to environmental review; however, it is not unique to the subject project or the subject EIR. Any such future project would be subject to a new review process, including additional environmental review and a new period of time within which to file a legal challenge to the subsequent environmental review. The certified Final EIR could be used as the basis for analysis of that future project as long as the new project would not cause new significant environmental effects or an increase in the severity of impacts previously identified in the certified Final EIR (CEQA Guidelines §15162-15164) and so long as the certified EIR had not become dated or stale. Any future approval of a different project (such as one containing a hotel component) would still require full discretionary land use review by the Planning Commission for consistency with applicable local land use, zoning, general plan and design requirements and guidelines, as well as environmental review under CEQA Guidelines Sections 15091 and 15092. Unquestionably, should the City Council approve the Current Project, and in the future the applicant proposes changing the project to the original "Proposed Project" described in the EIR, staff would consider such a revision substantial enough from the Current Project as to require a new full discretionary review of the revised Project by the Planning Commission.

3. *Lack of systematic updating of essential information (relevant especially, but not only, to the originally Proposed Project).*

In accordance with CEQA Guidelines §15125, the physical environmental conditions that exist at the date of issuance of the Notice of Preparation (NOP) for the EIR constitute the baseline for determining the environmental impacts of a project. CEQA anticipates changes in information throughout the process, and the intent of this requirement is to avoid the need for continual updates and changes to an EIR in response to minor changes in the physical conditions that occur during preparation of the EIR. CEQA also specifies when an EIR must be recirculated as a result of new information (CEQA Guidelines, §15088.5).

The CEQA Guidelines (Section 15088.5(a)) state that "A lead agency is required to recirculate an EIR when **significant new** information is added to the EIR after public notice is given of the availability of the draft EIR for public review". The Guidelines state that "[n]ew information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a new significant adverse environmental effect of the project or a feasible way to mitigate or avoid a significant adverse effect that the project's proponents have declined to implement."

For the subject EIR, the NOP was issued on May 22, 2008. Staff determined that the new project-related information received for the Current Project, as well as the minor changes to traffic and other resources that occurred since May 22, 2009, would not change any of the significance determinations made in the EIR or create a new substantial adverse environmental effect. Therefore, the EIR was not changed or recirculated based on this new information. However, staff did provide the updated information to the extent feasible in staff reports and presentations when relevant for policy consistency analysis.

The Appellant accurately notes that the project's drainage report was updated in November 2009, but the updated report was not included in the Final EIR. Water quality impacts of the project were determined to be potentially significant, but mitigable based on compliance with the City's standard requirements. The updated drainage report was prepared to ensure that the Current Project could be consistent with the City's recently adopted Storm Water Management Plan requirements. There was no change to the environmental impact, but staff wanted to ensure that the project design did not preclude natural solutions to water quality issues, which is a high priority of the City and State. The updated drainage report was requested for planning/policy purposes, not for environmental concerns.

The traffic analysis in the EIR analyzes the potential impacts of the Project and alternatives with respect to traffic conditions near the project site around the time of issuance of the NOP for the EIR. It should be noted that this analysis included the larger Whole Foods Redevelopment Project that was an active proposal at the time of NOP issuance. The traffic analysis in the EIR showed that area intersections would continue to operate at acceptable levels of service after completion of either the "Proposed Project" or the "Applicant's Alternative." Traffic impacts are concluded, therefore, to be less than significant for both the "Proposed Project" and "Applicant's Alternative".

A new traffic study was not required for the Current Project design, which adds only 790 gross square feet to the size of the "Applicant's Alternative" project analyzed in the EIR. City staff was able to do the requisite calculations, and confirmed that the Current Project would result in a decrease of 836 daily trips, 3 AM trips and 31 PM trips, as compared to existing conditions. The Current Project, therefore, would result in similar less than significant traffic impacts to those described in the EIR for the "Applicant's Alternative." Because the Current Project would not contribute any new traffic to any impacted intersections makes any recent increase in traffic conditions in the area due to neighboring projects such as Whole Foods irrelevant from a CEQA environmental perspective.

As identified by the Appellants, the EIR erroneously describes Hitchcock Way as having bicycle lanes on both sides of the street (EIR p. 7.0-6), when in fact there are no delineated bicycle lanes on that street. An errata sheet has been prepared to correct this error; however, this information does not change any of the findings, significance levels, or proposed mitigation in the EIR and does not warrant recirculation.

As noted in the Planning Commission's findings for approval, all other potential impacts of the Current Project are also either less than or similar to those described in the EIR for the "Applicant's Alternative." The fact that the precise details of the Current Project were not specifically analyzed in the EIR does not make the document inadequate. The EIR, therefore, adequately described the potential environmental impacts of the Current Project.

4. *No attention paid to job-generation by market-rate and middle-income housing.*

This issue was addressed in the Final EIR as part of the Responses to Comments (Section 12.0, i.e., Response 2-4). Although new residents of residential units may generate an additional demand for goods and services within the City, it does not necessarily follow that building market-rate housing will negatively affect the City's jobs/housing balance. The project would increase City housing stock by 73 units (11 of which are affordable to middle-income homebuyers), and would decrease jobs on-site (by demolishing existing commercial space) by approximately 70 jobs. Therefore, Staff believes that the approved project is likely to slightly improve, rather than negatively impact, the City's jobs/housing balance.

Many of the service-type jobs referenced in the Appellants' comment would occur regardless of the development. For example, landscape maintenance is required for the existing development, and would be required for the redeveloped site, but it is unlikely that individual homeowners will generate significant demand for additional gardeners for their private yards due to their relatively small size. While housekeepers, babysitters or other service workers may be hired by the owners or tenants of these new residential units, they would likely be existing City residents or workers, as the limited size of the development is unlikely to warrant the creation of significant demand for new workers. As indicated in the Final EIR, "no information is available that indicates the extent to which this demand [for goods and services] would not be able to be accommodated by existing goods and services providers." (Final EIR, page 12.0-9)

5. *Fuller awareness of limitations in natural and infrastructural resources is needed.*

This issue was addressed in the Final EIR as part of the Responses to Comments (Section 12.0, i.e., Response 3-7). The analysis of potential impacts to public services (police and fire protection, library services, public and facilities, electricity, natural gas, water supply, and sewer capacity) was based on the City's *Conditions, Trends and Issues (CTI) Report* (2005), which does acknowledge the daily influx of people (tourists and commuters) into the City. The CTI Report examined existing conditions and determined that there were no existing or anticipated public service deficiencies for the next 20-year planning period. Although the Appellants note the increased strain on our natural and infrastructural resources (i.e., due to recent fires and the decreasing availability of State Water), no formal determination has been made that existing facilities, services or supplies are inadequate to meet existing and future demand. Therefore, the analysis and conclusions contained in the EIR and Initial Study are valid.

6. *Base the allowable residential density solely on the proposed size of the condominium parcel (3.58-acres) rather than on the total redevelopment area (4.58-acres).*

This issue was addressed in the Final EIR as part of the Responses to Comments (Section 12.0, i.e., Response 3-9). Early on in the review process, City staff determined that using the entire 4.58-acre site to determine density was appropriate because the development is essentially a mixed-use development of the entire site. The two parcels could be merged and the office development could be its own condominium lot, in which case this density concern is no longer applicable. Staff determined that, as long as future residential development is prohibited on the office parcel, the end result in terms of allowable square footage and density for the entire project site would be the same. The Planning Commission concurred with this decision in their approval of the Current Project and prohibited future residential development on the office parcel.

Conclusion

The City staff believes that the City's review process for the Sandman Redevelopment Project worked well and worked properly. It has resulted in a better project than the project which was originally proposed by the applicants, as evidenced by the comments made by Planning Commissioners on December 17, 2009. Moreover, it is not appropriate or fair to insist that an EIR be revised in order to reflect beneficial, voluntary project changes which have evolved as a necessary part of the environmental review and City approval process. To make the changes requested by the Appellants would require recirculation of the EIR, which could take approximately 3-6 months, and would impose additional costs to the Applicant (consultant fees) and City (noticing, staff time and public hearing time and resources) - all for a project not requested by the Applicant.

As described above, the Sandman Inn Redevelopment Project Final EIR constitutes a complete, accurate, and good faith effort toward full disclosure of the project's potential environmental impacts and has been completed in compliance with the California Environmental Quality Act and the state OPR CEQA Guidelines. Furthermore, certification of the Final EIR will not lead to unintended consequences as a result of not identifying the "Applicant's Alternative" as the environmentally superior alternative. There is no local or state precedent that supports this Appellant concern. In fact, the City standards of review are clear that, in the event the applicant was to propose a new or revised project, the revised project would then be subject to all necessary City discretionary reviews. Approval of the Current Project was and is appropriate given that the project is consistent with the General Plan, City Guidelines and Policies and City Zoning and Building Ordinances, and the Current Project will not have a significant effect on the environment.

NOTE: The documents listed below have been separately delivered to the City Council as part of the Council's reading file and are available for public review in the City Clerk's Office:

- Project Plans dated December 3, 2009
- Final Environmental Impact Report dated November, 2009, certified by Planning Commission on December 17, 2009 – (Also available online: http://www.santabarbaraca.gov/Resident/Environmental_Documents/3714-3744_State/)

ATTACHMENTS:

1. Appellants' letter dated January 7, 2010
2. Resolution No. 046-09, approved December 17, 2009
3. Planning Commission Minutes dated December 17, 2009
4. Planning Commission Staff Report dated December 10, 2009 (excluding Exhibits)
5. Letter from Applicant's Attorney dated February 25, 2010

PREPARED BY: Allison De Busk, Project Planner

SUBMITTED BY: Paul Casey, Community Development Director

APPROVED BY: City Administrator's Office



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7 January 2010

Mayor & City Council Members
City of Santa Barbara
Santa Barbara, CA

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1:15 pm
CITY CLERK'S OFFICE
SANTA BARBARA, CA

Hand-delivered to the City Clerk's Office

**RE: APPEAL OF PLANNING COMMISSION'S CERTIFICATION OF THE FINAL
EIR FOR THE SANDMAN INN REDEVELOPMENT PROJECT AND OF THE
SUBSEQUENT APPROVAL OF THE LATEST VERSION OF THE PROJECT ON
DECEMBER 17, 2009**

Dear Mayor and City Council members,

Citizens Planning Association of Santa Barbara County, with the concurrence and support of the Allied Neighborhoods Association, herewith appeals both above-referenced actions taken by the Planning Commission on December 17, 2009. If allowed to stand, the certification of the Final EIR (FEIR) could have major unpredictable consequences far beyond the scope of the project's latest version which was not analyzed in the FEIR but was approved at the Planning Commission's December 17 meeting. If allowed to stand, the project's approval would lack legitimacy until the present challenge to the FEIR is settled and unless the project's December 2009 version is found approvable even though the November 2009 FEIR makes no reference to it.

BACKGROUND

Applying an unusual and somewhat convoluted methodology, the FEIR alternates in addressing two iterations of the project: the November 2007 version of the originally "Proposed Project" and the November 2009 version of the much more modest "Applicant's Alternative." The December 2009 version of the Applicant's Alternative, which was not analyzed in the FEIR, was argued in the staff report dated December 10, 2009, to be very similar to the November 2009 version and received Planning Commission approval as the Current Project.

We submit that the two analyzed iterations of the Sandman Inn Redevelopment project are very different in the size and nature of their respective environmental impacts and therefore criticize the FEIR for failing to declare the Applicant's Alternative environmentally superior to the originally Proposed Project or otherwise make an overt identification of an environmentally superior alternative as required by CEQA. This failure was discussed by the commissioners at the December 17 hearing and, in a way, became challenged by the following finding that

CPA Appeal of Sandman Inn EIR Certification & Project Approval

1/7/10

Page 1 of 6

Planning Commission unanimously voted to add to its previously prepared list of findings for the Current Project:

“The Planning Commission finds the project plans dated December 3, 2009 to be environmentally superior in terms of relative environmental impacts to all other alternatives evaluated in the EIR.” (Quoted from e-mail received on 12/18/09 from Project Planner Allison DeBusk.)

We appreciate the Planning Commission’s newly added finding, but consider it insufficient as a way to do justice to the spirit and the letter of the CEQA Statute and Guidelines. Here is why: The certification of the Final EIR in its present form, if not challenged, is conclusively presumed adequate and would effectively preclude any further environmental review should the present or a future property owner abandon “the plans dated December 3, 2009” in favor of a final project that is more intense than the Applicant’s Alternative as long as its impacts are not significantly more severe than those of the originally Proposed Project. Even the return of the originally Proposed Project would be possible without further environmental review because, according to the EIR’s Project History (Section 3.2.1), the application of November 2007 (MST2007-00591) is still “under consideration.” Significantly, the public has been denied the benefit of the EIR’s specific analytical conclusion regarding the environmentally preferred alternative which then would be the subject of public comment. It is improper to withhold this fundamental conclusion from the publicly circulated draft and FEIR and instead allow the Planning Commission to make the determination at the final adoption hearing.

Unfortunately, this reflects a practice of the City’s Community Development Department to defer analysis of critical CEQA issues beyond the environmental review document, and thereby prevent the public from properly engaging in the CEQA and permitting processes. In essence, the CEQA process is managed to allow decision makers to make decisions about the environmental review document’s conclusions, rather than allowing the environmental review documents to function as an independent analysis that informs the decision makers. This has been particularly evidenced in addressing alternatives in EIRs. Here, with the Sandman Inn Redevelopment project, an environmentally superior alternative is NOT identified in the FEIR. In other projects, the City’s EIRs have abstained from any analysis of the feasibility of alternatives, such as Veronica Meadows and Elings Park. Since the alternatives analysis is the heart of an EIR, systematically omitting this analysis has perverted and politicized the City’s environmental review process. Rather than an objective analysis in the DEIR to which the public can respond, the City’s practice is to defer conclusions until the last stage in the process, after public comment has closed, and then leave it up to decision makers, such as the Planning Commission in this case, to draw basic CEQA conclusions as to the identity of the environmentally superior alternative (in this case) or as to the feasibility of alternatives (such as was rejected in Veronica Meadows).

RECOMMENDATIONS

For reasons listed in the next section of the present appeal filing and to be amplified in our forthcoming communications prior to or at the appeal hearing, we urge that you uphold the

appeal and decline to certify the FEIR as adequate until an environmentally preferred alternative is identified and circulated for public comment.

Additionally, we request imposition of a condition that requires enhanced public and decision maker review of any changes to the Project Description from the analyzed applicant's alternative.

As to the approved Current Project based on the Applicant's Alternative, we acknowledge that it represents a great improvement over the originally Proposed Project. Even so, we remain concerned about its cumulative traffic impacts given that a Whole Foods supermarket has recently opened in the immediate vicinity and that the FEIR's analysis of the circulation conditions in Hitchcock Way is demonstrably flawed. We are also concerned about some policy implications (e.g., jobs/housing imbalance and resource availability) and the precedent-setting size, density and visual impacts of the project due to "double-dipping" by basing the allowable residential density calculations on the total site of 4.58 acres rather than on the condominium parcel of 3.58 acres (minus the area occupied by the two commercial condominiums).

SELECTED LIST OF CONCERNS ABOUT THE FINAL EIR, TO BE AMPLIFIED BY THE APPELLANTS BEFORE OR AT THE APPEAL HEARING

Lack of directness and clarity in illustrating the environmental superiority of the Applicant's Alternative over the originally Proposed Project to decision makers and the public.

CPA's May 10 and May 21 comment letters on the April 2009 Draft EIR (DEIR) listed several major environmental advantages of the Applicant's Alternative over the originally Proposed Project including reduced bulk, reduced construction time, reduced trip generation, and reduced demand on such resources as water, sewage capacity, and solid waste disposal. These and many other indices of the Applicant's Alternative's environmental superiority are indirectly acknowledged by the Final EIR (FEIR), in part through responses to public comments on the DEIR. We regret, however, that our May 21 request for greater clarity through the inclusion of a number of tripartite tables comparing the existing conditions, the originally Proposed Project, and the Applicant's Alternative in terms of quantifiable impacts went unheeded. By contrast, we were pleased to hear one Planning Commissioner praise the usefulness of such comparisons as CPA offered in its December 14 comment letter on the FEIR:

	Applicant's Alternative (office space)		Originally Proposed Project (hotel)
Water usage:	7.44 acre feet per year (afy)	versus	19.53 afy
Sewer needs:	6.63 afy	versus	16.94 afy
Solid waste generation:	18.98 tons per year (tpy)	versus	84.80 tpy

Unfortunately, the FEIR is less user-friendly than the above chart: it leaves it up to the public and the decision makers to search for the pertinent data in Section 11.2.9 Public Services (vol. 1, pp. 327-336 of 545) before they can draw such clear-cut comparisons. The total impact figures, which include the impact of the 73 residences proposed for each version, are of course much higher.

Lack of systematic updating of essential information (relevant especially, but not only, to the originally Proposed Project):

1. The November 2009 FEIR is essentially based on the April 2009 DEIR which in turn relies on numerous documents of much earlier dates. Of note, while the April 2005 drainage analysis was updated in October and November 2009 to meet the changed requirements of the recently adopted new regulatory framework, the update was not considered in the FEIR. And in any case, it addresses only the Applicant's Alternative and is silent about the storm water retention potential of the originally Proposed Project and apparently also about the impact, if any, of the two recently added commercial condominiums.
2. The DEIR's findings about transportation and circulation have not been updated in the FEIR with reference to the October 2009 opening of a Whole Foods supermarket in the commercial plaza catty-corner to the Sandman project. The presence of that new traffic magnet for personal motor vehicles and delivery trucks clearly increased the frequency of gridlock between the State/Hitchcock intersection and the YMCA parking lot despite numerous office vacancies in nearby buildings and the continued vacancy of the entire building where Weightwatchers was among the tenants. The current situation calls for a new look at the results of the transportation studies on which the DEIR was based. After all, actual current traffic counts could now replace the calculations derived from nation-wide averages for various types of trip destinations, as well as the outdated (and occasionally conflicting) turning movement counts at the State/Hitchcock and State/Hope intersections.

Furthermore, a re-evaluation of the neighborhood's traffic conditions should correct the FEIR's erroneous description of Hitchcock Way as having bicycle lanes on both sides of the street (volume 1: p. 136 of 545) because, in fact, bike riders in both directions need to use either the busy roadway or the rather narrow sidewalks. Another consequential defect in the FEIR's approach to Hitchcock Way is the failure to address the lack of any marked pedestrian crossings in the half-mile stretch between State Street and Calle Real. These and other circulation features, also ignored in some previous city-approved documents, have been pointed out by CPA repeatedly with no avail. But they must be taken into account given the recent changes and current development proposals affecting two sites hugging the State/Hitchcock intersection.

No attention paid to job-generation by market-rate and middle-income housing (relevant especially, but not only, to the originally Proposed Project):

It may well be true that the currently operating hotel and restaurant employ more workers than

their proposed commercial replacement in the originally Proposed Project by a three-story hotel or in the Applicant's Alternative by an office building (14,104 gross square feet) and the two commercial condominiums (1,686 square feet) recently added to the project's 73 residential condominiums. It is clear, however, that the project's 62 market-rate units and, to some extent, even the 11 price-restricted "inclusionary" units reserved for middle-income buyers would increase the demand for low, moderate, and middle-income workers, many of whom would join the ranks of daily commuters by choice or by necessity. We also note that the implications of adding two commercial condos were not evaluated in the EIR and that the applicant did not specify whether or not those condos would be allowed to serve *any* commercial purpose – e.g., retail – regardless of the traffic, parking, and job-generating consequences.

Natural and infrastructural resources – fuller awareness of limitations is needed (relevant especially, but not only, to the originally Proposed Project):

Santa Barbara's daily influx of non-resident population oscillates between 40,000 and 100,000 people (see the City's *Conditions, Trends, and Issues* report of August 2005, p. 152 of 350). We believe that the high and increasing number of tourists and commuters should be explicitly acknowledged and taken into account in the cumulative analysis of any major development's impact on the city's present and likely future demand for public facilities (water supply, waste water, solid waste disposal, utilities) and public services (police, fire protection, parks, etc).

Likewise, the actual size of the resident-plus-"day time" population should be considered in relation to our emergency services and road capacity for evacuations when it comes to determining the advisability of permitting a particular project's "double-dipping" (i.e., the granting of full residential density according to the Variable Density Ordinance in addition to the simultaneous retention or re-development of a large part of the site's existing commercial square footage).

Last but not least, a more vigilant EIR certification and project approval process would not have ignored the recently enhanced strain on our natural and infrastructural resources by such factors as the decreasing availability of State Water, the increased siltation of local lakes and reservoirs, and the increasing year-round wild fire danger.

CONCLUSION

The problems associated with the Applicant's Alternative noted above are far less extensive than the problems associated with the originally Proposed Project. In fact, we believe that a simple way of greatly improving the Current Project would be to base its allowable residential density on the size of the condominium parcel (3.58 acres) rather than on both parcels of the total redevelopment area (4.58 acres), one acre of which has been assigned to the project's commercial component. The resulting lower density and greater environmental sustainability might indeed yield an attractive redevelopment welcomed by its neighborhood and an asset to the entire community.

Given the short period for filing this appeal and the many uncertainties associated with this project, we reserve the right to supplement our appeal up to the date of any Council hearing.

Should you have any questions, please do not hesitate to contact our office at 966-3979 or naomi@citizensplanning.org.

This letter is co-signed by Judy Orias, President of Allied Neighborhoods Association, as a showing of Allied's concurrence and support of this appeal.

We thank you in advance for your thoughtful consideration of this matter.

Sincerely,



Naomi Kovacs
Executive Director
Citizens Planning Association



Judy Orias
President
Allied Neighborhoods Association



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 046-09

3714 - 3744 STATE STREET

LOT LINE ADJUSTMENT, DEVELOPMENT PLAN, LOT AREA MODIFICATION AND
TENTATIVE SUBDIVISION MAP

DECEMBER 17, 2009

APPLICATION OF BRENT DANIELS, L&P CONSULTANTS, AGENT FOR KELLOGG ASSOCIATES; 3714-3744 STATE STREET (APN: 053-300-023 AND -031); C-P/S-D-2 AND C-P/R-3/R-4/S-D-2 ZONES; GENERAL PLAN DESIGNATION: GENERAL COMMERCE, OFFICE, RESIDENTIAL – 12 UNITS PER ACRE, AND BUFFER (MST2007-00591)

The project consists of the demolition of the existing 113-room Sandman Inn Hotel, Downtown Brewing Co. restaurant building, and all site improvements, and the construction of a new office complex consisting of 13,075 square feet on Lot A, and two commercial condominiums totaling 1,537 square feet and 73 residential condominium units on Lot B. The project includes a total of 241 parking spaces (71 parking spaces for the commercial component, 163 parking spaces for the residential component and 7 common/shared spaces). Access would be provided from State Street.

The office development on Lot A would be contained within a two-story building with a maximum height of approximately 31 feet. A majority of the parking (46 of 63 required spaces) would be provided in an at-grade parking lot located behind the building. The remaining required parking spaces would be located along the at-grade driveway (3 spaces), in the existing adjacent parking lot on-site (4 spaces) and in the underground parking garage located on Lot B (10 spaces).

The commercial development on Lot B would have a maximum height of approximately 24 feet. Parking would be provided along the at-grade driveway (5 spaces) and in the underground parking garage (3 spaces).

The residential development on Lot B would have a maximum height of 35 feet above finished grade, with parking provided in an underground parking garage. Of the 73 residential condominium units, two units would be one-bedroom units of approximately 873 square feet, 52 units would be two-bedroom units of between 1,080-1,350 square feet, and 19 units would be three bedroom units of between 1,425-1,520 square feet. Eleven of the 73 units (2 one-bedroom units, 5 two-bedroom unit and 4 three-bedroom units) would be provided at sales prices targeted to middle-income households, pursuant to the City of Santa Barbara's Affordable Housing requirements. The residential development would also include a Community Center of approximately 1,200 square feet and common open space areas located east and west of the at-grade driveway turn-around.

The discretionary applications required for this project are:

1. A Lot Line Adjustment to transfer 2.22 acres from APN 053-300-031 to APN 053-300-023;
2. A Development Plan to allow construction of a building of 10,000 square feet or more of total floor area in the C-P Zone (SBMC §28.54.120);

3. A Modification of the lot area requirements to allow one over-density unit on a lot in the C-P/S-D-2, R-3/S-D-2 and R-4/S-D-2 zone districts (SBMC Section 28.92.110.A.2); and
4. A Tentative Subdivision Map (TSM) for a one-lot subdivision to create 73 residential condominium units and two commercial condominium units (SBMC Chapters 27.07 and 27.13).

A Final Environmental Impact Report (EIR) has been prepared, and, prior to an action on the project, the Planning Commission will consider certification of the EIR, and must make findings pursuant to the California Environmental Quality Act Guidelines Section 15091.

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

WHEREAS, no one appeared to speak in favor of the application, and 4 people appeared to speak in opposition thereto or with concerns, and the following exhibits were presented for the record:

1. Staff Report with Attachments, December 10, 2009
2. Site Plans
3. Correspondence received in opposition to the project or with concerns:
 - a. Trey Pinner, Professional Investment Planning, Santa Barbara, CA
 - b. Naomi Kovacs, Citizens Planning Association, via email
 - c. James and Virginia Peterson, via email
 - d. Paula Westbury, Santa Barbara, CA

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

- I. Approved the subject application making the following findings and determinations:
 - A. **Environmental Findings Pursuant to the California Environmental Quality Act (CEQA) for Certification of the Final Environmental Impact Report (Per Public Resources Code (PRC) Section 21081 And California Code Of Regulations (CCR) Section 15090)**

The Planning Commission certifies that:

1. The Final Environmental Impact Report for the Sandman Inn Redevelopment Project was presented to the Planning Commission of the City of Santa Barbara. The Planning Commission reviewed and considered the information contained in the Final Environmental Impact Report, along with public comment and responses to comments, and determined that the document constitutes a complete, accurate, and good faith effort toward full disclosure of the project's impacts and is an adequate environmental analysis of the project.

2. The Final Environmental Impact Report for the Sandman Inn Redevelopment Project has been completed in compliance with the California Environmental Quality Act and Guidelines.
3. The Final Environmental Impact Report for the Sandman Inn Redevelopment Project reflects the City of Santa Barbara Planning Commission's independent judgment and analysis.
4. The location and custodian of documents and materials that constitute the record of proceedings upon which this decision is based, is the City of Santa Barbara Community Development Department, Planning Division, 630 Garden Street, Santa Barbara, CA, which is also the Lead Agency.
5. A mitigation monitoring and reporting program (MMRP) is hereby adopted. Mitigation measures have been made enforceable through incorporation into the project description or are included as conditions of project approval.
6. The Planning Commission finds the project dated December 3, 2009 to be environmentally superior in terms of relative environmental impacts to all other alternatives evaluated in the EIR.

Class II Impacts (Potentially Significant and Mitigated). Project elements incorporated as part of the project description and mitigation measures applied as conditions of project approval would result in the avoidance or substantial lessening of the following environmental impacts to less than significant levels. These findings are supported by substantial evidence in the record including the Final EIR.

- a. **Visual Aesthetics.** Removal of existing mature trees would affect the site's visual appearance. This impact would be reduced to a less than significant level by relocating existing mature trees on-site and replacing each mature tree removed with an appropriate replacement tree, as determined by the City's Architectural Board of Review.
- b. **Geologic Hazards:** The proposed project has the potential to be affected by ground shaking and other seismic hazards. This impact would be reduced to a less than significant level with the implementation of the recommendations in the Soils Engineering Report prepared for the project, as well as compliance with building code requirements that would minimize potential hazards associated with ground shaking.
- c. **Noise:** Residential units near State Street and/or the residential parking garage ramp may experience noise levels above 45 dBA (interior) and/or 60 dBA (exterior), and commercial uses adjacent to State Street and/or the commercial parking garage may experience noise levels above 50 dBA (interior). These impacts would be reduced to a less than significant level with the implementation of noise attenuation measures in building construction and in the parking ramp design. Construction noise also has the potential to impact adjacent residents, and mitigation

measures to address construction hours, construction equipment sound, noise barriers and improvement to adjacent residential units have been included.

- d. **Public Services:** The project would result in the short-term generation of construction and demolition waste, and long-term generation of waste from residential and commercial uses. This impact will be reduced to a less than significant level with the implementation of a waste management plan and by designing adequate trash enclosures with recycling areas into the project.
- e. **Transportation and Circulation.** The project would result in circulation impacts along San Remo Drive resulting from relocation of the Town and Country Apartment access driveway. These impacts would be reduced to a less than significant level by improving sight lines on either side of the new driveway through vegetation removal and additional red curb area.
- f. **Water Environment:** The proposed project has the potential to result in significant short- and long-term water quality impacts. These impacts would be reduced to a less than significant level with the implementation of erosion control measures, compliance with standard City requirements, the use of storm drain surface pollutant interceptors, storm drain stenciling and incorporation of Best Management Practices.

Class III Impacts (Less than Significant). The proposed project would result in a less than significant impact in the following environmental issue areas, as identified in the Final EIR. Mitigation measures are incorporated as conditions of project approval to further reduce the level of impact, consistent with City policies. These findings are supported by substantial evidence in the record including the Final EIR.

- a. **Air Quality:** Short-term project-related grading and construction activities would result in fugitive dust and emissions from construction equipment that would be well below the established threshold of significance. Standard dust and emissions control measures to further reduce potential impacts are included as recommended mitigation measures and in the Conditions of Approval. Therefore, the project is anticipated to have a less than significant long-term air quality impact.
- b. **Biological Resources:** The project would result in the removal of trees from the project site. To minimize potential impacts to nesting birds, timing restrictions on tree removal are included as a recommended mitigation measure.
- c. **Cultural Resources:** The project involves ground-disturbing activities, which means there is a remote possibility of encountering unknown buried deposits. Standard mitigation requiring contractor notification of this potential would further reduce potential impacts.

- d. **Transportation/Circulation:** The proposed project would result in a short-term increase in traffic due to construction-related activities. This would constitute a change to existing conditions but would be a less than significant effect, and would be further reduced by construction haul route and parking mitigation measures. The project's proposal to include a left turn lane into the residential parking garage would result in less than significant impacts to circulation along State Street. To mitigate this impact, it is recommended that the existing median not be reduced to accommodate said left turn, and, further, that the median be extended to better restrict left-turns into the site. The project's long-term parking may not be fully utilized as designed, which may lead to future parking problems. This less than significant impact would be further reduced by assigning and signing specific parking stalls.

Findings for the Fish & Game Code

An Environmental Impact Report has been prepared by the lead agency (City of Santa Barbara), which has evaluated the potential for the proposed project to result in adverse effects, either individually or cumulatively, on wildlife resources. For this purpose, wildlife is defined as "all wild animals, bird, plants, fish, amphibians, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability." The proposed project has the potential for adverse effects on trees and mature vegetation and associated wildlife during project construction. Mitigation measures have been applied such that any less than significant impacts will be further reduced. The project does not qualify for a waiver and is subject to payment of the California Department of Fish and Game fee.

B. The Lot Line Adjustment (GOVERNMENT CODE §66412)

The proposed lot line adjustment is appropriate for the area and is consistent with the City's General Plan and Building and Zoning Ordinances. The lot line adjustment would adjust the line between the two parcels that are currently 3.22-acres (Lot 1) and 1.36-acres (Lot 2) in size by relocating the line such that the resultant parcels are 1.0-acre (Lot A) and 3.58-acres (Lot B) in size. The proposed parcels exceed the minimum lot area requirement, and satisfy all street frontage and setback requirements as identified in Section VI of the staff report.

C. Lot Area Modification (SBMC §28.92.110)

The Modification of the lot area requirement to allow one (1) bonus density unit as part of the overall residential development is consistent with the purposes and intent of the Zoning Ordinance and is necessary in order to construct an additional housing unit that is affordable to a middle-income household, as described in Section VI.C of the staff report. Staff is supportive of this lot area modification because it allows for the creation of an additional Middle Income housing unit in the City, while the overall site layout and design remains compatible with surrounding development.

D. 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 Section VII.C of the staff report and in Section 5 of the EIR. The site is physically suitable for the proposed development due to its flat topography and soil composition, the project is consistent with the density provisions of the Municipal Code and the General Plan as demonstrated in Section VI of the staff report, and the proposed use is consistent with the vision for this neighborhood of the General Plan because it provides additional office and/or commercial development and additional in-fill housing that is compatible in size and scale with surrounding development. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems, as identified in the EIR.

E. The New Condominium Development (SBMC §27.13.080)

1. There is compliance with all provisions of the City's Condominium Ordinance.
2. The project complies with density requirements as described in Section VI of the staff report. Each unit includes laundry facilities, separate utility metering, adequate unit size and storage space, and the required private outdoor living space.
3. The proposed development is consistent with the General Plan of the city of Santa Barbara as described in Section VII.C of the staff report.
4. The project can be found consistent with policies of the City's General Plan including the Housing Element, Conservation Element, and Land Use Element, as described in Section VII.C of the staff report and Section 5.0 of the Environmental Impact Report. The project will provide infill residential development that is compatible with the surrounding neighborhood.
5. 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 as explained in Section VIII of the staff report and in the Environmental Impact Report.
6. The project is an infill residential project proposed in an area where 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, as analyzed in the staff report and Environmental Impact Report. The design has been reviewed by the City's design review board, which found the architecture and site design appropriate.

F. Development Plan (SBMC §28.54.120)

1. The proposed non-residential development complies with all of the provisions of the Zoning Ordinance, as identified in Section VI of the staff report.

2. The proposed non-residential development is consistent with the General Plan and the principles of sound community planning, as identified in Section VII.C of the staff report and the Policy Consistency Analysis contained in the Environmental Impact Report.
3. The total area of the site and the setbacks of all facilities from the property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that major detrimental impact on surrounding properties is avoided to the greatest extent possible, as identified in Section VII.C of the staff report and in the Environmental Impact Report.
4. The design and operation of the project and its components, including outdoor lighting and noise-generating equipment, will not be a nuisance to the use of property in the area, particularly residential use, as analyzed in the Environmental Impact Report. Final review of outdoor lighting and mechanical equipment will be provided by the Architectural Board of Review.
5. Adequate access and off-street parking is provided in a manner and amount so that the demands of the development are met without altering the character of the public streets in the area. As identified in Section VI of the staff report, the project is providing all required parking on site, and additional parking spaces are proposed along the entry driveway. Access to the site is provided by two driveways, and a complete analysis of access and circulation is contained in the Environmental Impact Report.
6. The appearance of the developed site in terms of the arrangement, height, size, bulk, scale and architectural style of the buildings, location of the parking areas, landscaping, and other features is compatible with the character of the area and of the City. Please refer to the analysis contained in Section VII.A of the staff report and in Sections 5.0, 8.0 and Appendix 5.0 of the Environmental Impact Report, as well as the comments provided to-date by the Architectural Board of Review.

II. Said approval is subject to the following conditions:

- A. **California Department of Fish and Game Fees Required.** Pursuant to Section 21089(b) of the California Public Resources Code and Section 711.4 et. seq. of the California Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified Department of Fish and Game fees are paid and filed with the California Department of Fish and Game within five days of the project approval. The fees required are \$2,768.25 for projects with Environmental Impact Reports and \$1,993.00 for projects with Negative Declarations. Without the appropriate fee, the Notice of Determination cannot be filed and the project approval is not operative, vested, or final. The fee shall be delivered to the Planning Division immediately upon project approval in the form of a check payable to the California Department of Fish and Game.

- B. **Design Review.** The project is subject to the review and approval of the Architectural Board of Review (ABR). ABR shall not grant preliminary approval of the project until the following Planning Commission land use conditions have been satisfied.
1. **Exterior Residential Areas.** Usable residential exterior areas (patios, balconies, courtyards) shall be oriented away from State Street to the extent feasible, and preferably shielded from roadways by the structures themselves. (N-3)
 2. **Pavement.** The residential parking lot driveway shall be paved with a coating to reduce tire squeal. This coating would consist of granulate rubber made from used tires as its aggregate and urethane resin as its binder, or similar current industry standard. (N-4)
 3. **Tree Removal and Relocation.** Prior to removal of any trees, a landscape plan accommodating the relocation of existing mature palm trees to the maximum extent reasonably feasible, particularly those considered "skyline trees" (tall [55 to 65 foot] Mexican Fan palms [*Washingtonia robusta*]), shall be submitted to and approved by the ABR. This plan shall include planter design specifications to ensure the long-term growth and survival of the relocated trees. (VA-1)
 4. **Tree Removal.** The landscape plan approved by the ABR shall include one significant replacement tree for each major mature (as determined by the City arborist) tree that is to be removed. (VA-2)
 5. **Storm Water Management Plan.** An approved drainage plan, consistent with the City's Storm Water Management Plan, that utilizes natural Best Management Practices to the maximum extent feasible, as determined by the Creeks Division and Community Development Department, shall be incorporated into the project plans.
 6. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.
 7. **Trash Enclosure Provision and Design.** A trash enclosure with adequate area for recycling containers shall be provided on each property and screened from view from surrounding properties and the street. Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within 5 feet of combustible walls, openings, or roofs unless protected with fire sprinklers. Project trash container areas shall incorporate approved long-term structural storm water best management practices (BMPs) to protect water quality. The applicant shall submit project plans to the satisfaction of Public Works Engineering and Solid Waste Department that incorporate long-term structural BMPs for trash storage areas to protect storm water quality. The owners shall maintain these structural storm water quality protections in working order for the life of the project, and shall inspect them at least annually and report to the City annually. (PS-2)

8. **Green Building Elements.** The Architectural Board of Review shall evaluate the green building elements of plans submitted for final review and approval and provide the Planning Commission with an information report as to what those elements are so that the Planning Commission can benefit from knowing how the Applicant has met the intent to make this a green and sustainable project.
- C. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an *Agreement Relating to Subdivision Map Conditions Imposed on Real Property*, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Approved Development.** The development of the Real Property approved by the Planning Commission on December 17, 2009 is limited to the following:
 - a. A lot line adjustment creating Lot A (1.00 acre) and Lot B (3.58 acres).
 - b. A Tentative Subdivision Map for a one-lot subdivision of Lot B for 73 dwelling units (2 one-bedroom units, 52 two-bedroom units and 19 three bedroom units; 11 of the units are affordable to middle-income homebuyers) totaling approximately 91,081 net square feet (including a 1,185 net square foot community room), and two commercial condominiums totaling approximately 1,686 square feet.
 - c. A development plan approval for approximately 14,104 square feet of commercial building area on Lot A.
 - d. Lots A and B will also be developed with a total of 241 parking spaces and the improvements shown on the Tentative Subdivision Map and project plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
 - e. Offer of pedestrian access through the site to neighbors to the north and east.

The proposed left-turn access from eastbound State Street into Lot B, as described in the Applicant Letter, is not included as part of the approved project in order to reduce potential conflicts with opposing traffic on State Street, reduce the potential for queuing left-turn vehicles to block through traffic and reduce potential impacts on pedestrians and bicyclists. (T-3)

2. **Lot Line Adjustment – Non-residential Development (Measure E).** As part of the lot line adjustment approval, all existing non-residential development rights for the real property (113 hotel rooms and accessory non-residential space, totaling approximately 52,000 square feet) are allocated to Lot A. Lot A and Lot B will each retain their respective minor and small addition allowances. A formal Agreement to this effect shall be recorded in the Office of the County Recorder as part of the Lot Line Adjustment.

3. **Lot Line Adjustment – Residential Density.** As part of the lot line adjustment approval, all rights to residential development on the real property are allocated to Lot B. A formal Agreement to this effect shall be recorded in the Office of the County Recorder as part of the Lot Line Adjustment.
4. **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.
5. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
6. **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.
7. **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.
8. **Ownership Unit Affordability Restrictions.** The eleven dwelling units identified as Affordable on the Site Plan shall be designated as Affordable Middle Income Units and sold only to households who, at the time of their purchase, qualify as Middle Income Households as defined in the City's adopted Affordable Housing Policies and Procedures. The maximum sale prices upon initial sale shall not exceed the following:
 - a. Unit Type H (2 units) (1-bedroom units @ 130%AMI) = \$247,200

- b. Unit Type A (1 unit) (2-bedroom unit @ 130% AMI) = \$309,500
- c. Unit Type D (1 unit) (2-bedroom unit @ 120% AMI) = \$280,800
- d. Unit Type E (3 units) (2-bedroom units @ 120% AMI) = \$280,800
- e. Unit Type C, C-1 (2 units) (3-bedroom units @ 130% AMI) = \$350,800
- f. Unit Type G (2 units) (3-bedroom units @ 120% AMI) = \$319,100

The Affordable Units shall be sold and occupied in conformance with the City's adopted Affordable Housing Policies and Procedures. The resale prices of the Affordable Units shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure continued affordability for at least ninety (90) years from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.

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

- a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium units.
- b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
- c. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
- d. **Trash and Recycling.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the landscaping or be hauled off site by the landscaping maintenance company. If no green waste containers are provided for common interest developments, include an item in the CC&Rs stating that the green waste will be hauled off site.
- e. **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.

10. **Off-Site Parking Agreement.** The Owner shall provide evidence of off-site parking agreements for the four parking spaces on the adjacent property to the west and for the 13 office spaces on Lot B for the benefit of the uses on Lot A. Said agreements shall be prepared consistent with the provisions outlined in SBMC Sub-Section 28.90.001.18.
 11. **Parking Access Drive and Ramp.** Due to potential vehicle queuing conflicts with State Street circulation, gates or similar obstructions shall not be permitted on the driveway or underground access ramp.
- D. **Community Development Requirements Prior to Lot Line Adjustment.** The following shall be submitted as a part of processing the Lot Line Adjustment:
1. **Existing Building Inventory.** An accounting of all existing building square footage and hotel rooms shall be provided prior to demolition of the existing structures and prior to recordation of the Lot Line Adjustment. The Inventory shall be reviewed and approved by the Planning Division. This Inventory shall be reflected in all agreements related to the Lot Line Adjustment for proper accounting relative to the City's Non-residential Development (Measure E) regulations.
- E. **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. **Lot Line Adjustment Required.** The Owner shall submit an executed *Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof* to the Public Works Department, including the legal description of the existing subject properties, and the legal description of the adjusted parcels as a part of processing the Lot Line Adjustment. A licensed surveyor shall prepare the legal description and said Agreement shall be recorded in the Office of the County Recorder. *The Lot Line Adjustment shall be recorded prior to recordation of the Final Map.*
 2. **Water Rights Assignment Agreement.** As a condition of recording the Lot Line Adjustment, 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. **Final Map for One-lot Subdivision on Lot B (Designated on Tentative Map as Lot 1).** 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.

4. **Dedication(s).** Easements as shown on the approved Tentative Subdivision Map or the Lot Line Adjustment and described as follows, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:
 - a. All street purposes along State Street across Lots A and B in order to establish four additional feet of public right-of-way in order to establish a minimum of a twelve-foot wide strip for sidewalk, parkway and all street purposes.
 - b. An Easement in Gross to the City of Santa Barbara for Water Meter Reading Purposes, as shown on the approved Tentative Map.
 - c. An Easement in Gross to the City of Santa Barbara for Public Utility Purposes as shown on the approved Tentative Map.
 - d. A variable width easement across Lot B for ingress, egress, parking, private storm drainage, public and private utilities (sewer and water) purposes, and emergency access for the benefit of Lot A as shown on the approved Tentative Map.
5. **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.
6. **Hydrology Report.** The Owner shall submit a final hydrology report 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.
7. **Drainage and Water Quality.** Project drainage shall be designed, installed, and maintained such that stormwater runoff from the first inch of rain from any storm event shall be retained and treated onsite in accordance with the City's NPDES Storm Water Management Program. Runoff should be directed into a passive water treatment method such as a bioswale, landscape feature (planter beds and/or lawns), infiltration trench, etc. Project plans for grading, drainage, stormwater treatment methods, and project development, shall be subject to review and approval by City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants or groundwater pollutants would result from the project. The Owner shall maintain the drainage system and storm water pollution control methods in a functioning state.

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.

8. **State Street Public Improvement Plans.** The Owner shall submit C-1 public improvement plans for construction of improvements along the property frontage for both the condominium site (Lot B), and the site for the office buildings (Lot A) on State Street. Public Works C-1 plans shall be submitted separately from plans submitted for a Building Permit. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: *an extension of the State Street center median by approximately 75 linear feet, an MTD approved lighted bus stop with trash receptacle, eight-foot sidewalk, four-foot parkway, curb and gutter, two commercial style driveway aprons modified to meet Title 24 requirements, right-turn only striping and signage, replace two existing Cobra Head street lights with two commercial Dome Style street lights, slurry seal to the centerline of the street along entire subject property frontage and a minimum of 20 feet beyond the limits of all trenching, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations or hydrology report for installation of on-site drainage improvements, on-site detention, and connection to City storm drain, preserve and/or reset survey monuments and contractor stamps, on-site retention sized per drainage calculations, supply and install directional/regulatory traffic control signs per 2006 CA MUTCD, new street trees species (*Lophostemon Conferta*) and box size (36-inch) as determined by the City Arborist, and provide adequate positive drainage from site.* Any work in the public right-of-way requires a Public Works Permit.
9. **Hitchcock Way Improvement Plans.** Flow calculations modeling the existing capacity and proposed impacts on the existing sewer main shall be required prior to issuance of any permits. If current flow is found to exceed design capacity, *and* project contribution adds more than 10% to the existing flow, then an upgrade to the existing sewer system shall be required. If the existing flow is found to be less than the design capacity, but the new flow exceeds the design capacity by more than 10%, then an upgrade to the existing sewer system shall be required. Analysis and design for a *+/-420 linear foot extension of 18 inch sewer main, and construct a City standard manhole at the intersection of Hitchcock and State Street shall be prepared, subject to the most current version of the City of Santa Barbara Engineering Design Guidelines.* In the event of a required upgrade of existing infrastructure, the Owner shall submit new C-1 public improvement plans. Any work in the public right-of-way requires a Public Works Permit.
10. **State Street Median.** The Owner shall submit C-1 public improvement plans for construction of extending the existing raised median in front of the site on State Street identified in condition D.8 above, *which shall be extended to the*

east, to restrict left-turns into the site. The applicant shall work with City Transportation staff to determine what modifications to the existing raised median are required to adequately accommodate the extended median, and shall confer with the City Arborist to see if new street trees are appropriate for the median. A new "No U Turn" sign shall be provided at the new eastern end of the raised median. The revised median design shall be reviewed and approved by the City's Transportation Division and the City Engineer. (T-5)

11. **Storm Drain System Stenciling and Signage.** Within the project area, the applicant shall implement stenciling of all storm drain inlets and catch basins, and posting of signs at all public access points along channels and creeks, with language in English and Spanish and graphic icons prohibiting dumping, per approved plans. The applicant shall submit project plans to the satisfaction of Public Works Engineering that identify storm drain inlet locations throughout the project area, and specified wording and design treatment for stenciling of storm drain inlets and signage for public access points that prohibit dumping. The owners association shall maintain ongoing legibility of the stenciling and signage for the life of the project, and shall inspect at least annually and submit report annually. (W-3)
 12. **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.
 13. **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.
- F. **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.
 3. **Bicycle Parking.** At least 10 bicycle parking spaces shall be provided in close proximity to the non-residential development, subject to approval by the Transportation Division.
 4. **Commercial Parking Spaces.**

- a. Commercial parking spaces located in the residential parking garage should be assigned to specific users to ensure greater use of the spaces. (T-8)
 - b. Spaces located along the office access driveway that are included in the total number of spaces required to meet the parking code requirement for the office use, should be marked as "for office use only" during business hours. (T-9)
 - c. The underground off-site commercial parking spaces shall be constructed and available for use, or an off-site parking agreement must be accepted by the City and recorded with the County Recorder, prior to Certificate of Occupancy of the commercial building.
5. **Traffic Control Plan.** A traffic control plan for project construction shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines. Traffic Control Plans are subject to approval by the Public Works Director/Transportation Manager. Construction and storage in the public right-of-way is prohibited during Fiesta in the affected areas (around McKenzie Park, Downtown and Waterfront) and during the Holiday Shopping Season (between Thanksgiving Day and New Years Day) in all commercial shopping areas, including but not limited to Upper State Street, the Mesa shopping area, Downtown and Coast Village Road.
6. **Construction Parking/Storage/Staging.** Prior to issuance of building permits, the applicant shall prepare a management plan for review and approval by City staff for employee parking to eliminate intrusion into area on-street parking spaces and maximize use of available on-site parking.
- Construction parking and storage shall be provided as follows:
- 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 below.
 - 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.
 - Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.
- (T-12)

7. **Construction Management Plan.** Prior to issuance of building permits, the applicant shall prepare a construction management plan for review and approval by City staff. Prior to beginning the next phase of construction, review the plan with City Engineering staff and modify as needed to ensure coordination with other area construction projects to minimize any lane closures or traffic intensive activities.

The construction management plan shall provide for:

- No hauling of bulk materials and waste shall occur during peak traffic hours.
- Hauling of materials shall be limited along streets that have fronting residential land uses or near school sites.
- Flagmen shall be provided at the project's truck entrance to expedite movements into and out of the site.
- Access of all but essential construction traffic on San Remo Drive shall be limited.
- Any lane closures required along State Street for construction should be done during off-peak hours and all lanes should be open for travel during the peak commute hours and on weekends.

(T-11)

8. **Solid Waste Management Plan.** To reduce trips associated with export of site debris, prior to issuance of grading and/or demolition permits, the applicant shall develop and implement a solid waste management plan for review and approval by the City to reduce waste generated by construction and demolition activities (see condition H.3 for additional information). In addition, the applicant shall work with other development projects in the area to minimize the distance that export material is hauled from the site and manage the hours during which that hauling occurs to minimize the effects on area traffic. (T-10)

9. **Minimization of Storm Water Pollutants of Concern.** The applicant shall implement approved plans incorporating long-term storm water best management practices (BMPs) to minimize identified storm water pollutants of concern including automobile oil, grease and metals. The applicant shall submit project plans incorporating long-term BMPs to minimize storm water pollutants of concern to the extent feasible, and obtain approval from Public Works Engineering. The owners association shall maintain approved facilities in working order for the life of the project, and shall inspect annually and submit report to City annually. (W-2)

- G. **Community Development Requirements with the Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit:

1. **Project Environmental Coordinator Required.** Submit to the Planning Division a contract with a qualified representative for the Owner, subject to approval of the contract and the representative by the Planning Division, to act as the Project Environmental Coordinator (PEC). The PEC shall be responsible for assuring full compliance with the provisions of the Mitigation Monitoring and Reporting Program (MMRP) and Conditions of Approval to the City. The contract shall include the following, at a minimum:
 - a. The frequency and/or schedule of the monitoring of the mitigation measures.
 - b. A method for monitoring the mitigation measures.
 - c. A list of reporting procedures, including the responsible party, and frequency.
 - d. A list of other monitors to be hired, if applicable, and their qualifications.
 - e. Submittal of weekly reports during demolition, grading and excavation, and monthly reports on all other construction activity regarding MMRP and condition compliance by the PEC to the Community Development Department/Case Planner.
 - f. The PEC shall have authority over all other monitors/specialists, the contractor, and all construction personnel for those actions that relate to the items listed in the MMRP and conditions of approval, including the authority to stop work, if necessary, to achieve compliance with mitigation measures.
2. **Neighborhood Notification Prior to Construction.** At least thirty (30) days prior to commencement of construction, the contractor shall provide written notice to all property owners and building occupants within 450 feet of the project area that proposed construction activities could substantially affect outdoor or indoor living areas. The notice shall contain a description of the project, a construction schedule including days and hours of construction, a description of noise-reduction measures, and the name and phone number of the Project Environmental Coordinator (PEC) who can answer questions and provide additional information or address problems that may arise associated with construction noise. A 24-hour construction hot line shall be provided. Any noise complaints received shall be documented, and, as appropriate, construction activities shall be modified to the extent feasible to address such complaints. Informational signs with the PEC's name and telephone number shall also be posted at the site and shall be easily viewed from adjacent public areas. (N-6)

The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person(s) who compiled the mailing list shall be submitted to the Planning Division.

3. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.

4. **Window Replacement.** The applicant shall offer to have a minimum 4-millimeter-thick, double-paned glass installed in the first- and second-story windows of the residences that face the project site. (N-11)

Evidence of the offer shall be provided to the Planning Division, and any residences that accepted the offer shall have their replacement windows installed prior to issuance of a building permit. Evidence of any window replacements shall be provided to the Planning Division.

5. **Air Conditioning.** The applicant shall offer to install temporary air conditioning in those residential units adjacent to the project site that do not already have this feature to allow residents to keep their windows closed during construction activities. (N-12)

Evidence of the offer shall be provided to the Planning Division, and any residences that accepted the offer shall have their temporary air conditioning installed prior to issuance of a building permit. Evidence of compliance shall be provided to the Planning Division.

6. **Parks and Recreation Commission Tree Removal Approval.** Submit to the Planning Division verification of approval from the Parks and Recreation Commission for the removal of all trees located within the required front setback and street trees.

7. **Geotechnical Recommendations.** Site preparation and project construction related to soil conditions and seismic hazards shall be in accordance with the recommendations contained in the Soils Engineering Report, prepared by Earth Systems Pacific, dated September 25, 2003. Compliance shall be demonstrated on plans submitted for grading and building permits. (G-1)

8. **Recorded Affordability Covenant.** Submit to the Planning Division a copy of an affordability control covenant that has been approved as to form and content by the City Attorney and Community Development Director, and recorded in the Office of the County Recorder, which includes the following:

a. **Initial Sale Price Restrictions.** The eleven (11) dwelling units identified as Affordable on the Site Plan shall be designated as Affordable Middle Income Units and sold only to households who, at the time of their purchase, qualify as Middle Income Households as defined in the City's adopted Affordable Housing Policies and Procedures. The maximum sale prices upon initial sale shall not exceed the following:

(1) Unit Type H (2 units) (1-bedroom units @ 130% AMI) = \$247,200

- (2) Unit Type A (1 unit) (2-bedroom unit @ 130% AMI) = \$309,500
- (3) D (1 unit) (2-bedroom unit @ 120% AMI) = \$280,800
- (4) Unit Type E (3 units) (2-bedroom units @ 120% AMI) = \$280,800
- (5) Unit Type C, C-1 (2 units) (3-bedroom units @ 130% AMI) = \$350,800
- (6) Unit Type G (2 units) (3-bedroom units @ 120 % AMI) = \$319,100

b. **Resale Restrictions.** The Affordable Units shall be sold and occupied in conformance with the City's adopted Affordable Housing Policies and Procedures. The resale prices of the Affordable Units shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure continued affordability for at least ninety (90) years from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.

9. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment that states that, prior to disturbing any part of the project site for any reason and after the Building permit has been issued, the General Contractor shall schedule a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, the assigned Building Inspector, the Planning Division, the Property Owner, the Architect, the Landscape Architect, the Biologist, the Project Engineer, the Project Environmental Coordinator, the Contractor and each subcontractor.

H. **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 B above.
- 2. **Mitigation Monitoring and Reporting Requirement.** Owner shall implement the Mitigation Monitoring and Reporting Program (MMRP) for the project's mitigation measures, as stated in the Environmental Impact Report for the project.
- 3. **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.

4. **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, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.
5. **Construction Erosion/Sedimentation Control Plan.** Project grading and construction shall be conducted in accordance with an approved erosion control plan to protect water quality throughout the duration of site preparation, earthwork, and construction process. Prior to the issuance of a demolition or building permit for the proposed project, the applicant or project developer shall prepare an erosion control plan that is consistent with the requirements outlined

in the Procedures for the Control of Runoff into Storm Drains and Watercourses and the Building and Safety Division Erosion/Sedimentation Control Policy (2003). The erosion control/water quality protection plan shall specify how the required water quality protection procedures are to be designed, implemented, and maintained over the duration of the development project. A copy of the plan shall be submitted to the Community Development and Public Works Departments for review and approval, and a copy of the approved plan shall be kept at the project site.

At a minimum, the erosion control/water quality protection plan prepared for the proposed project shall address the implementation, installation, and/or maintenance of each of the following water resource protection strategies: paving and grinding, sandbag barriers, spill prevention/control, solid waste management, storm drain inlet protection, stabilize site entrances and exits, illicit connections and illegal discharges, water conservation, stockpile management, liquid wastes, street sweeping and vacuuming, concrete waste management, sanitary/septic waste management, vehicle and equipment maintenance, vehicle and equipment cleaning, and vehicle and equipment fueling. (W-1)

6. **Dust Mitigation - Plan Specifications.** Prior to grading permit clearance, the applicant shall include all dust control requirements as notes on construction grading and building plans. (AQ-9)
7. **Interior Noise Reduction for Office and Residential Units Near State Street.** The walls, doors, and windows of office units adjacent to State Street shall be constructed to include sufficient noise attenuation to reduce interior levels to a CNEL of 50 dB(A). (N-15) The walls, doors, and windows of residential units closest to State Street shall be constructed to include sufficient noise attenuation to reduce interior noise levels to a CNEL of 45 dB(A). (N-14)

The applicant shall submit an updated Noise Report demonstrating that the project satisfies the above-referenced noise levels. Said Report shall identify any noise attenuation measures needed to satisfy the noise requirement, which may include:

- a. Windows shall have a minimum Standard Transmission Class (STC) of 35 and be properly installed, weather-stripped, and insulated.
- b. Doors with a minimum STC of 35 shall be used for doorways facing State Street and shall be insulated in conformance with California Title 24 requirements.
- c. Roof or attic vents facing State Street shall be baffled.
- d. Air conditioning or a mechanical ventilation system shall be installed in any dwelling units outside the 60 dB noise corridor so that windows and

doors may remain closed. Ventilation systems shall be installed and operable prior to Certificate of Occupancy.

8. **Left Turns.** Prohibit left turns onto State Street from the residential parking lot to eliminate sudden car accelerations that could otherwise occur when making this turn. (N-5)
9. **Stop Sign.** A "STOP" sign and a painted stop bar and legend shall be provided at each driveway exit.
10. **Street/Traffic Control Sign.** The Owner must furnish and install traffic control sign(s) to Public Works Department construction standards, as determined by the Transportation Division.
11. **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.
12. **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.

- I. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.
 1. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring

requirements, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Building Division, Planning Division, the Property Owner, Architect, Landscape Architect, Biologist, Project Engineer, Project Environmental Coordinator, Contractor and each Subcontractor.

2. **Seasonal Restriction.** Removal of trees during initial site development should be limited to the time period between September 1 and January 31. If tree removal or construction is to occur during the bird nesting season (February 1 through August 31), a City-approved biologist shall conduct a survey at the site for active nests two weeks prior to any scheduled tree removal, tree pruning, development, or grading. If active nests are located, setbacks for construction work would be required until the nest is no longer active or the young have fledged. If no active nests are found, the construction, tree removal, or grading restrictions specified in this section shall not apply. (BIO-1)
3. **Waste Management Plan.** The applicant shall develop and implement a solid waste management plan to reduce waste generated by construction and demolition activities. Consistent with City of Santa Barbara ordinances, and in order to achieve the waste diversion goals required by state law, the contractor may choose to separate waste and recyclables on site or use a combination of source separation and a construction and demolition (C&D) sorting facility. The solid waste management plan shall include the following:
 - a. **Contact information:** The name and contact information of who will be responsible for implementing the solid waste management plan.
 - b. **Waste assessment:** A brief description of the proposed project wastes to be generated, including types and estimated quantities during the construction phase of this project. Demolition and construction materials shall be recycled or reused, consistent with ordinance Chapter 7
 - c. **Recycling and waste collection areas:** Waste sorting and/or collection and/or recycling areas shall be clearly indicated on the project plans and approved by the City Solid Waste Specialist.
 - d. **Transportation:** A description of the means of transportation of recyclable materials and waste (whether materials will be site-separated and self-hauled to designated centers, or whether mixed materials will be collected by a waste hauler and removed from the site to be processed) and destination of materials.
 - e. **Landfill information:** The name of the landfill(s) where trash will be disposed of and a projected amount of material that will be landfilled.
 - f. **Meetings:** A description of meetings to be held between applicant and contractor to ensure compliance with the site solid waste management plan.

- g. Alternatives to landfilling: A list of each material proposed to be salvaged, reused, or recycled during the course of the project.
- h. Contingency Plan: An alternate location to recycle and/or stockpile C&D in the event of local recycling facilities becoming unable to accept material (for example: all local recycling facilities reaching the maximum tons per day due to a time period of unusually large volume).
- i. Implementation and documentation of solid waste management plan:
 - (1) Manager: The permit applicant or contractor shall designate an on-site party (or parties) responsible for instructing workers and overseeing and documenting results of the solid waste management plan for the project site foreman. The contact will notify the Public Works Department immediately should any deviance from the solid waste management plan be necessary.
 - (2) Distribution: The contractor shall distribute copies of the solid waste management Plan to the job site foremen, impacted subcontractors, and the architect.
 - (3) Instruction: The permit applicant or contractor shall provide on-site instruction of appropriate separation, handling, and recycling, salvage, reuse, and return methods to be used by all parties at the appropriate stages of project development.
 - (4) Separation and/or collection areas: The permit applicant or contractor shall ensure that the approved recycling and waste collection areas are designated on site.
 - (5) Construction of recycling and waste container facilities: Inspection shall be made by Public Works to ensure the appropriate storage facilities are created in accordance with AB 2176, California State Public Resources Code 42911 and City of Santa Barbara Zoning Ordinances.
 - (6) Hazardous wastes: Hazardous wastes shall be separated, stored, and disposed of according to federal, state, and local regulations.
 - (7) Documentation: The contractor shall submit evidence at each inspection to show that recycling and/or reuse goals are being met and a summary of waste generated by the project shall be submitted on a monthly basis. Failure to submit this information shall be grounds for a stop work order. The summary shall be submitted on a form acceptable to the Public Works Department and shall contain the following information:
 - Disposal information: amount (in tons or cubic yards) of material landfilled; identity of the landfill; total amount of tipping fees

paid at the landfill; weight tickets, manifests, receipts, and invoices (attach copies).

- Recycling information: amount and type of material (in tons or cubic yards); receiving party; manifests, weight tickets, receipts, and invoices (attach copies).
- Reuse and salvage information: list of items salvaged for reuse on project or campus (if any); amount (in tons or cubic yards); receiving party or storage location.

(8) Contingency Plan: The permit applicant or contractor shall detail the location and recycling of stockpiled material in the event of the implementation of a contingency plan.

4. **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.
5. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Transportation Manager
6. **Haul Routes.** The haul route(s) for all construction-related trucks with a gross vehicle weight rating of three tons or more, entering or exiting the site, shall be approved by the Transportation Manager.
7. **Traffic Control Plan.** All elements of the approved Traffic Control Plan and Construction Management Plan shall be carried out by the Contractor.
8. **Construction Hours.** Noise-generating construction activities (which may include preparation for construction work) shall be permitted weekdays between the hours of 8:00 AM and 5:00 PM, excluding holidays observed by the City of Santa Barbara as legal holidays, 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 31
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Day 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.

Occasional night work may be approved for the hours between 8:00 PM and 7:00 AM weekdays by the Chief of Building and Zoning (per Section 9.16.015 of the Municipal Code). These occasional work efforts may include concrete pours for the underground garage footings, floor and deck, if approved by the Chief of Building and Zoning. In the event of such night work approval, the applicant shall provide written notice to all property owners and occupants within 450 feet of the project property boundary and the City Planning and Building Divisions at least 48 hours prior to commencement of night work. Night work shall not be permitted on weekends or holidays. (N-7)

9. **Construction Equipment Sound Barrier.** Stationary construction equipment that generates noise that exceeds 50 dB(A) at the property boundaries shall be shielded with a barrier that meets a STC rating of 25. (N-8)
10. **Construction Equipment Sound Control.** All construction equipment powered by internal combustion engines shall be properly muffled and maintained. No internal combustion engine shall be operated on the site without a muffler. All diesel equipment shall be operated with closed engine doors and shall be equipped with factory-recommended mufflers. Unnecessary idling of internal combustion engines shall be prohibited. (N-9)
11. **Construction Noise Barrier.** Air compressors and generators used for construction shall be surrounded by temporary acoustical shelters. Whenever feasible, electrical power shall be used to run air compressors and similar power tools. (N-10)
12. **Construction Sound Barrier Wall.** Install a temporary construction sound barrier wall along the northern half of the western edge of the project site, the entire northern end of the site, and the northern half of the eastern edge of the project site. The barrier should be made of sound-attenuating material (not landscaping). The noise barrier can be constructed from concrete, masonry, wood, metal, or other materials determined to be appropriate by the City. To effectively reduce sound transmission through the barrier, the material chosen must be rigid and sufficiently dense (at least 20 kilograms/square meter). All noise barrier material types are equally effective, acoustically, if they have this density. The barrier shall be of sufficient height to block direct line of sight to the first story of adjacent residential uses. It is estimated that a noise barrier of the prescribed density would reduce average noise levels to sensitive receptors by up to 5 dB if the barrier blocks direct line of sight, and an additional 1.5 dB for each meter of barrier height for those uses blocked from direct line of sight. (N-13)
13. **Dust Mitigation - Site Watering.** During site grading and transportation of fill materials, regular water sprinkling shall occur, using reclaimed water whenever the Public Works Director determines that it is reasonably available. Water trucks or sprinkler systems shall be used in the late morning; during clearing, grading, earth moving, or transportation of cut and fill materials; and after work

is completed for the day to prevent dust from leaving the project site and to create a crust after each day's activities cease. Reclaimed water shall be used if available. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement 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. Frequency of construction site watering shall be increased when wind speeds exceed 15 miles per hour (mph) to reduce PM10 emissions. (AQ-1)

14. **Dust Mitigation - Speed Limit.** An on-site speed limit of 15 miles per hour shall be imposed for operation of construction vehicles on dirt surfaces. (AQ-2)
15. **Dust Mitigation - Gravel Pad/Street Sweepings.** Gravel pads shall be installed at all access points prior to beginning construction to prevent tracking of mud onto public roads.

Streets adjacent to the project site shall be inspected daily for accumulation of mud, dirt, or silt on streets. Affected road segments shall be cleaned daily. (AQ-3)

16. **Dust Mitigation - Stockpile Treatment.** All stockpiled soil materials shall be watered regularly as needed to inhibit dust generation. Excavated material and stockpiled soil shall be covered if not being used within the next 48 hours. (AQ-4)
17. **Dust Mitigation - Grading Suspension.** Grading and scraping operations will be suspended when wind speeds exceed 20 mph to reduce PM10 emissions. (AQ-5)
18. **Dust Mitigation - Site Stabilization.** Disturbed areas will be permanently stabilized with landscaping ground cover or site improvements as soon as practicable following the completion of earthwork.

After clearing, grading, earth moving, or excavation is completed, the entire area of disturbed soil shall be treated to prevent wind pickup of soil. This may be accomplished by

- a. seeding and watering until grass cover is grown;
- b. spreading soil binders;
- c. sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind;
- d. other methods approved in advance by the Air Pollution Control District.

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. (AQ-6)

19. **Dust Mitigation - Truck Covering.** All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least 2 feet of freeboard in accordance with the requirements of California Vehicle Code (CVC) section 23114 ("freeboard" means vertical space between the top of the load and top of the trailer). (AQ-7)
20. **Dust Mitigation - Monitor.** The contractor shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust off site. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the City and SBCAPCD prior to permit clearance for grading. (AQ-8)
21. **Diesel Vehicle Emissions Control.** Operators of diesel-powered vehicles should turn off the engine after 5 minutes when the vehicle is not in motion, keep the vehicles well-tuned and maintained, and retrofit engines with pollution-control devices. Consideration should be given to purchasing trucks and buses that meet new US EPA standards ahead of schedule. Vehicle owners should use ultra-low-sulfur fuel in combination with pollution control equipment such as particulate matter filters. (AQ-10)
22. **Construction Equipment Emissions.** As of June 15, 2008, fleet owners are subject to sections 2449, 2449.1, 2449.2, and 2449.3 in Title 13, Article 4.8, Chapter 9, of the California Code of Regulations (CCR) to reduce diesel particulate matter and criteria pollutant emissions from in-use off-road diesel-fueled vehicles. The following shall be adhered to during project grading and construction to reduce NOX and PM2.5 emissions from construction equipment:
 - All portable construction equipment shall be registered with the state's portable equipment registration program OR permitted by the district by September 18, 2008.
 - Diesel construction equipment meeting the California Air Resources Board's Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting Tier 2 or higher emission standards should be used to the maximum extent feasible.
 - The engine size of construction equipment shall be the minimum practical size.
 - The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time.

- Construction equipment shall be maintained in tune per the manufacturer's specifications.
- Construction equipment operating on site shall be equipped with two- to four-degree engine timing retard or pre-combustion chamber engines.
- Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
- Diesel catalytic converters, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by US EPA or California shall be installed on equipment operating on site.
- Diesel powered equipment should be replaced by electric equipment whenever feasible.
- Idling of heavy-duty diesel trucks during loading and unloading shall be limited to five minutes; auxiliary power units should be used whenever possible.

(AQ-11)

23. **Construction Equipment Operations.** The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number of equipment is operating at any one time. The construction contractor shall ensure that work crews shut off equipment when not in use. In addition, California's more recent anti-idling regulations (with some exemptions) require that drivers of diesel-fueled commercial vehicles weighing more than 10,000 pounds (1) shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, and (2) shall not use diesel-fueled auxiliary power units for more than 5 minutes to power a heater, air conditioner, or any ancillary equipment on the vehicle equipped with a sleeper berth, at any location. (AQ-12)
24. **Architectural Coating Emissions.** Compliance with the SBCAPCD Rules and Regulations on the use of architectural coatings shall be implemented as applicable, including using pre-coated/natural-colored building materials, using water-based or low-ROC coating, and using coating transfer or spray equipment with high transfer efficiency. (AQ-13)
25. **Asbestos.** The project applicant shall complete and submit a SBAPCD Asbestos Demolition and Renovation Compliance Checklist at least 10 days prior to the commencement of any demolition activities. (AQ-14)
26. **Construction Worker Trips.** Construction worker trips should be minimized by requiring carpooling and by providing for lunch on site. (AQ-15)
27. **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.

28. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
29. **Mitigation Monitoring Compliance Reports.** The PEC shall submit weekly reports during demolition, excavation, grading and footing installation and monthly reports on all other construction activity regarding MMRP compliance to the Community Development Department.
30. **Town and Country Apartment Access.** Vehicular access to the Town and Country Apartment parking spaces, located at 3730 State Street, shall be provided throughout construction, if alternative access to San Remo Road has not already been obtained.
31. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) and Project Environmental Coordinator's (PEC's) name, contractor(s) and PEC's telephone number(s), work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
32. **Tree Relocation.** All trees identified for relocation on-site shall be appropriately protected following removal to ensure their replacement and future survival.
33. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
34. **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.
35. **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. (CR-1)

- J. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements *caused by construction* (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Complete Public Improvements.** Public improvements, as shown in the improvement plans, including utility service undergrounding and installation of street trees, shall be completed.
 3. **Fire Hydrant Replacement.** Replace existing nonconforming type fire hydrant(s) with commercial-type hydrant(s) described in Standard Detail 6-003.1 Paragraph 2 of the Public Works Department Standard Details.
 4. **Manholes.** Raise all sewer and water manholes on easement to final finished grade.
 5. **Noise Measurements.** Submit a final report from a licensed acoustical engineer, verifying that interior and exterior living area noise levels are within acceptable levels as specified in the Noise Element. In the event the noise is not mitigated to acceptable levels, additional mitigation measures shall be recommended by the noise specialist and implemented subject to the review and approval of the Building and Safety Division and the Architectural Board of Review (ABR).

6. **Existing Street Trees.** Submit a letter from a qualified arborist, verifying that the existing street tree(s) have been properly pruned and trimmed.
 7. **Ownership Affordability Provisions Approval.** For all dwelling units subject to affordability conditions, obtain from the Community Development Director, or Director's designee in the City's Housing Programs Division, written approval of the following: (a) the Marketing Plan as required by the City's Affordable Housing Policies and Procedures; (b) the initial sales prices and terms of sale (including financing); (c) the eligibility of the initial residents; and (d) the recorded affordability control covenants signed by the initial purchasers which assure continued compliance with the affordability conditions.
 8. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those used for the photosimulations contained in the Sandman Inn Redevelopment Project EIR shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.
 9. **Mitigation Monitoring Report.** Submit a final construction report for mitigation monitoring.
 10. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section D have been recorded.
- K. **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 APPROVAL TIME LIMITS:

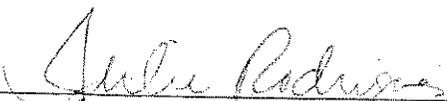
In general, Development Plan approvals have a time limit of four (4) years pursuant to Municipal Code section 28.87.350. Tentative Map approvals have an initial time limit of two (2) years in accordance with Municipal Code section 27.07.110 (but such initial period may be extended up to three (3) years by local ordinance pursuant to Government Code section 66452.6). When the Planning Commission approves multiple discretionary approvals, Municipal Code section 28.87.370 extends the term of each discretionary approval to correspond to longest approval, unless such an extension would conflict with state law. Therefore, the time limits for the Planning Commission approvals are as follows:

1. **LOT LINE ADJUSTMENT AND TENTATIVE MAP.** The Planning Commission approval of the Lot Line Adjustment and the Tentative Subdivision Map shall expire three (3) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110.
2. **DEVELOPMENT PLAN APPROVAL.** The approval of the Development Plan shall expire four (4) years from the date of approval. The developer may request an extension of the Development Plan approval for one additional year pursuant to Municipal Code section 28.87.350.
3. **MODIFICATION APPROVAL.** The approval of the lot area modification is coterminous with the approval of the Tentative Subdivision Map.

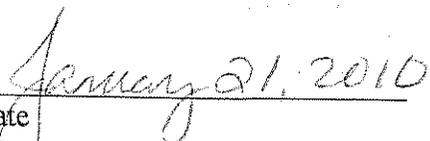
This motion was passed and adopted on the 17th day of December, 2009 by the Planning Commission of the city of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 ABSTAIN: 0 ABSENT: 1 (Lodge)

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



Julie Rodriguez, Planning Commission Secretary



Date

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. Announcements and appeals.

Mr. Kato announced that Staff is responding to the need for an emergency Coastal Development Permit for an accessory structure that on land that is partially eroding at 1547 Shoreline Drive. Notices have gone out with a request for public comments through January 11, 2010.

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

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



III. NEW ITEM:

ACTUAL TIME: 1:06 P.M.

APPLICATION OF BRENT DANIELS, L&P CONSULTANTS, AGENT FOR KELLOGG ASSOCIATES; 3714-3744 STATE STREET (APN: 053-300-023 AND - 031); C-P/S-D-2 AND C-P/R-3/R-4/S-D-2 ZONES; GENERAL PLAN DESIGNATION: GENERAL COMMERCE, OFFICE, RESIDENTIAL – 12 UNITS PER ACRE, AND BUFFER (MST2007-00591)

The project consists of the demolition of the existing 113-room Sandman Inn Hotel, Downtown Brewing Co. restaurant building, and all site improvements, and the construction of a new office complex consisting of 13,075 square feet on Lot A, and two commercial condominiums totaling 1,537 square feet and 73 residential condominium units on Lot B. The project includes a total of 241 parking spaces (71 parking spaces for the commercial component, 163 parking spaces for the residential component and 7 common/shared spaces). Access would be provided from State Street.

The office development on Lot A would be contained within a two-story building with a maximum height of approximately 31 feet. A majority of the parking (46 of 63 required spaces) would be provided in an at-grade parking lot located behind the building. The remaining required parking spaces would be located along the at-grade driveway (3 spaces), in the existing adjacent parking lot on-site (4 spaces) and in the underground parking garage located on Lot B (10 spaces).

The commercial development on Lot B would have a maximum height of approximately 24 feet. Parking would be provided along the at-grade driveway (5 spaces) and in the underground parking garage (3 spaces).

The residential development on Lot B would have a maximum height of 35 feet above finished grade, with parking provided in an underground parking garage. Of the 73 residential condominium units, two units would be one-bedroom units of approximately 873 square feet, 52 units would be two-bedroom units of between 1,080-1,350 square feet, and 19 units would be three bedroom units of between 1,425-1,520 square feet. Eleven of the 73 units (2 one-bedroom units, 5 two-bedroom unit and 4 three-bedroom units) would be provided at sales prices targeted to middle-income households, pursuant to the City of Santa Barbara's Affordable Housing requirements. The residential development would also

include a Community Center of approximately 1,200 square feet and common open space areas located east and west of the at-grade driveway turn-around.

The discretionary applications required for this project are:

1. A Lot Line Adjustment to transfer 2.22 acres from APN 053-300-031 to APN 053-300-023;
2. A Development Plan to allow construction of a building of 10,000 square feet or more of total floor area in the C-P Zone (SBMC §28.54.120);
3. A Modification of the lot area requirements to allow one over-density unit on a lot in the C-P/S-D-2, R-3/S-D-2 and R-4/S-D-2 zone districts (SBMC Section 28.92.110.A.2); and
4. A Tentative Subdivision Map (TSM) for a one-lot subdivision to create 73 residential condominium units and two commercial condominium units (SBMC Chapters 27.07 and 27.13).

A Final Environmental Impact Report (EIR) has been prepared, and, prior to an action on the project, the Planning Commission will consider certification of the EIR, and must make findings pursuant to the California Environmental Quality Act Guidelines Section 15091.

Case Planner: Allison De Busk, Project Planner
Email: ADebusk@SantaBarbaraCA.gov

Allison De Busk, Project Planner, gave the Staff presentation joined by Melissa Hetrick, Environmental Analyst/Project Planner, and Steve Foley, Supervising Transportation Planner. Available for responding to any questions were Joe Gibson, Impact Sciences, EIR consultant; and Rob Olson, ITERIS, traffic consultant.

Brent Daniels, L&P Consultants, gave the Applicant presentation joined by Greg Parker, Investec Real Estate Properties; and Susan Van Atta, Landscape Architect.

Chair Larson opened the public hearing at 1:40 P.M.

Christopher Manson-Hing, Architectural Board of Review (ABR), acknowledged the positive changes from the original project and found that it now has terrific balance and proportion and would be an enhancement to the community.

The following people provided public comment:

1. Christopher Manson-Hing, Architectural Board of Review (ABR), acknowledged the positive changes from the original project and found that it now has terrific balance and proportion and would be an enhancement to the community.
2. Paul Hernadi, Citizens Planning Association, submitted and summarized written comment with concerns that the Applicant's Alternative is not identified as the environmentally superior alternative. Asked that Planning Commission refuse to certify the final EIR or require that the EIR be revised to exclude evaluation of the originally proposed project.

3. Naomi Kovacs, Executive Director, Citizens Planning Association, submitted and summarized two comment letters submitted in April. Appreciated the suggestions taken by the Applicant and asked that the number of market rate residential units should be somewhat reduced and/or some market-rate units should be turned into smaller sized rentals. Believes updated traffic information is needed for the intersection, and that impacts on public resources and public services were not fully addressed.
4. Connie Hannah, Santa Barbara League of Women Voters, supports the Applicant's Alternative but still feels it is still too large. Supports letters submitted by the CPA. Opposes any consideration or return to the original project.
5. Cathy McCammon, Allied Neighborhood Association, summarized and submitted written comment supporting concerns expressed by CPA and asked that the EIR not be certified in its current form. Concerned with cumulative traffic impacts and size, density and visual impacts of the project, as well as the transformation to the area.

With no one else wishing to speak, the public hearing was closed at 1:53 P.M.

In response to Commissioner Jacobs request for clarification regarding the EIR certification, Mr. Vincent stated that the purpose of the EIR is as an informational tool. Certification of an EIR does not result in approval of a project or the identification of an environmentally superior alternative. This EIR is adequate in having met and satisfying its obligation.

Discussion was held regarding the EIR analysis of impacts on aesthetics and potential for further review if the project changes over time; and pedestrian access, specifically from San Remo Street to State Street.

Additional discussion was held regarding confirmation that all environmental impacts were reduced with the new proposed project alternative; changes in the price of affordable units; the rationale between the number of garages and open spaced parking spaces; and use of green LEED standards in development, specifically use of photovoltaics, as well as the new LEED for Neighborhoods.

The Commissioners made the following comments:

1. Commissioner Jostes commented on the calculation provided for reduction of water usage, sewer needs, and solid waste generation between the Applicants alternative and the proposed project referenced in the CPA letter, felt that there were slightly further reductions in those impacts by the project presented by the Applicant today. While there are no class 1 impacts to mitigate, per CEQA it is the responsibility of public agencies and decision makers to do all reasonably possible to mitigate and avoid significant environmental impacts. Felt it incumbent on the Commission to indicate in the findings that the current proposal has reduced impacts and creates the least environmental harm to resources. He finds the EIR to be a competent document. Commissioners White and Thompson concurred with his remarks and can certify the EIR.

2. Commissioner Bartlett acknowledged that the project is a redevelopment, not development of a project, and this is where we want to see growth. Can support certification of the EIR and the project. Feels that the alternative presented to day is superior to the alternative presented before, and it is unfair to make the EIR change to reflect beneficial, voluntary project changes.
3. Commissioner Thompson felt that the project has improved with each iteration.
4. Commissioner Jacobs agreed that over time this project has gotten better and better. Suggested the bus stop be designed as a deluxe bus stop in keeping with the Urban Design Guidelines. Suggested improved walkability with a pedestrian paseo from the San Remo Street neighborhood to State Street. Advocated National Recreation and Association's NRPA standards for park proximity. Projects in the Upper State Street area consistently show that the area is underserved by parks and would like to see that change.
5. Commissioner White appreciated the use of flats and garages in the project and agreed with the CPA letter in wanting to see opportunities for rentals to occur. Appreciated that traffic impacts are reduced from what currently exists.
6. Commissioner Jostes can support the project because of its connectivity with residential units in the neighborhood; provision of open space at the center of the project; reduction of its visual presence and height on the corner of State and Hitchcock; expansion of public open space along State Street; and preservation of mature trees. The physical design is more elegant with an urban village feel. Suggested that the site design keep flexibility of future access to Hitchcock Way. Appreciated the approach to low impact development and the Applicant's responsiveness to the Upper State Street Guidelines.
7. Commissioner Bartlett appreciated the site plan's provision for future potential access to Hitchcock Way via the existing adjacent driveway. Suggested that the Applicant allow for a future east/west pedestrian connection that would link to San Roque Creeks and trails (Auto Club property). Liked that the project speaks to sustainability with underground parking and water treatment and serves as an example for other projects. Appreciated the addition of 1-story units and open garages that allow more light and also found the public space along State Street to be an improvement.
8. Commissioner Larson appreciates that this will be a livelier contribution to Upper State Street. Appreciates the rooftop landscaping.

MOTION: Jostes/Thompson

Assigned Resolution No. 046-09

Certify the Environmental Impact Report with the additional finding that "The Planning Commission finds the project dated December 3, 2009 to be environmentally superior in terms of relative environmental impacts to all other alternatives evaluated in the EIR."

Approve the Lot Line Adjustment, Development Plan, Modification, and Tentative Subdivision Map, making the findings outlined in the Staff Report, subject to the Conditions of Approval in Exhibit A, as revised by staff at the hearing, and with the following revision to the Conditions of Approval: that the ABR evaluate the green building elements of plans submitted for final review and approval and to provide the Planning Commission with an

information report as to what those elements are so that the Planning Commission can benefit from knowing how the Applicant has met the intent to make this a green and sustainable project.

Mr. Parker acknowledged that pedestrian access is not a part of the application, but is being offered to the neighbors to the north and can be offered to the neighbors to the east.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Lodge)

Chair Larson announced the ten calendar day appeal period runs until January 7, 2009.

Chair Larson called for a break at 2:57 P.M. and reconvened the meeting at 3:20 P.M.

Scott Vincent did not return to the dais after the break. Steve Wiley, City Attorney joined the meeting as Counsel.

IV. RECOMMENDATION TO CITY COUNCIL:

ACTUAL TIME: 3:20 P.M.

REVISIONS TO THE MEDICAL CANNABIS DISPENSARY ORDINANCE

The Planning Commission will hold a public hearing to discuss revisions to Chapter 28.80 (Medical Cannabis Dispensaries) of Title 28, The Zoning Ordinance, of the Santa Barbara Municipal Code. The purpose of the meeting is to review a proposed ordinance that was drafted pursuant to direction given by the Council Ordinance Committee, and to make recommendations on the revisions to City Council.

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15305, Minor Alterations in Land Use Limitations.

Case Planner: Danny Kato, Senior Planner
Email: DKato@SantaBarbaraCA.gov

Danny Kato, Senior Planner, gave the Staff presentation.

Discussion was held regarding a comparison of the locations where Medical Cannabis Dispensaries are allowed versus Adult Entertainment facilities; and the lack of input from the Santa Barbara Chamber of Commerce or the Downtown Organization regarding restrictions on Upper State Street.

Steve Wiley, City Attorney, stated that cooperatives and collectives are legal at this time and that they can provide cannabis to its members, with reimbursement for expenses for cultivation of Cannabis. Departures from the collective/cooperative model, such as a



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: December 10, 2009
AGENDA DATE: December 17, 2009
PROJECT ADDRESS: 3714-3744 State Street (MST2007-00591)
 "Sandman Inn Redevelopment"
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
 Danny Kato, Senior Planner *DK*
 Allison De Busk, Project Planner *AD*

I. PROJECT DESCRIPTION

The project consists of the demolition of the existing 113 room Sandman Inn Hotel, Downtown Brewing Co. restaurant building, and all site improvements, and the construction of a new office complex consisting of 13,075 net square feet on Lot A, and two commercial condominiums totaling 1,537 net square feet and 73 residential condominium units on Lot B.

Ingress and egress for the offices would be provided by a driveway located on State Street between the offices and the commercial condominiums. This driveway would also provide secondary access to the residential units. Primary ingress and egress for the residential condominiums would be provided by a separate driveway on State Street at the eastern property line, leading to the underground parking garage. Access to the Town and Country Apartments (APN 053-300-032), which are located immediately north of the subject parcels, is currently provided through the project site. The proposed project would include permanent closure of that access. Access to the Town and Country Apartments would be provided by a new driveway on San Remo Drive, necessitating demolition of one unit of an existing duplex on a parcel north of the project site. The construction of this new driveway for the Town and Country Apartments is not a part of this application (MST2007-000591) but is considered in the CEQA environmental review, as it is a direct result of the proposed project.

The office development on Lot A would be contained within a two-story building with a maximum height of approximately 31 feet. A majority of the parking (46 of 63 required spaces) would be provided in an at-grade parking lot located behind the building. The remaining required parking spaces would be located along the at-grade driveway (3 spaces), in an existing adjacent parking lot onsite (4 spaces), and in the proposed underground parking garage on Lot B (10 spaces).

The commercial development on Lot B would have a maximum height of approximately 24 feet. Parking would be provided along the proposed at-grade driveway (5 spaces) and in the underground parking garage (3 spaces).

The residential development on Lot B would have a maximum height of 35 feet above finished grade, with parking provided in an underground parking garage. Of the 73 residential condominium units, two units would be one-bedroom units of approximately 873 square feet, 52 units would be two-bedroom units of between 1,080-1,350 square feet, and 19 units would be three bedroom units of between 1,425-1,520 square feet. The applicant proposes to provide 11 of the 73 project units (2 one-bedroom units, 5 two-bedroom unit and 4 three-bedroom units) at sales prices targeted to middle-income households earning from 120-160% of area median income, pursuant to the City of Santa Barbara's Affordable Housing requirements. The residential development would also include a Community Room of approximately 1,200 square feet, an enclosed service area and common open space areas located east and west of the driveway turn-around.

II. REQUIRED APPLICATIONS

The discretionary applications required for this project are:

1. A Lot Line Adjustment to transfer 2.22 acres from APN 053-300-031 to APN 053-300-023.

For the Office Portion:

2. A Development Plan to allow construction of a building of 10,000 square feet or more of total floor area in the C-P Zone (SBMC §28.54.120).

For the Condominium Portion:

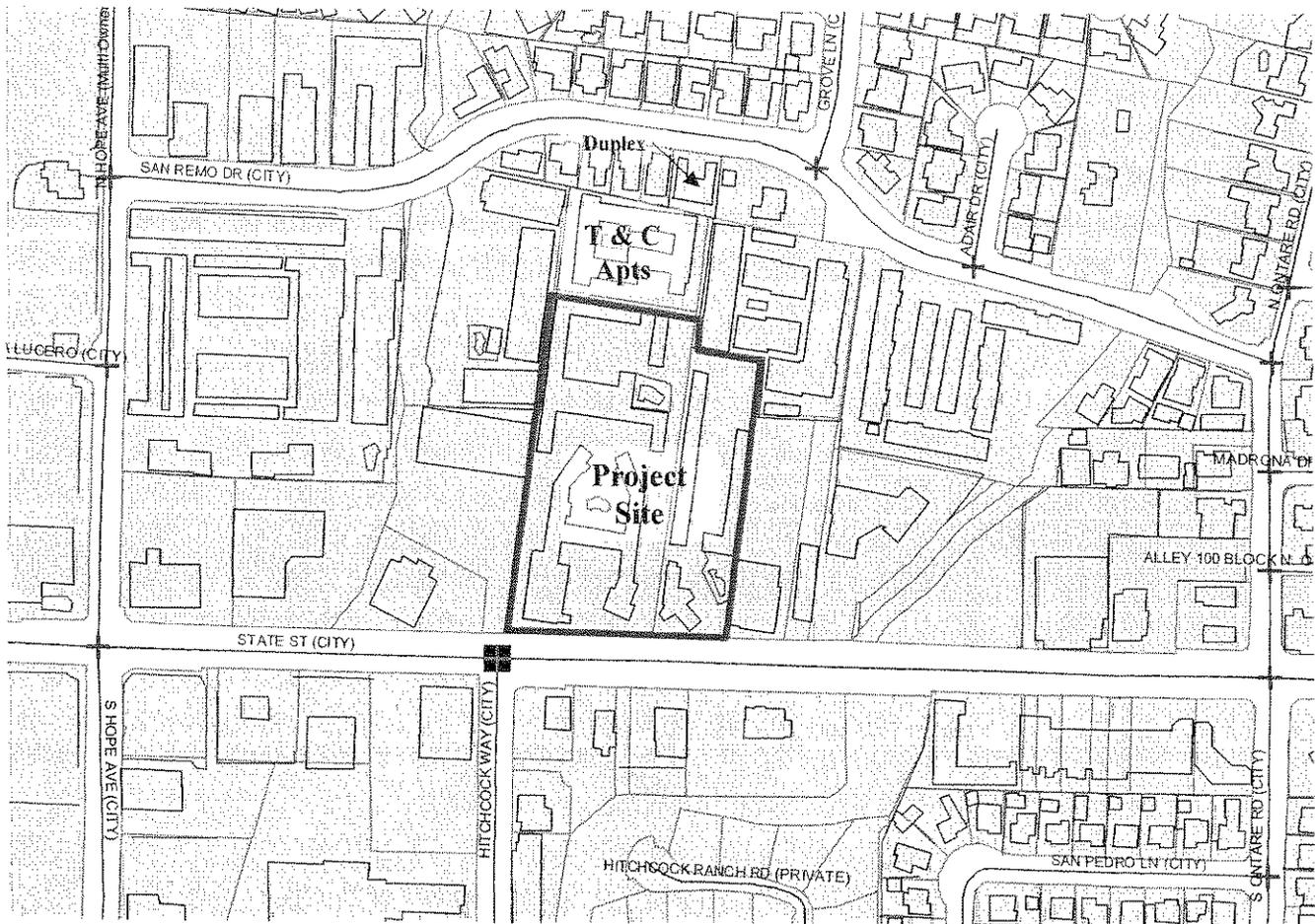
3. A Modification of the lot area requirements to allow one over-density unit (bonus density) on a lot in the C-P/S-D-2, R-3/S-D-2 and R-4/S-D-2 zone districts (SBMC Section 28.92.110.A.2).
4. A Tentative Subdivision Map (TSM) for a one-lot subdivision to create 73 residential condominium units and two commercial condominium units (SBMC Chapters 27.07 and 27.13).

III. RECOMMENDATION

The proposed project conforms to the City's Zoning and Building Ordinances and policies of the General Plan. In addition, the size and massing of the project are consistent with the surrounding neighborhood. Therefore, Staff recommends that the Planning Commission certify the Final Environmental Impact Report (EIR), and approve the project, making the findings outlined in Section IX of this report, and subject to the conditions of approval in Exhibit A.

DATE ACTION REQUIRED:

Within 50 days of Final EIR Certification



Vicinity Map – 3714-3744 State Street

IV. BACKGROUND / HISTORY

This project has gone through several iterations as part of the development review process. The following is a brief history of the project changes:

- The original proposal, submitted in 2003, consisted of construction of a three-story 113-room hotel and 64 residential condominiums (28 one-bedroom units and 36 two-bedroom units). It included underground parking for the hotel, and required front setback modifications for the hotel and residential development. The Planning Commission conceptually reviewed this version on July 17, 2003.
- In 2004, the project was revised such that some of the residential parking was relocated underground, and an interior setback modification was requested for portions of the residential development.
- In 2005, the project was revised to a three-story 112-room hotel and 73 residential condominiums (22 one-bedroom units, 14 two-bedroom units and 37 three-bedroom units). Access to the hotel was relocated to a driveway at the center of the site, and all residential parking was placed underground, with access at the eastern property line. The previously

requested interior setback modification request was eliminated. This version of the project was analyzed in an Initial Study, and an environmental scoping hearing was held on February 8, 2007. Although a Request for Proposals for preparation of an EIR was sent out, no consultant was ever hired, and the project was essentially put on hold pending conclusion of the Upper State Street Study.

- In November 2007, the hotel was revised to 106-rooms and the previously requested front setback modification was eliminated from the project. A revised Initial Study was prepared for this project, and an environmental scoping hearing was held on June 12, 2008.
- In 2008, prior to preparation of the EIR, the applicant submitted an "Applicant's Alternative" for consideration in the EIR, which consisted of construction of 14,254 square feet of office space in two two-story buildings and 73 residential condominiums (18 one-bedroom units, 14 two-bedroom units and 41 three-bedroom units). Parking for the offices was proposed in an at-grade parking lot behind the buildings, and residential parking remained underground. A concept review hearing was held on May 14, 2009, concurrent with the Draft EIR hearing.

The current project proposal was submitted on September 22, 2009 to respond to comments made by the Planning Commission and Architectural board of Review, and is very similar to the "Applicant's Alternative" described above. The primary changes, as compared to the Applicant's Alternative, include: adding office condominiums along State Street in place of open space area, and moving that open space area towards the center of the site; changing the residential unit mix to primarily two-bedroom units; and redesigning the underground garage, which now includes more open parking and common stairwells and elevators.

V. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant:	Brent Daniels, L&P Consultants	Property Owner:	Kellogg Associates
Parcel Number:	053-300-023 and -031	Lot Area:	4.58 acres
General Plan:	General Commerce/Offices, Buffer, Residential - 12 units per acre	Zoning:	CP, R-3, R-4, SD-2 overlay
Existing Use:	hotel, restaurant, commercial	Topography:	flat
Adjacent Land Uses:			
	North – residential		East – commercial
	South – State Street and commercial		West – office, commercial

B. PROJECT STATISTICS

		Proposed	
Non-Residential Square Footage	14,612 net sq. ft.	Offices	13,075 sq. ft.
		Commercial Condos	1,537 sq. ft.
Residential Square Footage	91,081 net sq. ft. (includes 1,185 net sq. ft. community room)	1 Bd units (2)	873 sq. ft. ea.
		2 Bd units (52)	1,080 – 1,350 sq. ft. ea.
		3 Bd units (19)	1,425 – 1,520 sq. ft. ea.
TOTAL	105,693 net sq. ft.		

VI. ZONING ORDINANCE CONSISTENCY

Standard	Requirement/ Allowance		Proposed	
	Lot A	Lot B	Lot A	Lot B
Lot Area	14,000 sq. ft. min.		43,458 sq. ft.	156,054 sq. ft.
Lot Frontage	60 ft. min. on public street		228 ft.	144.5 ft.
Setbacks				
Front	20 ft	20 ft	20 ft	20 ft
Interior	None Required	1- or 2-story bldg = 6 ft, 3-story bldg = 10 ft ¹	10 ft. min.	Generally 10 ft; 7 ft (1 st floor) for buildings with small 3 rd floor ¹
Rear	None Required	1 st floor = 6 ft, 2 nd and 3 rd floor = 10 ft	2 ft min. to trash enclosure	10 ft
Building Height	45 feet, 3 stories		31 feet, 2 stories	35 feet, 3 stories
Parking	63 spaces	Commercial = 8 spaces Residential = 163 spaces	63 spaces	Commercial: 8 spaces Residential: 163 spaces Extra: 7 shared spaces
Density	63 market-rate units ²			
	12 market-rate units	51 market rate units	0 units ³	73 units (62 market-rate units, 11 affordable units) ³

¹ If the net floor area of the third floor is less than 50% of the net floor area of the first floor building footprint, the interior setbacks shall be reduced to: 1st and 2nd floor = 6 ft, 3rd floor = 10 ft.

² Refer to attachment E for a detailed breakdown of allowed density.

³ Entire residential density allowance transferred to Lot B as part of the Lot Line Adjustment.

15% Common Open Space	N/A	23,408 sq. ft.	N/A	25,883 sq. ft.
Private Outdoor Living Space	N/A		N/A	At least 190 sq. ft. per unit
Lot Coverage	N/A	7,483 sq. ft.	17.2%	57,217 sq. ft. 36.7%
-Building	N/A	26,527 sq. ft.	61.1%	50,366 sq. ft. 32.3%
-Paving/Driveway	N/A	9,448 sq. ft.	21.7%	48,471 sq. ft. 31.0%
-Landscaping	N/A	64,700 sq. ft.	32.5%	
	N/A	76,893 sq. ft.	38.5%	
	N/A	57,919 sq. ft.	29.0%	

The proposed project would meet the requirements of the CP, R-3, R-4 and SD-2 Zones, as applicable, with the exception of lot area. Please see Lot Area Modification discussion below.

A. INCLUSIONARY HOUSING ORDINANCE

Under the Inclusionary Housing Ordinance, for any project with 10 or more market-rate dwelling units, 15% of the total market-rate units must be constructed and offered for sale as inclusionary units restricted for owner-occupancy by either Middle Income or Upper Middle Income Households. In this case, the requirement is being met by the provision of nine (9) Middle Income units (15% of 62 is 9). Applicants who propose inclusionary housing units as part of the project are entitled to a density bonus for the number of inclusionary units provided onsite. Also, the proposed project is consistent with the requirement that the affordable units be integrated into the development and that the affordable units equal or exceed the average number of bedrooms in the market rate units.

B. LOT AREA MODIFICATION

Since the Inclusionary Housing Ordinance (IHO) applies to the project, the lot area modification is only necessary to provide the one affordable unit that is above and beyond both the site's density allowances and the requirements of the Inclusionary Housing Ordinance. As identified in the Zoning Ordinance Consistency Table above, the project site has an allowed maximum residential density of 63 market-rate units. The project is proposing 62 market-rate units. The project also includes nine inclusionary housing units pursuant to the requirements of the IHO (see discussion above). Two additional affordable units are proposed as part of the project. One of these units can be counted as part of the site's allowed density (63 units), while the other unit requires a modification because it exceeds the maximum density allowed on the site (exclusive of the IHO requirements). Staff is supportive of this lot area modification because it allows for the creation of an additional Middle Income housing unit in the City, while the overall site layout and design remains compatible with surrounding development.

C. LOT LINE ADJUSTMENT

As part of the proposed Lot Line Adjustment, the applicant must allocate their non-residential square footage for tracking pursuant to SBMC §28.87.300.

Measure E – Non-Residential Square Footage

The project site (two parcels) currently contains approximately 52,000 square feet of existing non-residential development. Each of the two parcels is also entitled to 3,000 square feet of minor and small addition square footage. The applicant has proposed to allocate all existing development rights to Lot A, and each newly adjusted lot would retain their 3,000 square feet of minor and small addition square footage.

The proposed development of Lots A and B would utilize some of this development potential; however, Lot A would retain a large amount of non-residential square footage. Under the current Development Plan and Transfer of Existing Development Rights Chapters of the Zoning Ordinance, this square footage could be transferred to another parcel for use in a non-residential development. This would require future approval of a Development Plan and Transfer of Existing Development Rights. Please note that the applicant would have the option of transferring the non-residential area as either hotel rooms or square footage.

Residential Development Potential

As part of the Lot Line Adjustment, the applicant has proposed to allocate all residential density to Lot B. This proposed transfer of density will be recorded as part of the Lot Line Adjustment. Staff is supportive of this proposal as it does not increase the overall development potential of the site.

VII. ISSUES

A. DESIGN REVIEW

This project was reviewed by the ABR on five separate occasions (three times to consider the originally proposed hotel/residential project, and two times to review the office and residential development).

The most recent and relevant review occurred on November 16, 2009. At this meeting, the ABR expressed support for the project, and stated that the project was moving in a very positive direction. They noted that the site planning was good, and the mass, bulk and scale were appropriate. The project was found to comply with the Compatibility Criteria and be consistent with the City Charter and applicable Design Guidelines. Suggestions were made to study the mail area, Community Room, and garage ramp and stairwells, as well as the architectural detailing to add variety. Minutes from this meeting are attached as Exhibit F. All prior ABR meeting minutes are included as Exhibit G.

Upper State Street Area Design Guidelines

In 2009, the Upper State Street Area Design Guidelines were updated to reflect the direction that came out of the Upper State Street Study. The EIR prepared for the project includes an extensive analysis of the project's compliance with the original Design Guidelines (1992); however, the updated Design Guidelines were adopted following completion of the EIR, so no specific analysis of the updated Design Guidelines was prepared. As the updated Design Guidelines are based closely on the direction provided in the Upper State Street Study, please

refer to that analysis as provided in Appendix 5.0 of the EIR (Exhibit D) and in the following section of this staff report. Particularly related to three-story buildings, the Guidelines identify the following development features as contributing toward achieving a size, mass, bulk and scale that is compatible with development in the Upper State Street Area:

- View opportunities or easements.
- Usable open space.
- Pedestrian amenities.
- Improved circulation and connectivity.
- Long-term easements, operations and maintenance agreements to assure pedestrian and transit amenities and future transit improvements and tight-of-way needs.
- Removal of parking lot barrier between separate properties.

Staff believes that the project provides many of these features and is therefore consistent with this guideline. Overall, staff finds that the project is consistent with the Guidelines, specifically related to site planning, parking layout, public streetscape and mountain views. A list of applicable Upper State Street Area Design Guidelines' Goals is attached as Exhibit O for reference.

B. UPPER STATE STREET STUDY

The Upper State Street Study (USSS) was adopted by the City Council on May 8, 2007. The purpose of the USSS was to identify improvements to benefit urban design and transportation, and to provide guidance for review of development applications. The following discussions address key aspects of the USSS as it related to the proposed project. A complete analysis of all USSS direction and improvement measures is provided in Section 5.5.4 and Appendix 5.0 of the EIR (Exhibit D).

Building Height Limits

The USSS calls for the establishment of decision-maker findings for approval of three-story buildings. The Study proposes findings that would require that three-story buildings should only be approved when substantial community benefits are provided by the project. Although the specific findings have not yet been established by the City Council, some of the possible community benefits cited in the Study include: views, open space, creek buffers, pedestrian amenities, improved circulation or connectivity, and/or affordable housing.

The residential development proposed as part of this project includes three-story buildings. Staff believes that the project's provision of affordable housing (nine middle-income units as required by the Inclusionary Housing Ordinance, plus two additional middle-income units) is a community benefit that warrants consideration of the three-story buildings. In addition to the affordable units, the project is providing all residential parking in an underground parking garage, which opens up the site and allows for provision of additional open space for residents; and the three-story buildings are set back from the street, which minimizes their impact on mountain views from public viewing locations. Additionally, the portion of the project closest to the intersection of Hitchcock Way and State Street has been reduced to one story in order to maximize mountain views from the south side of this intersection.

Left-Turn Lane / Median Extension

The USSS recommends that the existing raised median along State Street between Hitchcock Way and Ontare Road be extended in order to improve the flow of traffic along this block. Generally, the purpose of the additional raised medians along State Street is to reduce the number of mid-block conflict points between through- and turning traffic. The USSS concludes that adding the raised medians would smooth mid-block traffic flow and reduce vehicle collisions caused by mid-block left turns; however, it could also affect access and emergency response. Additional medians mean more U-turns at area intersections, which would slightly lower the level of service at signalized intersections. The concept plan presented in the USSS showed two median openings provided between Hitchcock Way and Ontare Road. The preferred median opening(s) is midway between the traffic signals in order to minimize impacts on left turns from queues at the downstream traffic signals, or at locations where a large volume of left turn traffic is expected.

The project proposes to reduce the length of the existing State Street median in order to create an eastbound left-turn lane into the proposed easternmost residential driveway. The applicant believes that the left turn lane is important to the project, and that it is consistent with the intent of the Upper State Street Study due to the scale of the development, the distance from the intersection and the reduction in on-site curb cuts.

This change to circulation along State Street was analyzed in the project's Environmental Impact Report (EIR). The EIR analysis concluded that the left-turn lane would result in a less than significant impact to traffic and circulation.

Even though the proposed left turn lane was not identified as creating a significant traffic impact for purposes of the CEQA analysis, the Traffic Study prepared as part of the EIR recommends that the left turn lane not be installed because:

- the lane would be located relatively close to the Hitchcock intersection, and would provide minimal car storage capacity;
- the left turn lane would preclude future expansion of the existing westbound to southbound left turn lane at the State Street/Hitchcock Way intersection,
- the remaining median would be too narrow to place the necessary "No U-Turn" control sign,
- it would be difficult to control illegal U-turns at this location, and
- the project would not generate a large enough volume of left turn traffic to warrant the lane,
- the left-turn lane would eliminate median landscaping.

Furthermore, the Traffic Study recommends extending the existing median to at least the eastern property line in order to prevent illegal left turns into the site and reduce the potential for illegal U-turns to access the commercial driveway. Given all these factors, staff's recommendation is that the median be extended, rather than reduced. The proposed conditions of approval for the project include a requirement that the median be extended (Exhibit A).

Driveway Frequency / Spacing

The project proposes to reduce the number of driveways accessing the site from four to two. Eliminating driveways is recommended by the USSS in order to reduce access points that conflict with through traffic. The USSS recommends driveway spacing of at least 220 feet and a preferred spacing of 440 feet, locating driveways at median openings or offset by at least 150 feet, and locating driveways at least 110 feet from the intersection (ideally beyond the intersection turning lanes).

Although the project would reduce the number of driveways currently serving the site, the proposal would not be fully consistent with the recommended driveway spacing guidelines identified in the USSS. Due to the size and location of the parcel, it is not possible to have two driveways and comply with the spacing recommendations. The driveway spacing proposed by the project does not present a significant traffic impact for purposes of the CEQA analysis.

Staff and the Planning Commission have previously expressed a desire to access the site via the existing driveway at the northern end of the State/Hitchcock intersection. However, due to legal issues regarding the access easement, the applicant has indicated that that is not a feasible option.

Although the development could provide one driveway and have adequate access to the site, due to the number of residential units, the separate office development, the distance from the intersection and between the two driveways, and the overall site layout, staff does not believe that two driveways are excessive for the development. Staff finds that the project results in a net benefit related to driveway access points as compared to existing conditions, and therefore supports the two driveways in their proposed locations. Staff support for the two driveway proposal presumes the extension of the median and the elimination of left turns in to and out of the project site, as these changes would reduce potential conflicts along the State Street corridor.

C. COMPLIANCE WITH THE GENERAL PLAN

Before a condominium project and a tentative subdivision map can be approved, they must be found consistent with the City's General Plan. Please refer to Appendix 5.0 of the EIR (Exhibit D) for additional analysis of project compliance with the General Plan.

Land Use Element and Designation

The project site is located within the North State neighborhood, which is described as "an intensely developed commercial strip, with a scattering of multiple family residential development." The General Plan anticipated "little or no residential growth" in this area. A mix of commercial and office uses surround the project site to the east, south and west, with residential development located north of the project site.

The subject site has General Plan designations of General Commerce/Offices, Buffer, and Residential (12 units per acre). The commercial portion of the development is located entirely within the General Commerce designated area, which is consistent with the designation. Due to the application of variable density in the R-3 and R-4 zones, and the requirement for Inclusionary Housing units, the project density is approximately 20.4 units per acre based on

the condominium site area. If the entire 4.58-acre site is used for the calculation, the density is approximately 16 units per acre. The General Plan Land Use Element recognizes that, in zones where variable density standards apply, development may exceed the limit of 12 units per acre without causing an inappropriate increase in the intensity of activities. Therefore, the proposed project would be consistent with the Land Use Element of the General Plan.

The site also includes a Buffer designation, which runs horizontally across the middle of the site. The project has been designed to provide open space and common areas in the approximate location of the buffer, although there are four residential units along the western property line that prevent the open area from extending all the way across the site. There is no definition or description of Buffer in the General Plan; however, the Local Coastal Plan does provide a definition: "The purpose of this classification is to signify the need for a separation between potentially conflicting uses or an area of transition between land uses not directly compatible." Staff believes that the zoning ordinance properly implements the intent of this designation by requiring setbacks between certain uses and/or zones. Staff finds that the applicant's proposal adequately addresses the intent of the Buffer designation by providing separation of potentially incompatible uses. Additional discussion of the Buffer designation, including graphics, is provided in Section 5.5.2 of the EIR (Exhibit D).

Housing Element

The City Housing Element encourages construction of a wide range of housing types to meet the needs of various household types. This proposal, with primarily two to three bedroom units would satisfy that goal. In accordance with Housing Element Policy 3.3, which requires new development to be compatible with the prevailing character of the neighborhood, the proposed development would be compatible in scale, size and design with the surrounding neighborhood. The three-story development is 35 feet in height, and the three-story portions of the buildings have been set back approximately 40-50 feet from adjacent residential development to the north and set back more than 120 feet from State Street.

Circulation Element

The Circulation Element contains goals and policies that promote housing in and adjacent to commercial areas to facilitate the use of alternative modes of transportation and to reduce the use of the automobile. This project provides housing as well as commercial space in the State Street area and is, therefore, consistent with this land use direction. The project also includes a transit stop along the property frontage consistent with the goal of increasing the availability and use of transit, and the project includes widening the existing sidewalk/parkway width and removing two out of four driveway entrances, consistent with the Circulation Element and Pedestrian Master Plan. Bicycle parking will be provided on site for the commercial use, consistent with the zoning ordinance requirements.

D. TOWN AND COUNTRY APARTMENT ACCESS

Development of the site as proposed requires that the Town and Country Apartment access be relocated to San Remo, as it currently runs through the project site from State Street. Although this is not a formal part of the project, a condition of approval is proposed to ensure that the

relocation occurs prior to commencement of construction on the project site, to ensure uninterrupted access to the apartment parking.

E. DECORATIVE PAVING

The applicant has identified new paving at the corners and crosswalks at the State/Hitchcock intersection. The ABR expressed appreciation that this element was proposed as part of the project, and stated that highlighting the pedestrian walkways was a positive addition that benefits the City. However, the City is concerned about future maintenance of any such public improvements. Even if the applicant agrees to maintain the intersection in perpetuity, this can be difficult and cumbersome to enforce over the life of a project. Therefore, staff recommends a compromise treatment, such as enhanced crosswalk painting to identify the crosswalk more prominently, while also ensuring ease of maintenance. Final details would be worked out in plan check between the Applicant and the Public Works Department, and may require ABR approval depending on the proposed improvements.

VIII. ENVIRONMENTAL REVIEW

An Initial Study was prepared to evaluate the potential for the project to result in significant environmental impacts. The Initial Study determined that further study was needed to determine whether the project may have the potential to result in significant adverse visual aesthetic, transportation and circulation, and air quality (short-term) impacts. Based on this determination, an Environmental Impact Report (EIR) was required for the project. An EIR is intended by CEQA to be an informational document that is considered in conjunction with other planning documents and project analysis as part of the overall permitting process. The CEQA environmental review process has two overall purposes: first, to disclose environmental impacts so that the public and decision-makers consider the environmental consequences of a project before it is approved, and second, to avoid or reduce significant environmental effects to the extent feasible.

The Draft EIR contained analysis of visual aesthetics; traffic, circulation and parking; and air quality (short-term), as well as an in-depth analysis of applicable policy documents, including the General Plan, the Upper State Street Study and applicable Design Guidelines. This Draft EIR was released by the City for a 30-day public review and comment period between April 22, 2009 and May 22, 2009, and an environmental hearing was held by the Planning Commission on May 14, 2009 to receive public comment.

A proposed Final EIR has been prepared that includes changes in response to comments received on the Draft EIR (see Exhibit D). The proposed Final EIR concludes that the proposed project would not result in any significant, unavoidable (Class I) impacts. Refer to the proposed Final EIR for the complete analysis.

The proposed project would result in various significant, but mitigable impacts. Mitigation measures to avoid these impacts are described in the proposed Final EIR. Various adverse, but less than significant impacts would also occur as a result of the proposed project. All required mitigation measures have been included as proposed conditions of approval (see Exhibit A – Conditions of Approval). All applicable recommended mitigation measures have also been included as proposed conditions of approval to further avoid or reduce impacts.

Responses to Comments Received on the Draft Revised EIR

The City received 16 comment letters during the Draft EIR public review period, and comments were also made by the Planning Commission and the public at the Draft Revised EIR hearing held on May 14, 2009. Comments on the EIR covered a wide range of issues, including:

- Driveway spacing/location;
- Traffic (long-term, construction and cumulative);
- Circulation and left-turn lane;
- View impacts;
- Loss of mature vegetation/trees;
- Impacts to public services and resources;
- Density calculations;
- Open space and recreation;
- Stormwater runoff;
- Impacts to the jobs/housing balance;
- Air quality; and
- Environmentally superior alternative;

Although not related to the content of the EIR itself, comment letters also consistently noted a preference for the Applicant's Alternative over the Proposed Project. For a complete list of the comments received and all of the responses thereto, please refer to Section 12 of the proposed Final EIR.

EIR Certification and CEQA Findings

The California Environmental Quality Act (CEQA) requires that the Final EIR be certified by the Lead Agency (City) prior to actions approving the project. The City CEQA Guidelines provide for certification of EIRs by the Planning Commission, with this action appealable to the City Council. The required findings for EIR certification are included in Section IX below.

When the EIR identifies significant impacts, CEQA also requires that specified findings be made prior to approval of a project. This project does not have any significant unmitigable (Class I) impacts. For potentially significant but mitigable (Class II) impacts, findings that identify the impact and mitigation measures that would be applied to the project to reduce impacts to less than significant levels must be made. Required mitigation measures are applied as conditions of project permit approval.

The proposed project has been slightly revised from the Applicant's Alternative that was reviewed in the EIR (see Section IV above). However, these changes are minor in nature and do not change the scope or severity of any environmental impacts identified in the EIR for the Applicant's Alternative. Therefore the EIR addresses all project impacts, and all applicable mitigation measures remain the same.

IX. FINDINGS

The Planning Commission finds the following:

A. ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FOR CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT (PER PUBLIC RESOURCES CODE (PRC) SECTION 21081 AND CALIFORNIA CODE OF REGULATIONS (CCR) SECTION 15090)

The Planning Commission certifies that:

1. The Final Environmental Impact Report for the Sandman Inn Redevelopment Project was presented to the Planning Commission of the City of Santa Barbara. The Planning Commission reviewed and considered the information contained in the Final Environmental Impact Report, along with public comment and responses to comments, and determined that the document constitutes a complete, accurate, and good faith effort toward full disclosure of the project's impacts and is an adequate environmental analysis of the project.
2. The Final Environmental Impact Report for the Sandman Inn Redevelopment Project has been completed in compliance with the California Environmental Quality Act and Guidelines.
3. The Final Environmental Impact Report for the Sandman Inn Redevelopment Project reflects the City of Santa Barbara Planning Commission's independent judgment and analysis.
4. The location and custodian of documents and materials that constitute the record of proceedings upon which this decision is based, is the City of Santa Barbara Community Development Department, Planning Division, 630 Garden Street, Santa Barbara, CA, which is also the Lead Agency.
5. A mitigation monitoring and reporting program (MMRP) is hereby adopted. Mitigation measures have been made enforceable through incorporation into the project description or are included as conditions of project approval.

Class II Impacts (Potentially Significant and Mitigated). Project elements incorporated as part of the project description and mitigation measures applied as conditions of project approval would result in the avoidance or substantial lessening of the following environmental impacts to less than significant levels. These findings are supported by substantial evidence in the record including the Final EIR.

- a. **Visual Aesthetics.** Removal of existing mature trees would affect the site's visual appearance. This impact would be reduced to a less than significant level by relocating existing mature trees on-site and replacing each mature tree removed with an appropriate replacement tree, as determined by the City's Architectural Board of Review.

- b. **Geologic Hazards:** The proposed project has the potential to be affected by ground shaking and other seismic hazards. This impact would be reduced to a less than significant level with the implementation of the recommendations in the Soils Engineering Report prepared for the project, as well as compliance with building code requirements that would minimize potential hazards associated with ground shaking.
- c. **Noise:** Residential units near State Street and/or the residential parking garage ramp may experience noise levels above 45 dBA (interior) and/or 60 dBA (exterior), and commercial uses adjacent to State Street and/or the commercial parking garage may experience noise levels above 50 dBA (interior). These impacts would be reduced to a less than significant level with the implementation of noise attenuation measures in building construction and in the parking ramp design. Construction noise also has the potential to impact adjacent residents, and mitigation measures to address construction hours, construction equipment sound, noise barriers and improvement to adjacent residential units have been included.
- d. **Public Services:** The project would result in the short-term generation of construction and demolition waste, and long-term generation of waste from residential and commercial uses. This impact will be reduced to a less than significant level with the implementation of a waste management plan and by designing adequate trash enclosures with recycling areas into the project.
- e. **Transportation and Circulation.** The project would result in circulation impacts along San Remo Drive resulting from relocation of the Town and Country Apartment access driveway. These impacts would be reduced to a less than significant level by improving sight lines on either side of the new driveway through vegetation removal and additional red curb area.
- f. **Water Environment:** The proposed project has the potential to result in significant short- and long-term water quality impacts. These impacts would be reduced to a less than significant level with the implementation of erosion control measures, compliance with standard City requirements, the use of storm drain surface pollutant interceptors, storm drain stenciling and incorporation of Best Management Practices.

Class III Impacts (Less than Significant). The proposed project would result in a less than significant impact in the following environmental issue areas, as identified in the Final EIR. Mitigation measures are incorporated as conditions of project approval to further reduce the level of impact, consistent with City policies. These findings are supported by substantial evidence in the record including the Final EIR.

- a. **Air Quality:** Short-term project-related grading and construction activities would result in fugitive dust and emissions from construction equipment that would be well below the established threshold of significance. Standard dust and emissions control measures to further reduce potential impacts are included as recommended mitigation measures and in the Conditions of Approval. Therefore, the project is anticipated to have a less than significant long-term air quality impact.
- b. **Biological Resources:** The project would result in the removal of trees from the project site. To minimize potential impacts to nesting birds, timing restrictions on tree removal are included as a recommended mitigation measure.
- c. **Cultural Resources:** The project involves ground-disturbing activities, which means there is a remote possibility of encountering unknown buried deposits. Standard mitigation requiring contractor notification of this potential would further reduce potential impacts.
- d. **Transportation/Circulation:** The proposed project would result in a short-term increase in traffic due to construction-related activities. This would constitute a change to existing conditions but would be a less than significant effect, and would be further reduced by construction haul route and parking mitigation measures. The project's proposal to include a left turn lane into the residential parking garage would result in less than significant impacts to circulation along State Street. To mitigate this impact, it is recommended that the existing median not be reduced to accommodate said left turn, and, further, that the median be extended to better restrict left-turns into the site. The project's long-term parking may not be fully utilized as designed, which may lead to future parking problems. This less than significant impact would be further reduced by assigning and signing specific parking stalls.

Findings for the Fish & Game Code

An Environmental Impact Report has been prepared by the lead agency (City of Santa Barbara), which has evaluated the potential for the proposed project to result in adverse effects, either individually or cumulatively, on wildlife resources. For this purpose, wildlife is defined as "all wild animals, bird, plants, fish, amphibians, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability." The proposed project has the potential for adverse effects on trees and mature vegetation and associated wildlife during project construction. Mitigation measures have been applied such that any less than significant impacts will be further reduced. The project does not qualify for a waiver and is subject to payment of the California Department of Fish and Game fee.

B. THE LOT LINE ADJUSTMENT (Government Code §66412)

The proposed lot line adjustment is appropriate for the area and is consistent with the City's General Plan and Building and Zoning Ordinances. The lot line adjustment would adjust the line between the two parcels that are currently 3.22-acres (Lot 1) and 1.36-acres (Lot 2) in size by relocating the line such that the resultant parcels are 1.0-acre (Lot A) and 3.58-acres (Lot B) in size. The proposed parcels exceed the minimum lot area requirement, and satisfy all street frontage and setback requirements as identified in Section VI of the staff report.

C. LOT AREA MODIFICATION (SBMC §28.92.110)

The Modification of the lot area requirement to allow one (1) bonus density unit as part of the overall residential development is consistent with the purposes and intent of the Zoning Ordinance and is necessary in order to construct an additional housing unit that is affordable to a middle-income household, as described in Section VI.C of the staff report. Staff is supportive of this lot area modification because it allows for the creation of an additional Middle Income housing unit in the City, while the overall site layout and design remains compatible with surrounding development.

D. 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 Section VII.C of the staff report and in Section 5 of the EIR. The site is physically suitable for the proposed development due to its flat topography and soil composition, the project is consistent with the density provisions of the Municipal Code and the General Plan as demonstrated in Section VI of the staff report, and the proposed use is consistent with the vision for this neighborhood of the General Plan because it provides additional office and/or commercial development and additional in-fill housing that is compatible in size and scale with surrounding development. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems, as identified in the EIR.

E. THE NEW CONDOMINIUM DEVELOPMENT (SBMC §27.13.080)

- a. There is compliance with all provisions of the City's Condominium Ordinance.
- b. The project complies with density requirements as described in Section VI of the staff report. Each unit includes laundry facilities, separate utility metering, adequate unit size and storage space, and the required private outdoor living space.
- c. The proposed development is consistent with the General Plan of the city of Santa Barbara as described in Section VII.C of the staff report.
- d. The project can be found consistent with policies of the City's General Plan including the Housing Element, Conservation Element, and Land Use Element, as described in Section VII.C of the staff report and Section 5.0 of the Environmental Impact Report. The project will provide infill residential development that is compatible with the surrounding neighborhood.

- e. 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 as explained in Section VIII of the staff report and in the Environmental Impact Report.
 - f. The project is an infill residential project proposed in an area where 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, as analyzed in the staff report and Environmental Impact Report. The design has been reviewed by the City's design review board, which found the architecture and site design appropriate.
- F. DEVELOPMENT PLAN (SBMC §28.54.120)**
- 1. The proposed non-residential development complies with all of the provisions of the Zoning Ordinance, as identified in Section VI of the staff report.
 - 2. The proposed non-residential development is consistent with the General Plan and the principles of sound community planning, as identified in Section VII.C of the staff report and the Policy Consistency Analysis contained in the Environmental Impact Report.
 - 3. The total area of the site and the setbacks of all facilities from the property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that major detrimental impact on surrounding properties is avoided to the greatest extent possible, as identified in Section VII.C of the staff report and in the Environmental Impact Report.
 - 4. The design and operation of the project and its components, including outdoor lighting and noise-generating equipment, will not be a nuisance to the use of property in the area, particularly residential use, as analyzed in the Environmental Impact Report. Final review of outdoor lighting and mechanical equipment will be provided by the Architectural Board of Review.
 - 5. Adequate access and off-street parking is provided in a manner and amount so that the demands of the development are met without altering the character of the public streets in the area. As identified in Section VI of the staff report, the project is providing all required parking on site, and additional parking spaces are proposed along the entry driveway. Access to the site is provided by two driveways, and a complete analysis of access and circulation is contained in the Environmental Impact Report.
 - 6. The appearance of the developed site in terms of the arrangement, height, size, bulk, scale and architectural style of the buildings, location of the parking areas, landscaping, and other features is compatible with the character of the area and of the City. Please refer to the analysis contained in Section VII.A of the staff report and in Sections 5.0, 8.0 and Appendix 5.0 of the Environmental Impact

Report, as well as the comments provided to-date by the Architectural Board of Review.

Exhibits:

- A. Conditions of Approval
- B. Site Plan, Floor Plans, Lot Line Adjustment and Tentative Map
- C. Applicant's letter, dated November 4, 2009
- D. Final Environmental Impact Report - Distributed Under Separate Cover and Available On-line at: http://www.santabarbaraca.gov/Resident/Environmental_Documents/3714-3744_State/
- E. Density Calculation
- F. ABR Minutes dated November 16, 2009 (current proposal)
- G. ABR Minutes dated February 23, 2009 (Applicant's Alternative), February 11, 2008, November 3, 2003 and October 27, 2003
- H. Planning Commission Minutes dated May 14, 2009 (Draft EIR hearing/concept review)
- I. Planning Commission Minutes dated June 12, 2008 (scoping hearing)
- J. Planning Commission Minutes dated February 8, 2007 (scoping hearing)
- K. Planning Commission Minutes dated July 13, 2003 (concept hearing)
- L. Upper State Street Area Design Guidelines (excerpt)

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February 25, 2010

BY HAND

The Honorable Mayor Helene Schneider and
Members of the City Council
Santa Barbara City Hall
735 Anacapa Street
Santa Barbara, California 93101

Re: **Appeal of Planning Commission Certification of the Final EIR and Approval of the Sandman Redevelopment Project on December 17, 2009 (MST 2007-00 591)**

Dear Mayor Schneider and Members of the City Council:

The undersigned has been requested to join the team who is representing the Applicant with respect to the subject Appeal of the Planning Commission's 6 to 0 decision to certify the Final EIR for the Project and the 6 to 0 approval of the Project, subject to the Conditions of Approval.

The discussion below will address the issues raised by the Appellants in their January 7, 2010 Appeal Letter.

BACKGROUND

I. Project Background

The Sandman redevelopment project was originally commenced in 2003. It consists of a proposed redevelopment of 4.58 acres on Upper State Street. The improvements currently consist of a 113 room motel and a 216 seat restaurant. The project originally proposed by the Applicant was a 112 room hotel (which was subsequently reduced to a 106 room hotel) and 73 residential units, eleven of which are affordable (the "Proposed Project"). The Proposed Project's hotel was comprised of 63,455 square feet of improvements and a 112 space below ground parking lot.

During the consideration of the Proposed Project, the City adopted the Upper State Street Study. In response to that study, the applicant proposed modifications to the Proposed Project. These modifications eliminated the 63,455 square foot hotel and replaced it with a 15,790 square foot office building and the number of residential units remained at 73 (the "Applicant's Alternative"). Both the Proposed Project and the Applicant's alternative are analyzed in detail in the EIR.

Prior to the hearing on the draft EIR, the applicant presented the Applicant's Alternative to the Architectural Board of Review (ABR) and received comments. In conjunction with the Planning Commission hearing on the draft EIR, the Proposed Project and the Applicant's Alternative were the subject of a Planning Commission Conceptual Review hearing. In response to the comments received at ABR and the Conceptual Review hearing, the Applicant further refined the Applicant's Alternative to be responsive to the comments received. With respect to the refinements, they included a reduction in the size of the office building and the addition of two commercial condominiums for a net increase of 358 square feet, and the reduction of the bedroom count in the residential project by 6 bedrooms ("December '09 Project" or "Approved Project").

The December '09 Project received unanimous positive comments at a November 16, 2009 ABR hearing, including statements from ABR members such as "Fabulous Project", "Great Job", "Hats off to the Team" and "Really Nailed It". The December '09 Project received unanimous approval by the Planning Commission on December 17. The Planning Commission also unanimously certified the Final EIR at the December 17 hearing.

II. Project Perspective.

The EIR concludes, after a thorough analysis of the Proposed Project and the Applicant's Alternative, that there are no significant and unavoidable environmental impacts of either alternative. In fact, the analysis shows that both the Proposed Project and the Applicant's Alternative have far fewer impacts than the existing hotel and restaurant uses on the property. Traffic is reduced, other impacts are reduced, views, landscaping and architecture are vastly improved, and pedestrian circulation (public and private) is enhanced. Below is a table of some of the significant reductions in impacts by the proposals:

Reduced Impact	Description
Traffic	852 less average daily vehicle trips
Views	View corridors opened, buildings frame instead of block views
Public Space	Sidewalks widened, public plazas provided
Pedestrian Connectivity	Links to Northerly neighbours provided
Enhanced landscaping	Preservation of existing street trees, net increase of 239 trees
Surface Parking	Substantially replaced with below-ground parking and ground level landscaping and walkways
Open Space	Provides on-site open space
Non-conforming Setbacks	Eliminates all failures of the set back to conform to current standards; requests no modifications (other than a single affordable housing unit)

III. Finding of Environmental Superiority

The Applicant wants to emphasize to Council what all acknowledge – that the Approved Project has less environmental impacts than the existing improvements on the Property, the Proposed Project or the Applicant's Alternative. CEQA does not provide a mechanism to establish a formal designation of an environmentally preferred alternative in this case for the reasons stated below. However, the Planning Commission made a specific finding that the Approved Project is environmentally superior. The Applicant urges the City Council to make a similar finding.

IV. Appeal.

Notwithstanding the substantial environmental benefits resulting from the Approved Project, the Appellants have appealed the approval of the FEIR. Although the subject of this Appeal is an EIR, it is very important that the City Council, on appeal, appreciate the fact that neither the Proposed Project, the Appellants' Alternative, the Approved Project, nor any of the alternatives studied in the Final EIR would result in any significant and unavoidable (Class I) impacts (see pages 10.8 and 10.9 of Final EIR). Because there are no significant and unavoidable (Class I) impacts, the Proposed Project was subjected to the maximum CEQA level of review, even if ultimately shown not to be warranted by its actual environmental impacts. In fact, the City has considered major projects in the Upper State Street area - Whole Foods/Circuit City (negative declaration) and Berkus (categorically exempt from environmental review) - without requiring an EIR. However, because it initially appeared that it was possible that environmental impacts could exist, the applicant was willing to incur the cost and delay of an EIR, and therefore the EIR was prepared.

Once the EIR concluded that there were no significant (Class I) impacts, the balance of the EIR (such as the alternative analysis) was essentially gratuitous. See CEQA Guidelines Section 15126.b(b) which provides that "... the alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project." [Emphasis added.]

Appellants apparently take issue with the straightforward and logical conclusion set forth in the EIR Executive Summary at page 1.0-1 which states as follows:

“The environmental review process for the Sandman Inn Redevelopment Project provides a co-equal level of analysis for the proposed project and the applicant’s alternative. The proposed project includes a hotel and residential condominium complex while the applicant’s alternative replaces the proposed hotel with two office buildings. The co-equal level of analysis provides the same level of detail and analysis for both the proposed project and the applicant’s alternative for each of the issues that were determined in the Initial Study to have the potential for significant impacts. **By completing the environmental review on both, this final EIR provides flexibility to the City in approving either proposal without necessitating additional environmental review.**” [Emphasis added.]

DISCUSSION OF ISSUES

I. Further Improvements to the Project Not Discussed in the EIR

The first issue raised by the Appellants is that while the EIR was being finalized for the Planning Commission hearing, the Applicant further refined and mitigated the Project as embodied in the Approved Project. As mentioned above, the net effect of these refinements on the scope of the project were an increase of 358 square feet of commercial area and a decrease in the number of bedrooms in the project by six. There was no change in the residential unit count or any other material factor which could increase the project’s environmental impacts analyzed in the FEIR.

The Appellants seem to be arguing that no changes (no matter how much they improve the Project) can be made to the Project unless those changes are discussed in the Final Certified EIR. This proposition is of course contrary to the City’s process of Design Review Board, Planning Commission and Council review. The changes from the Applicant’s Alternative to the Approved Project were the direct result of comments made at ABR hearings and the Planning Commission Conceptual hearing, some of which comments were made by Appellants themselves¹. Appellant’s assertion literally would mean that the Planning Commission, the City Council on Appeal and the applicable design review boards (ABR or HLC) could not change or improve upon the Project in the review process. Appellants seem to argue that the environmental document is a straightjacket which prevents this process.

Contrary to the implications raised by the Appellants, under *Pub Res C. §21166*, once an EIR has been completed, the lead agency or a responsible agency may not require a subsequent or supplemental EIR unless:

- Substantial changes are proposed in the project that will require major revisions of the EIR;

¹ CPA letter dated December 15, 2009: “We are pleased that some recommendations made by the Citizens Planning Association (CPA) and others (e.g. providing more open space and moving the open space to a more useable location) have been implemented.”
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- Substantial changes occur in the circumstances under which the project is being undertaken that will require major revisions in the EIR; or
- New information of substantial importance to the project that was not known and could not have been known at the time the EIR was certified as complete becomes available ...”.
(Kosta and Zische, *Practice Under the California Environmental Quality Act* Section 19.2.)

The Appellants have not demonstrated how or why the changes reflected in the Approved Project meet any of the standards set forth above which require a subsequent or supplemental EIR. In fact, the reduction of six bedrooms and the increase in commercial area by 358 square feet cannot be interpreted under any stretch of the imagination as justifying a subsequent or supplemental EIR under CEQA.

II. Failure to Designate the Applicant's Alternative as the Environmentally Superior Alternative

The second issue raised by the Appellants is the failure of the EIR to identify which of the alternatives is the “environmentally superior alternative.” The Appellants assert essentially two arguments in support of its appeal on this point. First, Appellants state that the identification of an environmentally superior alternative is required by CEQA and proceed to say that “it is improper to withhold this fundamental conclusion ...”. Second Appellants argue that the lack of this conclusion somehow limited public comment. The first assertion is a misstatement of CEQA requirements. Both of these assertions are unsupported by the record.

A. CEQA Does Not Require Designation if there are no Class 1 Impacts.

CEQA and the CEQA Guidelines do not require the designation of an environmentally superior alternative. Appellants' position is without any support in CEQA, its regulations or significant case law interpreting CEQA. The designation of an “environmentally superior alternative” is not mandated except if the “no project alternative” is “environmentally superior” to all other alternatives. If it is, the EIR must identify which of the others, as among themselves, causes the least environmental damage.” (14 *Cal. Code Regs.* §15126.6(e)(2).)

In the subject EIR, the “no-project alternative” was not environmentally superior to either the Proposed Project or the Applicant's Alternative. In fact, as stated above, the ‘no project alternative’, which would leave the existing hotel and restaurant uses in operation, has substantially greater on-going environmental impacts than either the Proposed Project, the Applicant's Alternative or the Approved Project.

Notwithstanding that CEQA does not provide for the finding that Appellants erroneously insist is required, it is apparent that the Applicant's Alternative has substantially less environmental impacts than the Proposed Project. It is also apparent that the Approved Project has even fewer impacts than the Applicant's Alternative.

The Planning Commission responded to the concerns of the Appellants with respect to this issue by including in its findings, which were adopted in connection with the Planning Commission's approval of the Approved Project, the following:

"The Planning Commission finds the project plans dated December 3, 2009 to be environmentally superior in terms of relative environmental impacts to all other alternatives evaluated in the EIR."

B. Appellant's Participation In the Process Was Not Limited by Lack of Designation of an Environmentally Superior Designation.

Appellant's argument that the failure of the EIR to make a designation not required by CEQA inhibited public comment is also contrary to the record. The Sandman project has been reviewed by the Architectural Board of Review and the Planning Commission a total of eleven times. The potential for development impacts on the Sandman property have been analysed in the Upper State Street Study. The vast benefits of the redesigned Applicant's Alternative and the even more refined Approved Project were the direct result of comments received through the public review process, including comments of Appellants.

The Appellants and other members of the public were active participants in the review and approval of the Sandman project. They provided comments at the EIR scoping hearing. They provided comments at the Draft EIR hearing. They provided comments at the Planning Commission Conceptual Review hearing. And of course they provided comments at the project approval hearing. Contrary to statements in the appeal letter, the public, specifically including the applicants, were deeply and vocally involved in all aspects of the review and certification of the Sandman EIR and approval of the Approved Project itself.

Many of the Appellants' comments were incorporated into the Approved Project and made it better. This is actually a case where the public involvement in the process has been embraced by the Applicant, public comments have been incorporated into the Project, and the environmental impacts of the Sandman Inn redevelopment have been further reduced as a result.

Appellant's argument that somehow the failure to designate an environmentally superior alternative limited public comment is disproved on its face by Appellants own participation in the process. Appellant's provided three separate letters to the Environmental Scoping hearing. These letters contained numerous comments with respect to the scoping of the EIR². Appellants also provided detailed comments to the Draft EIR³. Notably CPA stated that it was 'delighted that the applicant decided to propose a more attractive and far more sustainable alternative', the Applicant's Alternative. CPA then went on to extol the environmentally superior aspects of the Applicant's Alternative. CPA's comment letter dated May 21, 2009 specifically identified no less

² CPA Letters dated June 8, 2008 and June 24, 2008, and Allied Neighborhood Alliance's e-mail dated June 26, 2008, contained in Volume II of the FEIR.

³ See CPA letters dated May 10, 2009 (FEIR page 12.0-11) and May 21, 2009 (FEIR page 12.0-46) and Allied Neighborhood Alliance letter dated May 12, 2009 (FEIR page 12.0-22).

than six significantly reduced environmental impacts of the Applicant's Alternative⁴. CPA further provided two additional comment letters to the Planning Commission prior to the December 17, 2009 hearing, one setting forth comments with respect to the FEIR and the other providing comments with respect to the Applicant's Alternative and the December 2009 Project⁵.

It defies logic to argue that public comment was somehow limited when all of these environmental benefits were set forth in the DEIR and FEIR, were apparent to the public (including Appellants) and the decision makers as evidenced by comment letters and discussions at hearing and were emphasized by Appellants and other members of the public in at least three public hearings before the Planning Commission⁶.

Appellants acknowledge that the analysis of alternatives is at the heart of the EIR process. But this does not then require a finding not contemplated by CEQA. The FEIR "provides a co-equal level of analysis" with "the same level of detail and analysis for both the Proposed Project and the Applicant's Alternative for each of the issues that were determined in the Initial Study to have the potential for significant impacts". The Approved Project is very similar to the Applicant Alternative, only with less environmental impacts, largely as a result of public comment. The Planning Commission recognized this fact with its finding quoted above.

Appellants raise the spectre that the Applicant could switch to another version of the Project and that somehow the failure to designate the Applicant's Alternative as the environmentally superior alternative enables this. Neither the Proposed Project nor the Applicant's Alternative was approved by the Planning Commission. Neither is before the City Council. The Applicant has devoted substantial time, energy, creativity and financial resources in refining the Sandman redevelopment project into the Approved Project. It has no intention to

⁴ "Explicitly or implicitly, the DEIR presents ample evidence for the environmental superiority of the Applicant's Alternative over the original Project. For example:

1. Less impact on mountain views and neighborhood character.
2. Less water and sewer usage, as well as less solid waste generation, by the Alternative's commercial component –
Water: 7.44 acre feet per year versus 19.53 afy
Sewer: 6.63 afy versus 16.94 afy
Solid Waste: 18.98 tons per year versus 84.80 tpy
The respective total impact figures, which include the impact of the 73 residences as well, are of course much higher.
3. Less traffic congestion (about 40% fewer average daily trips and 20% fewer parking spaces for the two parcels).
4. Less exposure of the residents to traffic noise and air pollution (2 instead of 7 dwelling units requiring closed windows and air conditioning for indoor noise mitigation).
5. Less exposure of the public to air and noise pollution during the period of demolition and construction (24 months instead of 29 months).
6. Less risk of water run-off to other properties and of eventual discharge into two nearby creeks, as well as into the drinking water well located near their confluence. The resulting increase in the on-site retention of storm-water would help protect the floodplain south of Highway 101. This is especially important should conditions outstrip the "25-year storm event" referenced in the DEIR."

⁵ See CPA letters dated December 14, 2009 and December 15, 2009.

⁶ The May 14, 2009 DEIR Comment Hearing, the May 14, 2009 Concept Review Hearing and the December 17, 2009 FEIR Certification and Project Approval Hearing.
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change course and seek approval of the Applicant's Alternative or the Proposed Project. If for any reason Applicant were to seek any such approvals, they would be subject to full public hearings, ample opportunity for public comment, and subject to analysis under Pub. Res. C. §211.66 to determine whether further environmental review is required in the form of an Addendum to the EIR or a subsequent or supplemental EIR.

Appellants express concern that there is an implication that the Proposed Project is still under consideration. To address that concern, the Applicant hereby expressly withdraws the Proposed Project from continued consideration, as it has been superseded by, first, the Applicant's Alternative and, finally, by the Approved Project. [Emphasis added.]

The Applicant has determined that the best project for the Applicant is the December 2009 Approved Project and that is the project they want to develop. To further confirm this conclusion, the Applicant requests that City Council make a finding similar to the finding made by the Planning Commission and quoted above. This will acknowledge the uncontested fact that the Approved Project is environmentally superior in terms of relative environmental impacts to any alternative evaluated by the EIR.

III. Commentary on City Process

On page 2 of the Appellants' Appeal Letter, the Appellants criticize the CEQA practices of the Community Development Department. The Applicant does not see why this critical commentary is necessary. It clearly does not serve as a basis for appealing the Approved Project.

IV. Requested Condition

At the top of page 3 of Appellants' Appeal Letter, Appellants request the imposition of a condition that requires enhanced public and decision-maker review of any changes to the description of the Approved Project. There is no justification for this enhanced review of the Approved Project. There is simply no merit in imposing additional unspecified review burdens on a project like the Approved Project. If anything, the Approved Project's review should be streamlined in light of the extremely positive comments it has received in public hearings as a model project for a redevelopment that substantially reduces existing environmental impacts.

Further, as a long-time land use practitioner in the City of Santa Barbara, I believe this requested condition would be redundant. Every project in Santa Barbara which has raised public interest receives "enhanced public and decision maker review." Finally, such a condition would be difficult to enforce or interpret since it has no standard by which satisfaction of the condition can be tested or evaluated.

V. Lack of Clarity and Directives in Illustrating the Environmental Superiority

CEQA requires that an EIR be prepared with a sufficient degree of analysis to provide decision makers with information that enables them to review possible environmental consequences intelligently. The courts have not looked for perfection but for adequacy, completeness and a good faith effort at full disclosure. The FEIR is a complete, objective and

through analysis of the Proposed Project and several alternatives, one of which is the Applicant's Alternative. All potentially significant environmental impacts identified through the scoping process have been explored in detail.

The subject of the two-volume EIR for the Proposed Project and the Applicant Alternative which concludes there are no Class I impacts, clearly satisfies this standard of adequacy. The contents of the EIR may not be organized or presented exactly the way the Appellants wish them to be but it clearly satisfies a high standard of thoroughness and completeness. The content, analysis and format of the FEIR clearly satisfy the legal requirements of CEQA.

VI. Limitations of Natural and Infrastructural Resources

Appellants raise issues related to limitations of natural and infrastructural resources. These issues are identical to issues raised by Appellants in their comments on the DEIR. They were specifically addressed in the FEIR⁷. Without more credible or expert evidence in the record to support an expansion of the environmental impact discussion to include these subjects, these comments are simply the Appellants' unsupported opinion.

VII. Job/Housing Balance

The Appellants assert that the addition of market rate housing to the community will increase the Jobs/Housing imbalance in the community. Appellants' assertion has no merit. Appellants' (and others) comments regarding the jobs/housing imbalance issues were raised in conjunction with the review of the DEIR and were thoroughly addressed in the FEIR⁸.

The City currently provides 1.7 jobs per residential unit. The existing Sandman Inn and restaurant provides approximately 130 jobs, with no housing units; the Applicant's Alternative will generate approximately 57 jobs while supplying 73 housing units. The net effect is that the Applicant's Alternative (and therefore the Approved Project) will create over an eighty percent reduction in jobs on the site and a reduction in the City's jobs housing imbalance⁹. However, under any circumstances, the issue of Jobs/Housing imbalance, its causes and consequences, is an economic/policy issue and is not an environmental issue which should be addressed in the FEIR.

VIII. Hitchcock and State Street Traffic

The Appellants have raised an issue with respect to traffic at Hitchcock and State as a consequence of the recent "change of use" of the Circuit City facility to a Whole Foods market.

In making this request, the Appellants ignore CEQA Guidelines section 15125, which provides that the baseline for assessing impacts will be the "environmental setting" for the Project at the time of issuance of a Notice of Preparation or the date of commencement of environmental

⁷ See FEIR Response to Comments 3-7 and 3-8, page 12.0-13.

⁸ See FEIR Response to Comment 2-4, pages 12.09-10

⁹ Id.

review. CEQA mandates inclusion of pending projects identified at that time. CEQA does not allow for re-analysis of other projects as they come to fruition or mature.

At the time of commencement of environmental review for this Project, there was a pending project before the City to remodel the Circuit City site to provide not only for a Circuit City store but also a Whole Foods store and housing. This pending project was evaluated as part of the baseline for the EIR and not simply the "change of use" for the Whole Foods market. As a result the traffic impacts of the recently opened Whole Foods store were thoroughly analyzed in the FEIR. Any further review of the traffic generated by the existing Whole Foods market would doubtless show much lower impacts than the traffic impacts of the much larger Whole Foods/Circuit City project included in the FEIR's cumulative project study.

Traffic in the area of the Project, including the Whole Foods, Circuit City project has been studied exhaustively. The Applicant provided its independent traffic study for the Proposed Project and the Applicant's Alternative. The Whole Foods/Circuit City project provided its own independent traffic study. The City undertook a third independent traffic study, including both the Whole Foods and Circuit City projects in conjunction with the recently adopted Upper State Study. Finally, the EIR consultant obtained a fourth independent traffic study in which both projects were included. The analysis of the traffic impacts in the area has been thorough, exhaustive and complete.

The most important traffic issue related to the Approved Project is that it represents an 852 reduction in average daily traffic trips on Upper State Street¹⁰. The Applicant's Alternative, and therefore the Approved Project, will reduce by almost half the number of daily trips attributable to the property, as shown by the following:

<u>Project</u>	<u>Average Daily Trips</u>	<u>Reduction from Existing</u>
Existing Site	1751	--
Proposed Project	1535	216 (88% of existing)
Applicant's Alternative	899	852 (51% of existing)

IX. Crosswalks.

The Appellants place a great emphasis on the FEIR's misstatements about the description of bike lanes on Hitchcock and the omission of comments on crosswalks on Hitchcock. But the real question which must be asked is whether the misstatements or omission were prejudicial and would have a "material effect" on informed decision making or informed public information? (*Al Larson Boat Shop v Board of Harbor Commissioners*, 18 Cal.App.4th 729.) The court added to its conclusion that "We are also mindful of the Supreme Court's caution that 'rules regulating the protection of the environment must not be subverted into an instrument for the oppression and delay of social, economic or recreation development and advancement.'" (*Id.* at 749 (quoting *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d 553, 576.)

¹⁰ See FEIR Table 7.0-8, Page 7.0-29
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X. Residential Density Calculation.

Appellants raise concerns regarding the calculation of the density of the residential project, disingenuously labelling it "double-dipping". Appellant's concern was specifically addressed by Staff and by the FEIR¹¹. The Applicant could have easily proposed to merge the two lots and create a condominium parcel for the commercial portions if it desired, which would have obviated this issue.

City staff has determined that the calculation is entirely appropriate because the Approved Project is essentially a mixed use development of the entire site. Additionally, the Planning Commission has approved this calculation methodology as entirely appropriate. Further, the number of residential units resulting from this calculation is entirely consistent with the General Plan's housing element policies¹². This consistency is expressly validated by the FEIR¹³.

Appellants' objective (stated in its appeal letter) is to reduce the density of the Approved Project. This objective is not supported by any material facts. A reduction would be contrary to the housing policies encouraging housing. Reduced density would also make the underground parking, which enhances the liveability of the project and reduces its view impacts, unaffordable. Reducing density would also negatively impact the jobs housing imbalance and the influx of non-resident commuters because by definition, the project would provide less housing. For these reasons among others, the "objective" urged by Appellants should be rejected.

In evaluating the issues discussed above as the basis for not reducing the density of the residential units, the Council should also be aware of *Government Code* section 65589.5(j). Under *Government Code* section 65589.5(j), the density of a proposed housing project that complies with the applicable objective general plan and zoning standards and criteria in effect when the application is determined to be complete (which the Approved Project does) cannot be reduced, or the project disapproved, unless the agency makes specific written findings supported by substantial evidence showing a need to do so to avoid adverse health or safety effects. To deny the project, or to approve it conditioned on a reduction in density, the agency must find that the proposed project would have a specific, adverse impact on the public health or safety unless it is disapproved or the density is reduced. A "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

¹¹ See FEIR Response to Comment 3-9, page 12.0-16.

¹² **Policy 3.1** requires the City to make every effort to meet Santa Barbara's fair share of the regional housing need, including supporting infill residential projects and bonus density projects where appropriate

Policy 4.1 encourages the construction of new affordable housing opportunities for owners and renters, specifically encompassing three bedroom homes for first time and middle income buyers.

Policy 4.3 requires the City to concentrate its housing efforts on the redevelopment of opportunity sites in commercial and

residential zones with priority for commercial and mixed-use development. The only identified opportunity site on Upper State Street is the Sandman Project site.

Policy 5.2 recommends that the City implement flexible standards for housing projects.

¹³ See FEIR Response to Comment 15-4 and Appendix 5.0, Supplemental Policy Consistency.

(Govt.C. §65589.5(j)(1). The FEIR makes absolutely clear that the Approved Project does not create or contribute to any adverse health or safety effects and does not support the reduction of the density.

XI. Approved Project's Addition of Two Commercial Condominiums.

Appellants assert that the implications of adding two commercial condos were not evaluated in the FEIR. Appellants deliberately overlook the fact that the office building proposed in the Applicant's Alternative was substantially reduced in size in order to accommodate the two commercial condos. The net square footage of commercial uses proposed in the Applicant's Alternative was 14,254, all in one office building. The net commercial square footage proposed in the Approved Project is 14,612, consisting of the two commercial condos and the reduced size office building. The difference is an increase in only 358 net square footage of commercial space.

XII. Reservation of Rights to Raise Additional Issues.

Appellants "reserve the right to make additional arguments" in support of their appeal.

The Applicant finds this request to be indicative of the goals of the Appellants. The Appellants have followed this Project throughout the entire review Project. Unlike other appeals, because of the City's holidays, furloughs, etc., the Appellants had a total of twenty-one days after the Planning Commission approval of the Approved Project to formulate their appeal issues.

Appellants' own letters state that they have been following and commenting on the project for over six years. Appellants have written eight letters to the Planning Commission on the project in the past two years alone. Appellants have also appeared and presented their comments at numerous hearings on the Project and its environmental review. The Appellants' position has been fully considered by the decision makers and the EIR consultant. The time has passed for Appellants to add new arguments. The unanimous decision of the Planning Commission was correct. We believe that this City Council should deny the appeal.

XIII. Impact of Approval of Appeal.

Appellant's appeal would reverse the Planning Commission certification of the FEIR and its approval of the Project. Such a result would be tantamount to the express approval of the 'No Project Alternative', which the FEIR, the Applicant, Planning Commission and even Appellants agree has substantially greater environmental impacts than the Approved Project. In essence, the Appellants urge the adoption of the no project alternative set forth in the FEIR.

In essence, by pursuing this appeal, Appellants are asking the City Council to retain improvements consisting of acres of asphalt surrounding, less than sterling '60's architecture, and generating far more environmental impacts than the Approved Project.

Appellants desire your Council to approve blocking views of the mountains, narrowing public sidewalks, reducing pedestrian connectivity, eliminating public plazas and placitas, preventing the construction of a new bus stop, eliminating new affordable housing in Santa

Barbara -- all of which are directly contrary to the Upper State Street Study, the General Plan and the developing Plan Santa Barbara.

Appellants would also have your Council support maintaining 852 daily vehicle trips on upper State Street the Approved Project would eliminate, and prevent the planting of more than 266 new trees on what is now a sea of asphalt. Appellants would have your Council support maintaining modest accommodations for out of town visitors over the creation of seventy-three environmentally friendly, high quality of life, and transit oriented homes for Santa Barbara residents.

The adverse results of granting Appellants appeal clearly demonstrate that Appellants' objective to oppose every project is outmoded and inappropriate. An environmentally sensitive redevelopment project, carefully crafted to be responsive to seven years of public input, resulting in vastly reduced environmental impacts over the current use of the property, should receive as much support from self-appointed spokespersons for the community as it has from the ABR and the Planning Commission.

A true citizen's "planning" association should be in support of the Approved Project. A true neighbourhood association would be allied behind the Approved Project because the reduced environmental impacts benefit all neighbours.

Appellants are appealing the approval of a project representing an improvement over the "Proposed Project" with which they were "delighted"¹⁴ and "pleased with the direction of" ... and they were willing to "applaud the direction of"¹⁵. Many of the refinements of the Approved Project over the Applicant's Alternative were the direct result of comments made by Appellants in their comments to the DEIR and at the Planning commission Conceptual hearing. These include elimination of a proposed left turn into the project, increased open space internal to the project, buffering the residential units more from State Street impacts, increased protection of existing trees and planting additional new trees.

¹⁴ CPA DEIR and Conceptual Review Letter dated May 10, 2009.

¹⁵ Allied Neighborhoods Association DEIR Comment Letter dated May 12, 2009.
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The Honorable Mayor Helene Schneider and
Members of the City Council
February 25, 2010
Page 14

Granting the Appellants' appeal would subvert the entire public comment and approval process in which this project has been involved for almost seven years. We urge you to look through the unsupported issues raised by the Appellants and focus your attention on all of the environmental, social, planning and policy benefits of the Approved Project. We urge you to deny the appeal and approve the Planning Commission's certification of the FEIR and approval of the Approved project.

Sincerely,



Douglas E. Fell

DEF:jmg

Cc: Mr. Greg Parker
Steven Wiley, City Attorney
Scott Vincent, Assistant City Attorney
Paul Casey, Community Development Director
Ms. Allison Debusk
Ms. Debra Andoloro

CORRESPONDENCE
RELATED TO ITEM NO. 15

To the Mayor &
 City Council,
 never ever allow
 demolition of the 113 room
 Sandman Inn Hotel,
 Town Town Brewing Co
 and all buildings and
 trees and bushes etc.
 never allow construction
 of the ~~Condo~~ ^{Office} Complex on
 Lot A and 2 commercial
 condos & 73 residential condos.
 Stop the lot line adjustment
 Development Plan, Modifications, and
 Subdivisions. Don't do it. It is truly
 atrocious. Stop the Development. Save Santa Barbara. Adley
 It is nice. Beware

60 people
 70 people
 100 people
 actively
 helping-

1-31-10
 650 Miramonte Ln
 Santa Barbara
 Si. Maria Ill

Re: Item 8. APPEAL
 for 3714-3744 State St
 Sandman ~~Hotel~~
 Inn

Please read it by
 Hearing Public + etc
 2-2-10

Sincerely,
 Paula Westbury
 PAULA WESTBURY

RECEIVED
 FEB 01 2010
 CITY OF SANTA BARBARA
 PLANNING DIVISION



CITIZENS PLANNING ASSOCIATION OF SANTA BARBARA COUNTY, INC.
916 Anacapa Street, Santa Barbara, CA 93101
phone (805) 966-3979 • toll free (877) 966-3979 • fax (805) 966-3970
www.citizensplanning.org • info@citizensplanning.org

RE: APPEAL TO SANTA BARBARA CITY COUNCIL OF PLANNING COMMISSION'S
CERTIFICATION OF THE FINAL EIR FOR THE SANDMAN INN REDEVELOPMENT
PROJECT AND OF THE APPROVAL OF THE LATEST VERSION OF THE PROJECT
ON DECEMBER 17, 2009

March 3, 2010

Dear Mayor Schneider and City Council Members:

The Citizens Planning Association of Santa Barbara County, with the concurrence and support of the Allied Neighborhoods Association and the Santa Barbara League of Women Voters, is appealing two actions of Planning Commission concerning the Sandman Inn Redevelopment project. The appealed actions are: (1) the certification of the Final Environmental Impact Report which encompasses both the originally Proposed Project and the much more modest Applicant's Alternative, and (2) the approval of the latest version of the Applicant's Alternative without this version having been analyzed or even mentioned in the Final Environmental Impact Report. In addition to the appeal letter dated January 7, 2009, CPA's South County Land Use Committee wishes to submit the following information concerning the appeal:

Main reasons for the appeal:

1. The FEIR fails to identify an environmentally superior alternative as mandated by CEQA. This failure compromised the public's and the Planning Commission's analysis of the Project since one of the fundamental informational purposes of the EIR was not fulfilled. While the Planning Commission recognized this error and adopted their own finding regarding the environmentally superior alternative, this after-the-fact action did not give the public the opportunity to comment on what should have been an important part of the EIR.
2. The certification of the FEIR in its present form leaves open the door for a future reversion to the original project without further environmental review. Any certification should be narrowed to exclude the originally Proposed Project and include only the Applicant's Alternative.

3. Both the DEIR and the FEIR, like several similar documents before, improperly defers analysis of critical CEQA issues to which the public is entitled.
4. There is no documentation for the view, expressed in the December 10th Staff Report and apparently accepted by Planning Commission, that the FEIR's analysis of the Applicant's Alternative can be presumed to cover its latest iteration (also known as the Current Project) approved on December 17, 2009. Yet the two *commercial* condominiums added in the Current Project to the otherwise residential parcel are not fully counterbalanced by the square footage reduction of the buildings proposed for *office* use in the analyzed Applicant's Alternative. Furthermore, the staff discussion of the Current Project fails to address the possibly significant traffic, parking, and job-generating consequences of the open-ended approval of "commercial" (rather than "office") space if the space is used for such purposes as general retail, video rental, coffee shop, or public fitness center.

Other reasons for the appeal (most of the following considerations apply with special force to the originally Proposed Project but also bear on the Applicant's Alternative):

- (a) *Ignoring or dismissing* public comments on the Initial Study, the DEIR, and the FEIR, the certification of the FEIR failed to consider or sufficiently consider the *cumulative* context of the project's impact relative to:
 - ☉ the daily influx of 40,000 to 100,000 nonresidents (mostly tourists and commuters) as potential users of such City resources as water, sewage and hard waste disposal capacity, road capacity for ordinary and emergency traffic, police and fire protection, etc.
 - ☉ the recently enhanced strain on our natural and infrastructural resources by such factors as the decreasing availability of State Water, the increased siltation of local lakes and reservoirs, the increasing energy and other costs of possibly needed desalination, the trend of increasing gang-related violence, and the increasing year-round wild fire danger (acknowledged by the governor's discontinuing the official designation of a "high fire season").
 - ☉ the city-wide problem of jobs/housing imbalance, which is exacerbated by the creation of added demand for low, moderate, and middle income workers through the development of new market-rate and even middle income inclusionary housing.
 - ☉ the true conditions of car, truck, bicycle, and pedestrian traffic in the project's vicinity (e.g., some of the figures cited in the traffic study seem to be arbitrarily chosen from among available alternatives and do not reflect the actual traffic generated by the now existing

Whole Foods Supermarket, the bike lanes ascribed to Hitchcock Way do not exist, and there is no mention of the problematic lack of marked pedestrian crossings across the half-mile stretch of Hitchcock Way between State Street and Calle Real).

(b) The FEIR requires further review and analysis of *policy consistency and adherence to sound planning principles* relative to:

- the calculation of the number of permissible dwelling units on the 3.58-acre residential parcel being based on the 4.58-acre total area of the two parcels under consideration;
- the approval for a 4.58-acre site at the location in question of 73 residential condominiums and a 106-room hotel (Proposed Project) or 73 residential condominiums and over 14,000 square foot of commercial development (Applicant's Alternative and Current Project);
- the application of Variable Density standards in the SD-2 overlay zone, presumably justified by the procedurally improper recent addition of the following sentence to the Municipal Code (MC 28.21.080.F): "The fact that a lot may be subject to an overlay zone, including, but not limited to, the S-D-2 or S-D-3 Overlay Zones, does not prohibit the application of variable density if variable density is otherwise allowed in the base zoning of the lot." See Ord. 5459 (2008), apparently not vetted through public review and not addressed as a proposed substantive change by the Ordinance Committee and City Council.
- lack of full compliance with the current regulatory framework including the City of Santa Barbara's Storm Water Management Program, approved by the Central Coast Regional Water Quality Control Board and fully implemented since January 2009 (e.g., the April 2005 drainage study was updated in October and November 2009 *outside* the environmental review process, and the update only addressed the Applicant's Alternative without reference to the originally Proposed Project).
- lack of adequate attention to the input of at least one advisory body (the advice from the Parking and Recreation Commission was not solicited in time for the EIR and was apparently not communicated to Planning Commission before project approval -- see the PRC minutes of the meeting of November 18, 2009).

Recommendations:

1. We respectfully urge City Council to uphold the appeal, decline to certify the FEIR in its present form, and recirculate a revised version that declares the Applicant's Alternative the environmentally superior alternative and adds a comprehensive list of reasons why the Applicant's Alternative is environmentally superior to the originally Proposed Project.

An alternative remedy would be to certify the FEIR but expressly exclude from the certification the Project Description for the originally Proposed Project.

2. We also urge City Council to initiate an examination of the City's CEQA processes with a view to correcting existing problems, revising the city's outdated CEQA Guidelines, and adopting appropriate CEQA Thresholds for future reviews.
3. As for the approval of the Current Project, we request that City Council send the case back to Planning Commission for additional public consideration in the light of the latest iteration of the alternative project and a complete Project Description. One result of this reconsideration should be the imposition of a condition that requires enhanced public and decision maker review of any deviations of the present or a future version from the project description of the analyzed version of the Applicant's Alternative.

In conclusion, please note that the following recent letters relating to the Sandman Inn Redevelopment project and already approved by the CPA board as part of its monthly Consent Calendars, shed additional light on the issues raised in the present submission:

June 24, 2008: scoping comments on Initial Study (8 pages)
May 10, 2009 initial comments on DEIR (3 pages)
May 21, 2009: final comments on DEIR (3 pages)
December 14, 2009: comments on FEIR in general (3 pages)
December 15, 2009: comments on FEIR and Staff Report about the Applicant's
Alternative (3 pages)
January 7, 2010: Appeal letter (6 pages)

We thank you in advance for your consideration.

Paul Hernadi
South County Vice President
Citizens Planning Association of Santa Barbara County

cc: Allison DeBusk, Cindy Rodriguez, Julie Rodriguez

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA DENYING THE APPEAL OF THE CITY PLANNING COMMISSION'S CERTIFICATION OF AN ENVIRONMENTAL IMPACT REPORT AND PROJECT APPROVAL FOR DEVELOPMENT LOCATED AT 3714-3744 STATE STREET (SANDMAN INN REDEVELOPMENT PROJECT)

WHEREAS, the City accepted an application from Brent Daniels, L&P Consultants, agent for Kellogg Associates, owners of 3714-3744 State Street, for the approval of a development project (hereinafter identified as the "Sandman Inn Redevelopment Project");

WHEREAS, the Sandman Inn Redevelopment Project consists of the demolition of the existing 113-room Sandman Inn Hotel, Downtown Brewing Co. restaurant building, and all site improvements, and the construction of a new office complex consisting of 13,075 square feet on Lot A, and two commercial condominiums totaling 1,537 square feet and 73 residential condominium units on Lot B. The project includes a total of 241 parking spaces (71 parking spaces for the commercial component, 163 parking spaces for the residential component and 7 common/shared spaces). The office development on Lot A would be contained within a two-story building with a maximum height of approximately 31 feet. A majority of the parking (46 of 63 required spaces) would be provided in an at-grade parking lot located behind the building. The remaining required parking spaces would be located along the at-grade driveway (3 spaces), in the existing adjacent parking lot on-site (4 spaces) and in the underground parking garage located on Lot B (10 spaces). The commercial development on Lot B would have a maximum height of approximately 24 feet. Parking would be provided along the at-grade driveway (5 spaces) and in the underground parking garage (3 spaces). The residential development on Lot B would have a maximum height of 35 feet above finished grade, with parking provided in an underground parking garage. Of the 73 residential condominium units, two units would be one-bedroom units of approximately 873 square feet, 52 units would be two-bedroom units of between 1,080-1,350 square feet, and 19 units would be three bedroom units of between 1,425-1,520 square feet. Eleven of the 73 units (2 one-bedroom units, 5 two-bedroom unit and 4 three-bedroom units) would be provided at sales prices targeted to middle-income households, pursuant to the City of Santa Barbara's Affordable Housing requirements. The residential development would also include a Community Center of approximately 1,200 square feet and common open space areas located east and west of the at-grade driveway turn-around;

WHEREAS, the Sandman Inn Redevelopment Project required the following discretionary approvals by the City: 1) Certification of an Environmental Impact Report (EIR) for the project; 2) a Lot Line Adjustment to transfer 2.22 acres from APN 053-300-031 to APN 053-300-023; 3) a Development Plan to allow construction of a non-residential building of 10,000 square feet or more of total floor area in the C-P Zone; 4) a Modification of the lot area requirements to allow one over-density unit on a lot in the C-P/S-D-2, R-3/S-D-2 and R-4/S-D-2 zone districts; and 5) a Tentative Subdivision Map for a one-lot subdivision to create 73 residential condominium units and two commercial condominium units;

WHEREAS, on January 7, 2010, the Citizens Planning Association and Allied Neighborhoods Association (hereinafter the "Appellants") challenged the Planning Commission certification of the Final EIR and approval of the Sandman Inn Redevelopment Project, citing, among other issues, a concern that the Final EIR did not identify the Applicant's Alternative as the environmentally superior alternative;

WHEREAS, on March 8, 2010, the City Council visited the Project site;

WHEREAS, on March 9, 2010, the City Council held a duly noticed public hearing on the Appellants' appeal, receiving a report from City staff as well as oral and written testimony from the Appellants, the Applicant's representatives, and members of the public; and

WHEREAS, after consideration of the evidence presented, the testimony received, and deliberation by the Councilmembers, the majority of the Council concluded that the Sandman Inn Redevelopment Project Final EIR was adequate and prepared in accordance with the California Environmental Quality Act and state CEQA Guidelines, and that the Project was acceptable and in keeping with the City's Zoning Ordinance and the General Plan, and that the appeal should be denied.

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

SECTION 1. The appeal filed by Citizens Planning Association and Allied Neighborhoods Association did not present any evidence, in particular substantial evidence based on expert testimony, of any inadequacy of the Final EIR or of any potentially adverse impact on the environment which might be caused by the Project and, as a result, the appeal of the Planning Commission certification of the Final EIR and approval of the Sandman Inn Redevelopment Project is denied.

SECTION 2. The City Council has read and fully considered the Sandman Inn Redevelopment Project's Final EIR and, in hereby adopting the Final EIR, has determined, in the Council's independent judgment and analysis and on the basis of the whole record before the City Council, that 1) the document constitutes a complete, accurate, and good faith effort toward full disclosure of the project's impacts and is an adequate environmental analysis of the project, 2) the document has been completed in

compliance with the California Environmental Quality Act and Guidelines, 3) the location and custodian of documents and materials that constitute the record of proceedings upon which this decision is based is the City of Santa Barbara Community Development Department, Planning Division, 630 Garden Street, Santa Barbara, CA, which is also the Lead Agency, 4) a mitigation monitoring and reporting program (MMRP) is hereby adopted, and mitigation measures have been made enforceable through incorporation into the project description or are included as conditions of project approval, 5) the City Council concurs with the Planning Commission in finding the project dated December 3, 2009, to be environmentally superior in terms of relative environmental impacts to all other alternatives evaluated in the EIR, 6) no project shall be approved for the project site that substantially deviates from the Current Project without the City first determining whether further environmental review is required for the revised project pursuant to CEQA Guidelines 15162 through 15164 and, if further environmental review is required, the completion of that environmental review, and 7) there is no substantial evidence that the Sandman Inn Redevelopment Project, as mitigated, will have a significant effect on the environment.

SECTION 3. The City Council approves the requested Lot Line Adjustment pursuant to Santa Barbara Municipal Code Section 27.40, making the findings contained in Planning Commission Resolution No. 046-09 that the re-configured lots are fully consistent with the City's General Plan and Zoning Ordinance and, additionally, finding that this approval is fully consistent with the limited authority allowed by the State Subdivision Map Act with respect to the approval or disapproval of a lot line adjustments to two legal parcels of land.

SECTION 4. The City Council also approves the granting of the Sandman Inn Redevelopment Project request for a Development Plan pursuant to Santa Barbara Municipal Code Section 28.54.120, making the same findings in support of that Development Plan as are necessary and as described in Planning Commission Resolution No. 046-09 that the development is fully consistent with the City's General Plan and Zoning Ordinance and is compatible with adjacent development and provides adequate access and parking.

SECTION 5. The City Council also approves the requested Lot Area Modification pursuant to Santa Barbara Municipal Code Section 28.92.110, making the same findings in support of that Modification as are necessary and as described in Planning Commission Resolution No. 046-09 that the modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary in order to construct an additional housing unit that is affordable to a middle-income household.

SECTION 6. The Council also approves the Tentative Subdivision Map pursuant to Santa Barbara Municipal Code Section 27.07.100, making the same findings in support of that Map as are necessary and as described in Planning Commission Resolution No. 046-09 that the Map is fully consistent with the City's General Plan and Zoning Ordinance.

SECTION 7. The Council also approves the New Condominium Development pursuant to

Santa Barbara Municipal Code Section 27.13.080 making the same findings in support of that development as are necessary and as described in Planning Commission Resolution No. 046-09 that the condominium development is fully consistent with the City's General Plan and Zoning Ordinance, is an in-fill residential development that 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.

SECTION 8. The City Council also adopts the Sandman Inn Redevelopment Project Conditions of Approval dated December 17, 2009, as attached hereto as Exhibit A.

PLANNING COMMISSION CONDITIONS OF APPROVAL

3714-3744 STATE STREET

LOT LINE ADJUSTMENT, DEVELOPMENT PLAN, TENTATIVE SUBDIVISION MAP, LOT AREA MODIFICATION

DECEMBER 17, 2009

In consideration of the project approval granted by the Planning Commission and for the benefit of the owner(s) and occupant(s) of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession, and enjoyment of the Real Property:

- A. **California Department of Fish and Game Fees Required.** Pursuant to Section 21089(b) of the California Public Resources Code and Section 711.4 et. seq. of the California Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified Department of Fish and Game fees are paid and filed with the California Department of Fish and Game within five days of the project approval. The fees required are \$2,768.25 for projects with Environmental Impact Reports and \$1,993.00 for projects with Negative Declarations. Without the appropriate fee, the Notice of Determination cannot be filed and the project approval is not operative, vested, or final. The fee shall be delivered to the Planning Division immediately upon project approval in the form of a check payable to the California Department of Fish and Game.
- B. **Design Review.** The project is subject to the review and approval of the Architectural Board of Review (ABR). ABR shall not grant preliminary approval of the project until the following Planning Commission land use conditions have been satisfied.
 1. **Exterior Residential Areas.** Usable residential exterior areas (patios, balconies, courtyards) shall be oriented away from State Street to the extent feasible, and preferably shielded from roadways by the structures themselves. (N-3)
 2. **Pavement.** The residential parking lot driveway shall be paved with a coating to reduce tire squeal. This coating would consist of granulate rubber made from used tires as its aggregate and urethane resin as its binder, or similar current industry standard. (N-4)
 3. **Tree Removal and Relocation.** Prior to removal of any trees, a landscape plan accommodating the relocation of existing mature palm trees to the maximum extent reasonably feasible, particularly those considered "skyline trees" (tall [55 to 65 foot] Mexican Fan palms [Washingtonia robusta]), shall be submitted to and approved by the ABR. This plan shall include planter design specifications to ensure the long-term growth and survival of the relocated trees. (VA-1)
 4. **Tree Removal.** The landscape plan approved by the ABR shall include one significant replacement tree for each major mature (as determined by the City arborist) tree that is to be removed. (VA-2)
 5. **Storm Water Management Plan.** An approved drainage plan, consistent with the City's Storm Water Management Plan, that utilizes natural Best Management Practices to the maximum extent feasible, as determined by the Creeks Division and Community Development Department, shall be incorporated into the project plans.

6. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.
 7. **Trash Enclosure Provision and Design.** A trash enclosure with adequate area for recycling containers shall be provided on each property and screened from view from surrounding properties and the street. Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within 5 feet of combustible walls, openings, or roofs unless protected with fire sprinklers. Project trash container areas shall incorporate approved long-term structural storm water best management practices (BMPs) to protect water quality. The applicant shall submit project plans to the satisfaction of Public Works Engineering and Solid Waste Department that incorporate long-term structural BMPs for trash storage areas to protect storm water quality. The owners shall maintain these structural storm water quality protections in working order for the life of the project, and shall inspect them at least annually and report to the City annually. (PS-2)
 8. **Green Building Elements.** The Architectural Board of Review shall evaluate the green building elements of plans submitted for final review and approval and provide the Planning Commission with an information report as to what those elements are so that the Planning Commission can benefit from knowing how the Applicant has met the intent to make this a green and sustainable project.
- C. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an *Agreement Relating to Subdivision Map Conditions Imposed on Real Property*, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Approved Development.** The development of the Real Property approved by the Planning Commission on December 17, 2009 is limited to the following:
 - a. A lot line adjustment creating Lot A (1.00 acre) and Lot B (3.58 acres).
 - b. A Tentative Subdivision Map for a one-lot subdivision of Lot B for 73 dwelling units (2 one-bedroom units, 52 two-bedroom units and 19 three bedroom units; 11 of the units are affordable to middle-income homebuyers) totaling approximately 91,081 net square feet (including a 1,185 net square foot community room), and two commercial condominiums totaling approximately 1,686 square feet.
 - c. A development plan approval for approximately 14,104 square feet of commercial building area on Lot A.
 - d. Lots A and B will also be developed with a total of 241 parking spaces and the improvements shown on the Tentative Subdivision Map and project plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.

The proposed left-turn access from eastbound State Street into Lot B, as described in the Applicant Letter, is not included as part of the approved project in order to reduce potential conflicts with opposing traffic on State Street, reduce the potential for queuing left-turn vehicles to block through traffic and reduce potential impacts on pedestrians and bicyclists. (T-3)

2. **Lot Line Adjustment – Non-residential Development (Measure E).** As part of the lot line adjustment approval, all existing non-residential development rights for the real property (113 hotel rooms and accessory non-residential space, totaling approximately 52,000 square feet) are allocated to Lot A. Lot A and Lot B will each retain their respective minor and small addition allowances. A formal Agreement to this effect shall be recorded in the Office of the County Recorder as part of the Lot Line Adjustment.
3. **Lot Line Adjustment – Residential Density.** As part of the lot line adjustment approval, all rights to residential development on the real property are allocated to Lot B. A formal Agreement to this effect shall be recorded in the Office of the County Recorder as part of the Lot Line Adjustment.
4. **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.
5. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
6. **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.
7. **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.

8. **Ownership Unit Affordability Restrictions.** The eleven dwelling units identified as Affordable on the Site Plan shall be designated as Affordable Middle Income Units and sold only to households who, at the time of their purchase, qualify as Middle Income Households as defined in the City's adopted Affordable Housing Policies and Procedures. The maximum sale prices upon initial sale shall not exceed the following:

- a. Unit Type H (2 units) (1-bedroom units @ 130%AMI) = \$247,200
- b. Unit Type A (1 unit) (2-bedroom unit @ 130% AMI) = \$309,500
- c. Unit Type D (1 unit) (2-bedroom unit @ 120% AMI) = \$280,800
- d. Unit Type E (3 units) (2-bedroom units @ 120% AMI) = \$280,800
- e. Unit Type C, C-1 (2 units) (3-bedroom units @ 130% AMI) = \$350,800
- f. Unit Type G (2 units) (3-bedroom units @ 120% AMI) = \$319,100

The Affordable Units shall be sold and occupied in conformance with the City's adopted Affordable Housing Policies and Procedures. The resale prices of the Affordable Units shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure continued affordability for at least ninety (90) years from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.

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

- a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium units.
- b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
- c. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.

- d. **Trash and Recycling.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the landscaping or be hauled off site by the landscaping maintenance company. If no green waste containers are provided for common interest developments, include an item in the CC&Rs stating that the green waste will be hauled off site.
 - e. **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.
10. **Off-Site Parking Agreement.** The Owner shall provide evidence of off-site parking agreements for the four parking spaces on the adjacent property to the west and for the 13 office spaces on Lot B for the benefit of the uses on Lot A. Said agreements shall be prepared consistent with the provisions outlined in SBMC Sub-Section 28.90.001.18.
 11. **Parking Access Drive and Ramp.** Due to potential vehicle queuing conflicts with State Street circulation, gates or similar obstructions shall not be permitted on the driveway or underground access ramp.
- D. **Community Development Requirements Prior to Lot Line Adjustment.** The following shall be submitted as a part of processing the Lot Line Adjustment:
1. **Existing Building Inventory.** An accounting of all existing building square footage and hotel rooms shall be provided prior to demolition of the existing structures and prior to recordation of the Lot Line Adjustment. The Inventory shall be reviewed and approved by the Planning Division. This Inventory shall be reflected in all agreements related to the Lot Line Adjustment for proper accounting relative to the City's Non-residential Development (Measure E) regulations.
- E. **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. **Lot Line Adjustment Required.** The Owner shall submit an executed *Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof* to the Public Works Department, including the legal description of the existing subject properties, and the legal description of the adjusted parcels as a part of processing the Lot Line Adjustment. A licensed surveyor shall prepare the legal description and said Agreement shall be recorded in the Office of the County Recorder. *The Lot Line Adjustment shall be recorded prior to recordation of the Final Map.*
 2. **Water Rights Assignment Agreement.** As a condition of recording the Lot Line Adjustment, 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. **Final Map for One-lot Subdivision on Lot B (Designated on Tentative Map as Lot 1).** 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.
4. **Dedication(s).** Easements as shown on the approved Tentative Subdivision Map or the Lot Line Adjustment and described as follows, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:
 - a. All street purposes along State Street across Lots A and B in order to establish four additional feet of public right-of-way in order to establish a minimum of a twelve-foot wide strip for sidewalk, parkway and all street purposes.
 - b. An Easement in Gross to the City of Santa Barbara for Water Meter Reading Purposes, as shown on the approved Tentative Map.
 - c. An Easement in Gross to the City of Santa Barbara for Public Utility Purposes as shown on the approved Tentative Map.
 - d. A variable width easement across Lot B for ingress, egress, parking, private storm drainage, public and private utilities (sewer and water) purposes, and emergency access for the benefit of Lot A as shown on the approved Tentative Map.
5. **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.
6. **Hydrology Report.** The Owner shall submit a final hydrology report 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.
7. **Drainage and Water Quality.** Project drainage shall be designed, installed, and maintained such that stormwater runoff from the first inch of rain from any storm event shall be retained and treated onsite in accordance with the City's NPDES Storm Water Management Program. Runoff should be directed into a passive water treatment method such as a bioswale, landscape feature (planter beds and/or lawns), infiltration trench, etc. Project plans for grading, drainage, stormwater treatment methods, and project development, shall be subject to review and approval by City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants or groundwater pollutants would result

from the project. The Owner shall maintain the drainage system and storm water pollution control methods in a functioning state.

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.

8. **State Street Public Improvement Plans.** The Owner shall submit C-1 public improvement plans for construction of improvements along the property frontage for both the condominium site (Lot B), and the site for the office buildings (Lot A) on State Street. Public Works C-1 plans shall be submitted separately from plans submitted for a Building Permit. As determined by the Public Works Department, the improvements shall include new and/or remove and replace to City standards, the following: *an extension of the State Street center median by approximately 75 linear feet, an MTD approved lighted bus stop with trash receptacle, eight-foot sidewalk, four-foot parkway, curb and gutter, two commercial style driveway aprons modified to meet Title 24 requirements, right-turn only striping and signage, replace two existing Cobra Head street lights with two commercial Dome Style street lights, slurry seal to the centerline of the street along entire subject property frontage and a minimum of 20 feet beyond the limits of all trenching, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations or hydrology report for installation of on-site drainage improvements, on-site detention, and connection to City storm drain, preserve and/or reset survey monuments and contractor stamps, on-site retention sized per drainage calculations, supply and install directional/regulatory traffic control signs per 2006 CA MUTCD, new street trees species (*Lophostemon Conferta*) and box size (36-inch) as determined by the City Arborist, and provide adequate positive drainage from site.* Any work in the public right-of-way requires a Public Works Permit.
9. **Hitchcock Way Improvement Plans.** Flow calculations modeling the existing capacity and proposed impacts on the existing sewer main shall be required prior to issuance of any permits. If current flow is found to exceed design capacity, *and* project contribution adds more than 10% to the existing flow, then an upgrade to the existing sewer system shall be required. If the existing flow is found to be less than the design capacity, but the new flow exceeds the design capacity by more than 10%, then an upgrade to the existing sewer system shall be required. Analysis and design for a *+/-420 linear foot extension of 18 inch sewer main, and construct a City standard manhole at the intersection of Hitchcock and State Street shall be prepared, subject to the most current version of the City of Santa Barbara Engineering Design Guidelines.* In the event of a required upgrade of existing infrastructure, the Owner shall submit new C-1 public improvement plans. Any work in the public right-of-way requires a Public Works Permit.

10. **State Street Median.** The Owner shall submit C-1 public improvement plans for construction of extending the existing raised median in front of the site on State Street identified in condition D.8 above, *which shall be extended to the east, to restrict left-turns into the site. The applicant shall work with City Transportation staff to determine what modifications to the existing raised median are required to adequately accommodate the extended median, and shall confer with the City Arborist to see if new street trees are appropriate for the median. A new "No U Turn" sign shall be provided at the new eastern end of the raised median. The revised median design shall be reviewed and approved by the City's Transportation Division and the City Engineer.* (T-5)
 11. **Storm Drain System Stenciling and Signage.** Within the project area, the applicant shall implement stenciling of all storm drain inlets and catch basins, and posting of signs at all public access points along channels and creeks, with language in English and Spanish and graphic icons prohibiting dumping, per approved plans. The applicant shall submit project plans to the satisfaction of Public Works Engineering that identify storm drain inlet locations throughout the project area, and specified wording and design treatment for stenciling of storm drain inlets and signage for public access points that prohibit dumping. The owners association shall maintain ongoing legibility of the stenciling and signage for the life of the project, and shall inspect at least annually and submit report annually. (W-3)
 12. **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.
 13. **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.
- F. **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.
 3. **Bicycle Parking.** At least 10 bicycle parking spaces shall be provided in close proximity to the non-residential development, subject to approval by the Transportation Division.
 4. **Commercial Parking Spaces.**

- a. Commercial parking spaces located in the residential parking garage should be assigned to specific users to ensure greater use of the spaces. (T-8)
 - b. Spaces located along the office access driveway that are included in the total number of spaces required to meet the parking code requirement for the office use, should be marked as “for office use only” during business hours. (T-9)
 - c. The underground off-site commercial parking spaces shall be constructed and available for use, or an off- site parking agreement must be accepted by the City and recorded with the County Recorder, prior to Certificate of Occupancy of the commercial building.
5. **Traffic Control Plan.** A traffic control plan for project construction shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines. Traffic Control Plans are subject to approval by the Public Works Director/Transportation Manager. Construction and storage in the public right-of-way is prohibited during Fiesta in the affected areas (around McKenzie Park, Downtown and Waterfront) and during the Holiday Shopping Season (between Thanksgiving Day and New Years Day) in all commercial shopping areas, including but not limited to Upper State Street, the Mesa shopping area, Downtown and Coast Village Road.
6. **Construction Parking/Storage/Staging.** Prior to issuance of building permits, the applicant shall prepare a management plan for review and approval by City staff for employee parking to eliminate intrusion into area on-street parking spaces and maximize use of available on-site parking.

Construction parking and storage shall be provided as follows:

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

(T-12)

7. **Construction Management Plan.** Prior to issuance of building permits, the applicant shall prepare a construction management plan for review and approval by City staff. Prior to beginning the next phase of construction, review the plan with

City Engineering staff and modify as needed to ensure coordination with other area construction projects to minimize any lane closures or traffic intensive activities.

The construction management plan shall provide for:

- No hauling of bulk materials and waste shall occur during peak traffic hours.
- Hauling of materials shall be limited along streets that have fronting residential land uses or near school sites.
- Flagmen shall be provided at the project's truck entrance to expedite movements into and out of the site.
- Access of all but essential construction traffic on San Remo Drive shall be limited.
- Any lane closures required along State Street for construction should be done during off-peak hours and all lanes should be open for travel during the peak commute hours and on weekends.

(T-11)

8. **Solid Waste Management Plan.** To reduce trips associated with export of site debris, prior to issuance of grading and/or demolition permits, the applicant shall develop and implement a solid waste management plan for review and approval by the City to reduce waste generated by construction and demolition activities (see condition H.3 for additional information). In addition, the applicant shall work with other development projects in the area to minimize the distance that export material is hauled from the site and manage the hours during which that hauling occurs to minimize the effects on area traffic. (T-10)
9. **Minimization of Storm Water Pollutants of Concern.** The applicant shall implement approved plans incorporating long-term storm water best management practices (BMPs) to minimize identified storm water pollutants of concern including automobile oil, grease and metals. The applicant shall submit project plans incorporating long-term BMPs to minimize storm water pollutants of concern to the extent feasible, and obtain approval from Public Works Engineering. The owners association shall maintain approved facilities in working order for the life of the project, and shall inspect annually and submit report to City annually. (W-2)

G. **Community Development Requirements with the Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit:

1. **Project Environmental Coordinator Required.** Submit to the Planning Division a contract with a qualified representative for the Owner, subject to approval of the contract and the representative by the Planning Division, to act as the Project Environmental Coordinator (PEC). The PEC shall be responsible for assuring full compliance with the provisions of the Mitigation Monitoring and Reporting

Program (MMRP) and Conditions of Approval to the City. The contract shall include the following, at a minimum:

- a. The frequency and/or schedule of the monitoring of the mitigation measures.
 - b. A method for monitoring the mitigation measures.
 - c. A list of reporting procedures, including the responsible party, and frequency.
 - d. A list of other monitors to be hired, if applicable, and their qualifications.
 - e. Submittal of weekly reports during demolition, grading and excavation, and monthly reports on all other construction activity regarding MMRP and condition compliance by the PEC to the Community Development Department/Case Planner.
 - f. The PEC shall have authority over all other monitors/specialists, the contractor, and all construction personnel for those actions that relate to the items listed in the MMRP and conditions of approval, including the authority to stop work, if necessary, to achieve compliance with mitigation measures.
2. **Neighborhood Notification Prior to Construction.** At least thirty (30) days prior to commencement of construction, the contractor shall provide written notice to all property owners and building occupants within 450 feet of the project area that proposed construction activities could substantially affect outdoor or indoor living areas. The notice shall contain a description of the project, a construction schedule including days and hours of construction, a description of noise-reduction measures, and the name and phone number of the Project Environmental Coordinator (PEC) who can answer questions and provide additional information or address problems that may arise associated with construction noise. A 24-hour construction hot line shall be provided. Any noise complaints received shall be documented, and, as appropriate, construction activities shall be modified to the extent feasible to address such complaints. Informational signs with the PEC's name and telephone number shall also be posted at the site and shall be easily viewed from adjacent public areas. (N-6)
- The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person(s) who compiled the mailing list shall be submitted to the Planning Division.
3. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.

4. **Window Replacement.** The applicant shall offer to have a minimum 4-millimeter-thick, double-paned glass installed in the first- and second-story windows of the residences that face the project site. (N-11)

Evidence of the offer shall be provided to the Planning Division, and any residences that accepted the offer shall have their replacement windows installed prior to issuance of a building permit. Evidence of any window replacements shall be provided to the Planning Division.

5. **Air Conditioning.** The applicant shall offer to install temporary air conditioning in those residential units adjacent to the project site that do not already have this feature to allow residents to keep their windows closed during construction activities. (N-12)

Evidence of the offer shall be provided to the Planning Division, and any residences that accepted the offer shall have their temporary air conditioning installed prior to issuance of a building permit. Evidence of compliance shall be provided to the Planning Division.

6. **Parks and Recreation Commission Tree Removal Approval.** Submit to the Planning Division verification of approval from the Parks and Recreation Commission for the removal of all trees located within the required front setback and street trees.

7. **Geotechnical Recommendations.** Site preparation and project construction related to soil conditions and seismic hazards shall be in accordance with the recommendations contained in the Soils Engineering Report, prepared by Earth Systems Pacific, dated September 25, 2003. Compliance shall be demonstrated on plans submitted for grading and building permits. (G-1)

8. **Recorded Affordability Covenant.** Submit to the Planning Division a copy of an affordability control covenant that has been approved as to form and content by the City Attorney and Community Development Director, and recorded in the Office of the County Recorder, which includes the following:

- a. **Initial Sale Price Restrictions.** The eleven (11) dwelling units identified as Affordable on the Site Plan shall be designated as Affordable Middle Income Units and sold only to households who, at the time of their purchase, qualify as Middle Income Households as defined in the City's adopted Affordable Housing Policies and Procedures. The maximum sale prices upon initial sale shall not exceed the following:

- (1) Unit Type H (2 units) (1-bedroom units @ 130% AMI) = \$247,200
- (2) Unit Type A (1 unit) (2-bedroom unit @ 130% AMI) = \$309,500
- (3) D (1 unit) (2-bedroom unit @ 120% AMI) = \$280,800
- (4) Unit Type E (3 units) (2-bedroom units @ 120% AMI) = \$280,800

- (5) Unit Type C, C-1 (2 units) (3-bedroom units @ 130% AMI) = \$350,800
- (6) Unit Type G (2 units) (3-bedroom units @ 120 % AMI) = \$319,100
- b. **Resale Restrictions.** The Affordable Units shall be sold and occupied in conformance with the City's adopted Affordable Housing Policies and Procedures. The resale prices of the Affordable Units shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure continued affordability for at least ninety (90) years from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.
- 9. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment that states that, prior to disturbing any part of the project site for any reason and after the Building permit has been issued, the General Contractor shall schedule a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, the assigned Building Inspector, the Planning Division, the Property Owner, the Architect, the Landscape Architect, the Biologist, the Project Engineer, the Project Environmental Coordinator, the Contractor and each subcontractor.
- H. **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 B above.
 - 2. **Mitigation Monitoring and Reporting Requirement.** Owner shall implement the Mitigation Monitoring and Reporting Program (MMRP) for the project's mitigation measures, as stated in the Environmental Impact Report for the project.
 - 3. **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.

4. **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, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.
5. **Construction Erosion/Sedimentation Control Plan.** Project grading and construction shall be conducted in accordance with an approved erosion control plan to protect water quality throughout the duration of site preparation, earthwork, and construction process. Prior to the issuance of a demolition or building permit for the proposed project, the applicant or project developer shall prepare an erosion control plan that is consistent with the requirements outlined in the Procedures for the Control of Runoff into Storm Drains and Watercourses and the Building and Safety Division Erosion/Sedimentation Control Policy (2003). The erosion control/water quality protection plan shall specify how the required water quality protection procedures are to be designed, implemented, and maintained over the duration of the development project. A copy of the plan shall be submitted to the Community Development and Public Works Departments for review and approval, and a copy of the approved plan shall be kept at the project site.

At a minimum, the erosion control/water quality protection plan prepared for the proposed project shall address the implementation, installation, and/or maintenance

of each of the following water resource protection strategies: paving and grinding, sandbag barriers, spill prevention/control, solid waste management, storm drain inlet protection, stabilize site entrances and exits, illicit connections and illegal discharges, water conservation, stockpile management, liquid wastes, street sweeping and vacuuming, concrete waste management, sanitary/septic waste management, vehicle and equipment maintenance, vehicle and equipment cleaning, and vehicle and equipment fueling. (W-1)

6. **Dust Mitigation - Plan Specifications.** Prior to grading permit clearance, the applicant shall include all dust control requirements as notes on construction grading and building plans. (AQ-9)
7. **Interior Noise Reduction for Office and Residential Units Near State Street.** The walls, doors, and windows of office units adjacent to State Street shall be constructed to include sufficient noise attenuation to reduce interior levels to a CNEL of 50 dB(A). (N-15) The walls, doors, and windows of residential units closest to State Street shall be constructed to include sufficient noise attenuation to reduce interior noise levels to a CNEL of 45 dB(A). (N-14)

The applicant shall submit an updated Noise Report demonstrating that the project satisfies the above-referenced noise levels. Said Report shall identify any noise attenuation measures needed to satisfy the noise requirement, which may include:

- a. Windows shall have a minimum Standard Transmission Class (STC) of 35 and be properly installed, weather-stripped, and insulated.
 - b. Doors with a minimum STC of 35 shall be used for doorways facing State Street and shall be insulated in conformance with California Title 24 requirements.
 - c. Roof or attic vents facing State Street shall be baffled.
 - d. Air conditioning or a mechanical ventilation system shall be installed in any dwelling units outside the 60 dB noise corridor so that windows and doors may remain closed. Ventilation systems shall be installed and operable prior to Certificate of Occupancy.
8. **Left Turns.** Prohibit left turns onto State Street from the residential parking lot to eliminate sudden car accelerations that could otherwise occur when making this turn. (N-5)
 9. **Stop Sign.** A "STOP" sign and a painted stop bar and legend shall be provided at each driveway exit.
 10. **Street/Traffic Control Sign.** The Owner must furnish and install traffic control sign(s) to Public Works Department construction standards, as determined by the Transportation Division.
 11. **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.

12. **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.

- I. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.
 1. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Building Division, Planning Division, the Property Owner, Architect, Landscape Architect, Biologist, Project Engineer, Project Environmental Coordinator, Contractor and each Subcontractor.
 2. **Seasonal Restriction.** Removal of trees during initial site development should be limited to the time period between September 1 and January 31. If tree removal or construction is to occur during the bird nesting season (February 1 through August 31), a City-approved biologist shall conduct a survey at the site for active nests two weeks prior to any scheduled tree removal, tree pruning, development, or grading. If active nests are located, setbacks for construction work would be required until the nest is no longer active or the young have fledged. If no active nests are found,

the construction, tree removal, or grading restrictions specified in this section shall not apply. (BIO-1)

3. **Waste Management Plan.** The applicant shall develop and implement a solid waste management plan to reduce waste generated by construction and demolition activities. Consistent with City of Santa Barbara ordinances, and in order to achieve the waste diversion goals required by state law, the contractor may choose to separate waste and recyclables on site or use a combination of source separation and a construction and demolition (C&D) sorting facility. The solid waste management plan shall include the following:
 - a. Contact information: The name and contact information of who will be responsible for implementing the solid waste management plan.
 - b. Waste assessment: A brief description of the proposed project wastes to be generated, including types and estimated quantities during the construction phase of this project. Demolition and construction materials shall be recycled or reused, consistent with ordinance Chapter 7
 - c. Recycling and waste collection areas: Waste sorting and/or collection and/or recycling areas shall be clearly indicated on the project plans and approved by the City Solid Waste Specialist.
 - d. Transportation: A description of the means of transportation of recyclable materials and waste (whether materials will be site-separated and self-hauled to designated centers, or whether mixed materials will be collected by a waste hauler and removed from the site to be processed) and destination of materials.
 - e. Landfill information: The name of the landfill(s) where trash will be disposed of and a projected amount of material that will be landfilled.
 - f. Meetings: A description of meetings to be held between applicant and contractor to ensure compliance with the site solid waste management plan.
 - g. Alternatives to landfilling: A list of each material proposed to be salvaged, reused, or recycled during the course of the project.
 - h. Contingency Plan: An alternate location to recycle and/or stockpile C&D in the event of local recycling facilities becoming unable to accept material (for example: all local recycling facilities reaching the maximum tons per day due to a time period of unusually large volume).
 - i. Implementation and documentation of solid waste management plan:
 - (1) Manager: The permit applicant or contractor shall designate an on-site party (or parties) responsible for instructing workers and overseeing and documenting results of the solid waste management plan for the project site foreman. The contact will notify the Public Works Department immediately should any deviance from the solid waste management plan be necessary.

- (2) Distribution: The contractor shall distribute copies of the solid waste management Plan to the job site foremen, impacted subcontractors, and the architect.
 - (3) Instruction: The permit applicant or contractor shall provide on-site instruction of appropriate separation, handling, and recycling, salvage, reuse, and return methods to be used by all parties at the appropriate stages of project development.
 - (4) Separation and/or collection areas: The permit applicant or contractor shall ensure that the approved recycling and waste collection areas are designated on site.
 - (5) Construction of recycling and waste container facilities: Inspection shall be made by Public Works to ensure the appropriate storage facilities are created in accordance with AB 2176, California State Public Resources Code 42911 and City of Santa Barbara Zoning Ordinances.
 - (6) Hazardous wastes: Hazardous wastes shall be separated, stored, and disposed of according to federal, state, and local regulations.
 - (7) Documentation: The contractor shall submit evidence at each inspection to show that recycling and/or reuse goals are being met and a summary of waste generated by the project shall be submitted on a monthly basis. Failure to submit this information shall be grounds for a stop work order. The summary shall be submitted on a form acceptable to the Public Works Department and shall contain the following information:
 - Disposal information: amount (in tons or cubic yards) of material landfilled; identity of the landfill; total amount of tipping fees paid at the landfill; weight tickets, manifests, receipts, and invoices (attach copies).
 - Recycling information: amount and type of material (in tons or cubic yards); receiving party; manifests, weight tickets, receipts, and invoices (attach copies).
 - Reuse and salvage information: list of items salvaged for reuse on project or campus (if any); amount (in tons or cubic yards); receiving party or storage location.
 - (8) Contingency Plan: The permit applicant or contractor shall detail the location and recycling of stockpiled material in the event of the implementation of a contingency plan.
4. **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.

5. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Transportation Manager
6. **Haul Routes.** The haul route(s) for all construction-related trucks with a gross vehicle weight rating of three tons or more, entering or exiting the site, shall be approved by the Transportation Manager.
7. **Traffic Control Plan.** All elements of the approved Traffic Control Plan and Construction Management Plan shall be carried out by the Contractor.
8. **Construction Hours.** Noise-generating construction activities (which may include preparation for construction work) shall be permitted weekdays between the hours of 8:00 AM and 5:00 PM, excluding holidays observed by the City of Santa Barbara as legal holidays, 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 31
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Day 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.

Occasional night work may be approved for the hours between 8:00 PM and 7:00 AM weekdays by the Chief of Building and Zoning (per Section 9.16.015 of the Municipal Code). These occasional work efforts may include concrete pours for the underground garage footings, floor and deck, if approved by the Chief of Building and Zoning. In the event of such night work approval, the applicant shall provide written notice to all property owners and occupants within 450 feet of the project property boundary and the City Planning and Building Divisions at least 48 hours prior to commencement of night work. Night work shall not be permitted on weekends or holidays. (N-7)

9. **Construction Equipment Sound Barrier.** Stationary construction equipment that generates noise that exceeds 50 dB(A) at the property boundaries shall be shielded with a barrier that meets a STC rating of 25. (N-8)
10. **Construction Equipment Sound Control.** All construction equipment powered by internal combustion engines shall be properly muffled and maintained. No internal combustion engine shall be operated on the site without a muffler. All diesel equipment shall be operated with closed engine doors and shall be equipped

with factory-recommended mufflers. Unnecessary idling of internal combustion engines shall be prohibited. (N-9)

11. **Construction Noise Barrier.** Air compressors and generators used for construction shall be surrounded by temporary acoustical shelters. Whenever feasible, electrical power shall be used to run air compressors and similar power tools. (N-10)
12. **Construction Sound Barrier Wall.** Install a temporary construction sound barrier wall along the northern half of the western edge of the project site, the entire northern end of the site, and the northern half of the eastern edge of the project site. The barrier should be made of sound-attenuating material (not landscaping). The noise barrier can be constructed from concrete, masonry, wood, metal, or other materials determined to be appropriate by the City. To effectively reduce sound transmission through the barrier, the material chosen must be rigid and sufficiently dense (at least 20 kilograms/square meter). All noise barrier material types are equally effective, acoustically, if they have this density. The barrier shall be of sufficient height to block direct line of sight to the first story of adjacent residential uses. It is estimated that a noise barrier of the prescribed density would reduce average noise levels to sensitive receptors by up to 5 dB if the barrier blocks direct line of sight, and an additional 1.5 dB for each meter of barrier height for those uses blocked from direct line of sight. (N-13)
13. **Dust Mitigation - Site Watering.** During site grading and transportation of fill materials, regular water sprinkling shall occur, using reclaimed water whenever the Public Works Director determines that it is reasonably available. Water trucks or sprinkler systems shall be used in the late morning; during clearing, grading, earth moving, or transportation of cut and fill materials; and after work is completed for the day to prevent dust from leaving the project site and to create a crust after each day's activities cease. Reclaimed water shall be used if available. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement 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. Frequency of construction site watering shall be increased when wind speeds exceed 15 miles per hour (mph) to reduce PM10 emissions. (AQ-1)
14. **Dust Mitigation - Speed Limit.** An on-site speed limit of 15 miles per hour shall be imposed for operation of construction vehicles on dirt surfaces. (AQ-2)
15. **Dust Mitigation - Gravel Pad/Street Sweepings.** Gravel pads shall be installed at all access points prior to beginning construction to prevent tracking of mud onto public roads.

Streets adjacent to the project site shall be inspected daily for accumulation of mud, dirt, or silt on streets. Affected road segments shall be cleaned daily. (AQ-3)

16. **Dust Mitigation - Stockpile Treatment.** All stockpiled soil materials shall be watered regularly as needed to inhibit dust generation. Excavated material and stockpiled soil shall be covered if not being used within the next 48 hours. (AQ-4)
17. **Dust Mitigation - Grading Suspension.** Grading and scraping operations will be suspended when wind speeds exceed 20 mph to reduce PM10 emissions. (AQ-5)
18. **Dust Mitigation - Site Stabilization.** Disturbed areas will be permanently stabilized with landscaping ground cover or site improvements as soon as practicable following the completion of earthwork.

After clearing, grading, earth moving, or excavation is completed, the entire area of disturbed soil shall be treated to prevent wind pickup of soil. This may be accomplished by

- a. seeding and watering until grass cover is grown;
- b. spreading soil binders;
- c. sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind;
- d. other methods approved in advance by the Air Pollution Control District.

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. (AQ-6)

19. **Dust Mitigation - Truck Covering.** All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least 2 feet of freeboard in accordance with the requirements of California Vehicle Code (CVC) section 23114 ("freeboard" means vertical space between the top of the load and top of the trailer). (AQ-7)
20. **Dust Mitigation - Monitor.** The contractor shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust off site. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the City and SBCAPCD prior to permit clearance for grading. (AQ-8)
21. **Diesel Vehicle Emissions Control.** Operators of diesel-powered vehicles should turn off the engine after 5 minutes when the vehicle is not in motion, keep the vehicles well-tuned and maintained, and retrofit engines with pollution-control devices. Consideration should be given to purchasing trucks and buses that meet new US EPA standards ahead of schedule. Vehicle owners should use ultra-low-sulfur fuel in combination with pollution control equipment such as particulate matter filters. (AQ-10)

22. **Construction Equipment Emissions.** As of June 15, 2008, fleet owners are subject to sections 2449, 2449.1, 2449.2, and 2449.3 in Title 13, Article 4.8, Chapter 9, of the California Code of Regulations (CCR) to reduce diesel particulate matter and criteria pollutant emissions from in-use off-road diesel-fueled vehicles. The following shall be adhered to during project grading and construction to reduce NOX and PM2.5 emissions from construction equipment:
- All portable construction equipment shall be registered with the state's portable equipment registration program OR permitted by the district by September 18, 2008.
 - Diesel construction equipment meeting the California Air Resources Board's Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting Tier 2 or higher emission standards should be used to the maximum extent feasible.
 - The engine size of construction equipment shall be the minimum practical size.
 - The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time.
 - Construction equipment shall be maintained in tune per the manufacturer's specifications.
 - Construction equipment operating on site shall be equipped with two- to four-degree engine timing retard or pre-combustion chamber engines.
 - Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
 - Diesel catalytic converters, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by US EPA or California shall be installed on equipment operating on site.
 - Diesel powered equipment should be replaced by electric equipment whenever feasible.
 - Idling of heavy-duty diesel trucks during loading and unloading shall be limited to five minutes; auxiliary power units should be used whenever possible.
- (AQ-11)
23. **Construction Equipment Operations.** The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number of equipment is operating at any one time. The construction contractor shall ensure that work crews shut off equipment when not in use. In addition, California's more recent anti idling regulations (with some exemptions) require that drivers of diesel fueled commercial vehicles weighing more than 10,000 pounds (1) shall not idle the

- vehicle's primary diesel engine for greater than 5 minutes at any location, and (2) shall not use diesel fueled auxiliary power units for more than 5 minutes to power a heater, air conditioner, or any ancillary equipment on the vehicle equipped with a sleeper berth, at any location. (AQ-12)
24. **Architectural Coating Emissions.** Compliance with the SBCAPCD Rules and Regulations on the use of architectural coatings shall be implemented as applicable, including using pre-coated/natural-colored building materials, using water-based or low-ROC coating, and using coating transfer or spray equipment with high transfer efficiency. (AQ-13)
 25. **Asbestos.** The project applicant shall complete and submit a SBAPCD Asbestos Demolition and Renovation Compliance Checklist at least 10 days prior to the commencement of any demolition activities. (AQ-14)
 26. **Construction Worker Trips.** Construction worker trips should be minimized by requiring carpooling and by providing for lunch on site. (AQ-15)
 27. **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.
 28. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
 29. **Mitigation Monitoring Compliance Reports.** The PEC shall submit weekly reports during demolition, excavation, grading and footing installation and monthly reports on all other construction activity regarding MMRP compliance to the Community Development Department.
 30. **Town and Country Apartment Access.** Vehicular access to the Town and Country Apartment parking spaces, located at 3730 State Street, shall be provided throughout construction, if alternative access to San Remo Road has not already been obtained.
 31. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) and Project Environmental Coordinator's (PEC's) name, contractor(s) and PEC's telephone number(s), work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
 32. **Tree Relocation.** All trees identified for relocation on-site shall be appropriately protected following removal to ensure their replacement and future survival.

33. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
34. **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.
35. **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. (CR-1)

- J. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
 1. **Repair Damaged Public Improvements.** Repair any damaged public improvements *caused by construction* (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.

2. **Complete Public Improvements.** Public improvements, as shown in the improvement plans, including utility service undergrounding and installation of street trees, shall be completed.
 3. **Fire Hydrant Replacement.** Replace existing nonconforming type fire hydrant(s) with commercial-type hydrant(s) described in Standard Detail 6-003.1 Paragraph 2 of the Public Works Department Standard Details.
 4. **Manholes.** Raise all sewer and water manholes on easement to final finished grade.
 5. **Noise Measurements.** Submit a final report from a licensed acoustical engineer, verifying that interior and exterior living area noise levels are within acceptable levels as specified in the Noise Element. In the event the noise is not mitigated to acceptable levels, additional mitigation measures shall be recommended by the noise specialist and implemented subject to the review and approval of the Building and Safety Division and the Architectural Board of Review (ABR).
 6. **Existing Street Trees.** Submit a letter from a qualified arborist, verifying that the existing street tree(s) have been properly pruned and trimmed.
 7. **Ownership Affordability Provisions Approval.** For all dwelling units subject to affordability conditions, obtain from the Community Development Director, or Director's designee in the City's Housing Programs Division, written approval of the following: (a) the Marketing Plan as required by the City's Affordable Housing Policies and Procedures; (b) the initial sales prices and terms of sale (including financing); (c) the eligibility of the initial residents; and (d) the recorded affordability control covenants signed by the initial purchasers which assure continued compliance with the affordability conditions.
 8. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those used for the photosimulations contained in the Sandman Inn Redevelopment Project EIR shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.
 9. **Mitigation Monitoring Report.** Submit a final construction report for mitigation monitoring.
 10. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section D have been recorded.
- K. **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 APPROVAL TIME LIMITS:

In general, Development Plan approvals have a time limit of four (4) years pursuant to Municipal Code section 28.87.350. Tentative Map approvals have an initial time limit of two (2) years in accordance with Municipal Code section 27.07.110 (but such initial period may be extended up to three (3) years by local ordinance pursuant to Government Code section 66452.6). When the Planning Commission approves multiple discretionary approvals, Municipal Code section 28.87.370 extends the term of each discretionary approval to correspond to longest approval, unless such an extension would conflict with state law. Therefore, the time limits for the Planning Commission approvals are as follows:

1. **LOT LINE ADJUSTMENT AND TENTATIVE MAP.** The Planning Commission approval of the Lot Line Adjustment and the Tentative Subdivision Map shall expire three (3) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110.
2. **DEVELOPMENT PLAN APPROVAL.** The approval of the Development Plan shall expire four (4) years from the date of approval. The developer may request an extension of the Development Plan approval for one additional year pursuant to Municipal Code section 28.87.350.
3. **MODIFICATION APPROVAL.** The approval of the lot area modification is coterminous with the approval of the Tentative Subdivision Map.



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 9, 2010
TO: Mayor and Councilmembers
FROM: City Attorney's Office
SUBJECT: Conference With Legal Counsel – Pending Litigation

RECOMMENDATION:

That Council hold a closed session to consider pending litigation pursuant to subsection (a) of section 54956.9 of the Government Code and take appropriate action as needed.

The pending litigation is *Valley Slurry Seal Company v. City of Santa Barbara, et. al.*, SBSC Case Number 1341521.

SCHEDULING:

Duration: 30 minutes; anytime

REPORT:

None anticipated

SUBMITTED BY: Stephen P. Wiley, City Attorney

APPROVED BY: City Administrator's Office



Agenda Item No. _____

File Code No. 330.03

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 9, 2010
TO: Mayor and Councilmembers
FROM: Waterfront Division, Waterfront Department
SUBJECT: Conference With Real Property Negotiator

RECOMMENDATION:

That Council hold a closed session to consider instructions to its negotiators regarding the possible lease of property owned by the City, commonly known as 130 Harbor Way (APN 045-250-11). Instructions to negotiations will direct staff regarding the price and terms of payment of a possible lease of the City-owned property with the Santa Barbara Yacht Club for a 67,500 square foot ground lease. Negotiations are held pursuant to the authority of Section 54956.8 of the Government Code. City Negotiators are: John Bridley, Waterfront Director, Scott Riedman, Waterfront Business Manager, and Sarah Knecht, Assistant City Attorney. Negotiators for Lessee are Robert Duncan and Tony Papa, Representatives of the Yacht Club, tenant.

Under Negotiation: Price and terms of payment of a possible ground lease.

SCHEDULING:

Duration: 30 minutes; anytime

REPORT:

None anticipated

PREPARED BY: Scott Riedman, Waterfront Business Manager

SUBMITTED BY: John N. Bridley, Waterfront Director
Stephen P. Wiley, City Attorney

APPROVED BY: City Administrator's Office



Agenda Item No. _____

File Code No. 440.05

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 9, 2010

TO: Mayor and Councilmembers

FROM: Employee Relations, Administrative Services

SUBJECT: Conference With Labor Negotiator

RECOMMENDATION:

That Council hold a closed session, per Government Code Section 54957.6 to consider instructions to City negotiator, Kristy Schmidt, Employee Relations Manager, regarding negotiations with the Police Officers Association, the Police Managers Association, the General Bargaining Unit, the Treatment and Patrol Bargaining Units, the Firefighters Association, the Hourly Bargaining Unit, and the Supervisory Employees Association, and regarding discussions with unrepresented management and confidential employees about salaries and fringe benefits.

SCHEDULING: Duration, 15 minutes; anytime

REPORT: None anticipated

PREPARED BY: Kristy Schmidt, Employee Relations Manager

SUBMITTED BY: Marcelo Lopez, Assistant City Administrator

APPROVED BY: City Administrator's Office