



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** June 19, 2012

**TO:** Mayor and Councilmembers

**FROM:** Planning Division, Community Development Department

**SUBJECT:** Appeal Of The Architectural Board Of Review Decision To Approve Revisions To Project At 336 North Milpas Street

### **RECOMMENDATION:**

That Council deny the appeal of Tony Fischer on behalf of the Mary Z. Frangos Trust, and uphold the Architectural Board of Review (ABR) approval for Review After Final on the application of Fresh & Easy Neighborhood Market for changes to perimeter walls and landscaping planters.

### **DISCUSSION:**

#### Project Description

The project site is located in the Milpas neighborhood at the southeastern corner of Milpas Street and East Gutierrez Street (Attachment 2). The approved project involves the demolition of existing buildings and the construction of a new one-story 11,468 square foot commercial building for Fresh & Easy Neighborhood Market. The new building and 49 space parking lot have been constructed under a building permit issued in November 2011. The building construction is nearly completed and it is ready for final occupancy.

The ABR approval decision that is the subject of this appeal is for project revisions approved by the ABR in April 2012 that consist of changes in the location of the perimeter walls and the reduction of perimeter planters at the parking lot.

#### **Background/History**

##### June 2011 Council Appeal

On April 14, 2011, an appeal of ABR approvals was filed by Tony Fischer on behalf of the neighboring property owner Mary Z. Frangos Trust (Constantino Frangos). The appellant requested that Council condition or amend the project approval asserting that the proposed project should not have been approved without addressing the appellant's

concerns. The project had received a Preliminary Approval on October 9, 2006, and a Final Approval on January 25, 2010. The appellant's letter covered many issues relating to the approval of the project and also focused on Mr. Frangos' claim that there was a lack of mailed notice provided to him. On June 7, 2011, Council acted on the appeal and determined that the appeal was not filed in a timely manner deciding that most of the appeal issues raised were not relevant to the question of substantial conformance with the Preliminary Approval granted in 2006.

Council did, however, agree with two concerns raised by the appellant. Council requested that Fresh & Easy representatives address the pinch point at the narrow public sidewalk along Milpas Street and to reduce the proposed eight foot wall to six feet along the Frangos property line. Council denied the appeal but conditioned that the project approval be slightly revised to increase the public sidewalk widths along Milpas Street to the maximum extent possible and to limit the height of wall on the south side of the property to 6 feet maximum. Rather than refer the project back to the ABR, Council directed planning staff to work with the applicant to achieve these project changes.

#### Changes During Construction

Beginning in late 2011, some field changes were made during construction which consisted of moving the project's eastern and southern perimeter block walls inward away from the property line by approximately 15 to 22 inches. Planning staff first became aware of the wall changes in early 2012 when field visits revealed the location of the wall had been changed sometime during construction of the perimeter walls. The explanation provided by the job contractor was that these walls were shifted to avoid damage to landscaping and private driveway improvements on the adjacent properties. The City building inspector allowed construction of the walls to proceed based on a belief that these changes were not an issue and did not realize how the slight change could impact the amount of code required perimeter landscaping. The relocation of the walls resulted in the reduction of perimeter landscape planters from the required five (5) foot minimum width dimension at various points. As a result of these project changes, a correction notice was issued that directed the applicant to submit for project plan revisions and referred back to the Architectural Board of Review (ABR).

#### **Appeal Issues**

The current appeal involves concerns regarding compliance with the City's Municipal Code landscape planter width requirements and Council's previous direction on maximum wall heights from the 2011 appeal hearing. The ABR reviewed and approved wall and the landscaping plan revisions by a 5/0 vote as part of a Review After Final decision on April 16, 2012 (Attachment 3). On April 16, 2012, an appeal was filed by Tony Fischer on behalf of the neighboring property owner Constantino Frangos (Attachment 1). The ABR reviewed submitted photos and the relocation of the perimeter walls and determined that

the amount of planting that would remain was unaffected by the reduction of landscape planter width. A reduction in planter width was therefore approved.

The appellant is requesting with the appeal letter dated April 26, 2012, that City Council require "that the walls not exceed the permitted height and that the project be required to provide additional landscaping and to meet the requirement which exists city-wide." In particular the appellant argues that walls as constructed adjacent to the appellant's property exceed 6 feet in height as measured from the Fresh & Easy side. In addition, the relocation of the walls has further reduced the amount of planters provided for the parking areas. The following are staff responses to these two primary appeal issues:

#### Maximum Height of perimeter walls

The block walls were constructed to exceed the permitted 6 foot maximum height along the southern property line.

Staff's Position: City staff made several site visits in 2012 to measure the height of all walls at the highest points and determined the wall heights to be consistent with previous Council direction. The construction of the southern wall has been stepped down at various points due to sloping grades along the property. The majority of the wall as measured from the base of the wall measures at six feet with only a few locations along the wall exceeding the six foot measurement by a maximum of 6 inches. The southern wall, however, is noticeably lower than the eastern wall which was constructed to be 8-foot maximum. The tiering of the wall could have been adjusted further to allow for more step downs so as to follow the sloping grade. Some of the 8-inch wall blocks could be removed at three wall sections in order to lower these sections but this would produce a less uniform appearance (see Attachment 4). In addition, the height of the southern wall as measured and viewed from the appellant's (Frangos) property is actually closer to 5 feet in maximum height since the grades are at a higher elevation on the appellant's property.

#### Reduction of Landscape Planters

The required amounts of landscaping planter widths have not been provided as required by the Municipal Code.

Staff's Position: It was Planning staff's expectation that the perimeter walls and planters would be constructed as per original approved plans. When the walls were inspected in the field and allowed to be relocated, the building inspector did not realize the impact the relocation would have to the minimum five feet of planting width. The building inspector did request that a plan revision be obtained. The relocation of walls resulted in planter width dimensions being reduced by approximately 15 to 22 inches. There are portions of the planters that meet the minimum 5-foot planter widths along the southern wall. It was staff's opinion that it would be unreasonable to require the walls be demolished and returned back to the original property line location.

Planning staff would have preferred that the wall location change not have been allowed to proceed in the field without first obtaining project plan revisions and ABR approvals. However, it is not unusual for projects to change during construction and to return to the Boards for a Review After Final to consider as-built field changes. The applicant has the ability to request that the landscaping planter requirements outlined in Municipal Code Section 22.90.050(3) be reduced or waived by the ABR.

Planning staff advised the ABR that the wall was in substantial conformance with Council's previous direction and the Board agreed. Further, a landscape planter width reduction may be approved if it is determined to be "equally effective". The ABR agreed that the amount of landscaping did not significantly change from the approved plans and deemed the landscaping sufficient.

**CONCLUSION:**

The proposed project was revised in the field without ABR approvals which ultimately impacted the amount of landscape planter width provided at the perimeter of the site. The applicant obtained City authorization to continue construction of the perimeter walls and proceeded to construct said walls. The appellant claims the wall height is a view impact to their property, but in staff's opinion, field conditions including removal of a higher wood fence do not confirm this concern (see attachment 4). It is staff's position that the ABR appropriately considered all relevant issues pertaining to the landscape and wall changes and made the appropriate findings to approve the proposed revisions to the project. Therefore, staff recommends that the Council deny the appeal and uphold the approval of the revisions to the project.

**ATTACHMENT(S):**

1. Letter from Appellant dated April 26, 2012
2. Reduced site and landscape plans
3. ABR Minutes
4. Site photos

**PREPARED BY:** Jaime Limon, Senior Planner II

**SUBMITTED BY:** Paul Casey, Community Development Director

**APPROVED BY:** City Administrator's Office

RECEIVED

2012 APR 26 PM 2:06

CITY OF SANTA BARBARA  
CITY CLERK'S OFFICE

**Tony Fischer**  
**Attorney at Law**  
**2208 Anacapa Street**  
**Santa Barbara, CA 93105**  
**Tel: 805 563 6784**  
**fischlaw@cox.net**

April 26, 2012

**Mayor Helene Schneider and Councilmembers**  
City of Santa Barbara  
City Hall  
Santa Barbara CA 93101

**Re: Fresh & Easy project at 336 N. Milpas Street. Appeal of ABR (April 16, 2012) and staff approvals for "as-built" wall over six feet maximum as limited by Mayor and City Council and waiver of minimal landscape requirements (from 5 feet to 3.5 feet) on east and south property lines.**

**Dear Mayor Schneider and Council Members:**

This Appeal is filed on behalf of the Mary Z. Frangos Trust. The Trust owns the property at 318-320 North Milpas and the property across the street at 325 North Milpas. The 318-320 North Milpas property is immediately adjacent on Milpas Street to the Fresh and Easy Neighborhood Market project proposed at 336 N. Milpas Street, Santa Barbara, CA.

Last summer this project came before the City Council on appeal of changes after final ABR and staff approval for the proposed Fresh & Easy project which severely crowded the Milpas Street sidewalk and enclosed the parking lot with block walls eight feet tall. After a site visit to the sidewalk and site, the City Council required Fresh & Easy, to move the building a minimum of two feet from Milpas Street (hopefully more) and to reduce the block wall on the south property line to a maximum height of six feet. (Exhibit 1) Thereafter, drawings were submitted and approved by staff which relocated the building the minimum two feet from Milpas Street and reduced the south wall to a maximum of 6 feet.

In that review process, ABR staff and Fresh & Easy took the position that movement of the building more than two feet would severely squeeze the parking lot behind the building and would require reducing the landscaping which was already the minimal allowed. Staff repeatedly informed the neighbor in numerous emails and in-person communications that it had achieved the maximum building movement possible and that it would strictly enforce all the conditions of approval including the wall height. As you know, the Building Official did authorize construction to begin in early October 2011 before the building permit was ready to be issued and before approvals were obtained from public works and others. The Building Permit was issued in November 2011.

Unknown to the neighbor, when the Applicant asked in December 2011 for approval to pour the concrete footings for the walls on the south and east sides, the wall locations were moved from the property line by 18" on the east side and 21 inches on the south side. The net effect is the reduction of the landscaped areas along the two walls by approximately 30%. There was no notice to the neighbor to the south and the approval of the relocation was not recorded by the Building Inspection team in any public record.

When the contractor was building the block wall in December of 2011, it appeared, based upon the scaffolding, the amount of blocks at the site, and comments by the workers that the height limits on the property line would be violated. That concern was communicated to the building inspection staff. Eventually, a building inspector issued a correction notice (Exhibit 2 ) which requested the Contractor to provide a survey to be used to verify that the conditions of approval would not be violated. The Building Official overruled that request. He allowed the construction to proceed. He stated in an email with copies to council members that he would insist upon full compliance with the approved plans. (Exhibit 3) As he noted, page C-7 of the approved plans included the following statement:

“WALL HEIGHT = 6' MAX. FROM EITHER ADJACENT  
PROPERTY OR FRESH & EASY PROPERTY. CONTRACTOR TO  
VERIFY ADJACENT ELEVATIONS FOR FINISHED WALL HEIGHT.”

The neighbor's concern with the height of the walls continued. In review of the drawings and the actual construction, it became clear that the block wall on the south side of the parking lot had been moved 21" from the location shown on the approved plans. When questioned about this discrepancy, the Building Official indicated he understood the distance to be minimal, approximately a foot.

In anticipation of the ABR hearing, the Applicant stated that for the movement of the wall was at the request of the neighbor. That is false. The neighbor did not discuss the relocation of the wall and was unaware of the relocation until after it was built.

The Applicant's stated reasons for the reduction in landscaping are also not consistent with facts. As the site visit will confirm, the property owner to the east has a driveway. It extends into the block less than one-third of the width of the Fresh & Easy lot. Even if the accommodation of the neighbor is a basis to waive a code requirement, that explains only a portion of the east wall; Part of the property to the east (behind the gate in the wall) is actually owned by Fresh & Easy and there was and is no reason to not follow the property line or to provide additional landscaping to make up for the reduction. The remainder of the property on the east side is fenced by an approximately 8 foot tall wooden fence and the location of the block wall creates an 18' wide space between the fence and the block wall. (Exhibit 4). If ABR had done a site visit, these facts would have been obvious.

The height of the block wall on the south side does exceed six feet. That was confirmed by Mr. Limon, Planning Process Supervisor, after the ABR hearing. He has yet to produce the actual

record of the measurements. The height, according to **Section 28.04.140 of the Municipal Code**, is measured at all points from the natural or finished grade, whichever is lower. The drawing submitted by the Applicant to the ABR merely states that the height is 6 feet but does not set forth the actual "as built" heights which staff confirms are higher.

The ABR was encouraged by Mr. Limon to waive the landscape requirements. At the last minute, at the urging of Mr. Limon, it voiced a finding to support the waiver of the amount of landscaping required by the Code. It approved a finding that is simply not logical: the smaller amount does the same as the larger amount. The SBMC requires much more.

**"Santa Barbara Municipal Code Section 28.90.050 Landscaping and Lighting.**

1. GENERAL. In an effort to encourage the development of more attractive parking lots in commercial, industrial, and multiple-family use areas, to provide for attractive and durable screening between such parking lots and adjoining areas, and to lessen the effect of commercial and industrial uses upon adjoining residential uses, the following requirements shall be met. Landscape plans shall be prepared by an architect or landscape architect registered in the State of California, unless said requirement is waived by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark, in projects containing fewer than twenty (20) parking spaces. The landscaping standards set forth below are required for all parking areas, parking lots, automobile service stations and automobile service stations/mini-markets except for one- or two-family dwellings.

.....

3. PERIMETER PLANTERS. Where such parking areas and/or driveways abut a street, a planting area at least five (5) feet in depth shall be provided and an ornamental wall or fence three-and-one-half (3-1/2) feet in height shall be provided, except if the planting area is eight (8) feet or greater in depth and suitable screen planting is provided, the ornamental fence or wall may be omitted. **Where parking areas or driveways abut a neighboring building or a property line not adjoining a street, a planting area at least five (5) feet in depth shall be provided.** The Architectural Board of Review, or the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark, **may reduce or waive the requirement regarding the five (5) foot planting area where alternative landscaping and designs are presented that result in landscaping and designs that are equally effective.**

4. INTERIOR PLANTERS. In addition to the perimeter planters, there shall be planting areas to relieve the expanse of paving. Said interior planters shall be at least four (4) feet in width, and shall be located in such a way that there will be not more than eight (8) parking spaces without an intervening planter. Said planters shall have trees and either shrubs or ground cover. The Architectural Board of Review, or Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a

Appeal of ABR approvals of 336 North Milpas,  
Date: April 26, 2012  
Page: 4

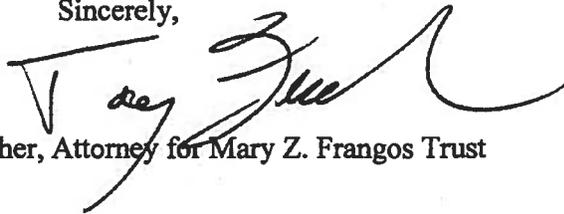
designated City Landmark, **may reduce or waive the requirement regarding the four (4) foot interior planter where alternative landscaping and designs are presented that result in landscaping and designs that are equally effective.” (Emphasis added.)**

The approval of a reduction in landscaping as proposed by staff and ABR sets a dangerous precedent that any project can reduce the amount of landscaping by 30% and the ABR and staff will find the lesser landscaping to be equal to the amount required.

It is noted that the agenda of the ABR for the April 16, 2012 meeting did not give notice to the public that ABR would be considering the approval of walls exceeding the height limit. It only mentioned the need to waive the amount of landscaping; although it did not indicate that the applicant was asking for approval of a reduction but without submitting “alternative landscaping and designs that are equally effective.”

We respectfully request that the Mayor and City Council require that the walls not exceed the permitted height and that the project be required to provide additional landscaping to meet the requirement which exists city-wide and to not water down the quality of development within the Milpas area.

Sincerely,



Tony Fischer, Attorney for Mary Z. Frangos Trust

With attachments:

1. Minutes of City Council June 7 2011
2. Correction Notice 1-3-2012
3. Estrella email 1-4-2012
4. East wall -- existing
5. Parking lot corner -- existing

**Minutes of Santa Barbara City Council (partial) June 7, 2011**  
**PUBLIC HEARINGS**

23. Subject: Appeal Of The Architectural Board of Review Approval Of The Review After Final Of 336 North Milpas Street (640.07)

Recommendation: That the Council deny the appeal of Tony Fischer on behalf of the Mary Z. Frangos Trust, and uphold the Architectural Board of Review (ABR) approval of the Review After Final of the application of Fresh & Easy Neighborhood Market for changes to an entry tower, entry ramps, doors, and a roof parapet.

2011 JUN 07 CAR APPEAL OF ABR APPROVAL OF 336 NORTH MILPAS - 1.DOC  
2011 JUN 07 CAR APPEAL OF ABR APPROVAL OF 336 NORTH MILPAS - 2.PDF  
2011 JUN 07 CAR APPEAL OF ABR APPROVAL OF 336 NORTH MILPAS - 3.PDF  
2011 JUN 07 CAR APPEAL OF ABR APPROVAL OF 336 NORTH MILPAS - 4.PDF  
2011 JUN 07 CAR APPEAL OF ABR APPROVAL OF 336 NORTH MILPAS - 5.PDF  
2011 JUN 07 CAR APPEAL OF ABR APPROVAL OF 336 NORTH MILPAS - 6.PDF  
2011 JUN 07 CAR APPEAL OF ABR APPROVAL OF 336 NORTH MILPAS - 7.PDF

**Documents:**

- June 7, 2011, report from the Assistant City Administrator/Community Development Director.
- PowerPoint presentation prepared and made by Staff.
- Undated letter from Edward St. George.

**Public Comment Opened:**

5:46 p.m.

**Speakers:**

- Staff: Senior Planner Jaime Limon. Supervising Transportation Planner Steven Foley, City Attorney Stephen Wiley, Assistant City Administrator/Community Development Director Paul Casey.
- Appellant: Attorney Tony Fischer, Constantino Frangos.
- Applicant: Architect Sean Unsell; Randy Jones and Linda Haynes, Fresh & Easy Neighborhood Market.

**Public Comment Closed:**

7:03 p.m.

**Motion:**

Councilmembers House/Rowse to approve the recommendation, denying the appeal and upholding the Architectural Board of Review's project approval, but refer the project to Staff for compliance with the following additional conditions:

- 1) reduce the proposed 8-foot wall at the perimeter of the site to 6 feet along the property line shared with 318-320 N. Milpas Street; and
- 2) increase the width of the sidewalk along the Milpas Street frontage to the maximum extent feasible given the site constraints and the building design reflected in the working drawings, but in any case at least a minimum of 2 feet at the street tree pinch points.

**Vote:**

Unanimous voice vote.

[Exhibit 1]

# CORRECTION NOTICE



City of Santa Barbara  
Building & Safety Section  
630 Garden Street  
(805) 564-5485

Inspector's Office Hours - 7:30-8:30 A.M. & 3:30-4:30 P.M. Daily

ISSUED TO: 336 N Milpas  
(JOB ADDRESS/PERSON)

- Obtain permits before continuing with work.  Cease Work
- Before the work or installation authorized by a permit can be approved, concealed, energized, or used, the following deficiencies shall be corrected. Call for reinspection when all corrections have been made.

BUILDING  ELECTRICAL  GRADING  PLUMBING   
HEAT-REFRIG.  BOILERS  ELEVATORS  OTHER

① ok to grow 12' ht  
N. 1/2 of E side site  
wall.

② Contractor to provide  
finished grade survey  
prior to 2nd ht  
in order to ensure  
that walls do not  
exceed max height  
required by approved  
plans

③ Revision to be issued  
prior to next inspection

Date 1-3-12 Inspector B. Gronnebeck

Exhibit 2

**Tony Fischer**

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**From:** "Estrella, George" <GEstrella@SantaBarbaraCA.gov>  
**To:** <czfrangos@aol.com>; "Cassidy, Lonnie J" <LoCassidy@SantaBarbaraCA.gov>  
**Cc:** "Armstrong, Jim" <JArmstrong@SantaBarbaraCA.gov>; "Schneider, Helene" <HSchneider@SantaBarbaraCA.gov>; <fischlaw@cox.net>; <fischlaw@gmail.com>; "Casey, Paul" <PCasey@SantaBarbaraCA.gov>; <ssinovic@newspress.com>; "Cassidy, Larry" <LCassidy@SantaBarbaraCA.gov>  
**Sent:** Wednesday, January 04, 2012 4:50 PM  
**Subject:** RE: 336 6 foot wall maximum  
 Mr. Frangos,

The note on page C-7 of the approved plans clearly indicate that the maximum wall height abutting your property line and that of Fresh & Easy is 6 feet. We will not final the project unless the entire project is in compliance with the approved plans including the height of the wall. As such, no violation of the wall has been observed by our inspection staff and the contractor is permitted to continue working on the wall. The contractor, the Fresh & Easy representatives and the City are very much aware of this issue. We have spent a considerable amount of staff time regarding the wall height issue with additional site visits and email responses. We simply cannot continue expending any more staff time on a violation that does not exist. Again, the approved plans clearly indicate the maximum wall height and the wall will not be approved if exceeded.

Thank You,

George A. Estrella  
 Chief Building Official  
 City of Santa Barbara  
 (805) 564-5485

*Most City ADMINISTRATIVE OFFICES will be closed due to an unpaid leave, or furlough, for City employees from Monday, December 19th thru Monday, January 2nd. Offices will reopen on Tuesday, January 3, 2012. For more details, please visit the City's website at: [www.SantaBarbaraCA.gov](http://www.SantaBarbaraCA.gov). This includes the Community Development Department and Administrative Offices located at 630 Garden Street.*

*There will be no counter, records or archives staff available during this 2 week period.*

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**From:** czfrangos@aol.com [mailto:czfrangos@aol.com]  
**Sent:** Wednesday, January 04, 2012 12:30 PM  
**To:** Cassidy, Lonnie J  
**Cc:** Estrella, George; Armstrong, Jim; Schneider, Helene; fischlaw@cox.net; fischlaw@gmail.com; Casey, Paul; ssinovic@newspress.com  
**Subject:** 336 6 foot wall maximum

Ms. L Cassidy,

Let me get this straight, You the, City of Santa Barbara, are allowing the applicant to build a wall, subject to being torn down, even though you do not have the survey that shows the elevations for the property? Should you have had those elevations in the application process for the building permit.

Our first phone call, you indicated that they would stop work on the wall subject to the elevation survey. When I got to the department, you said after discussing it with Mr. Estrella, you allowed them to build whatever subject to be torn down to comply with Mayors and Councils condition that the wall be no more than 6 feet high, which was taken down from the proposed 8' foot block wall.

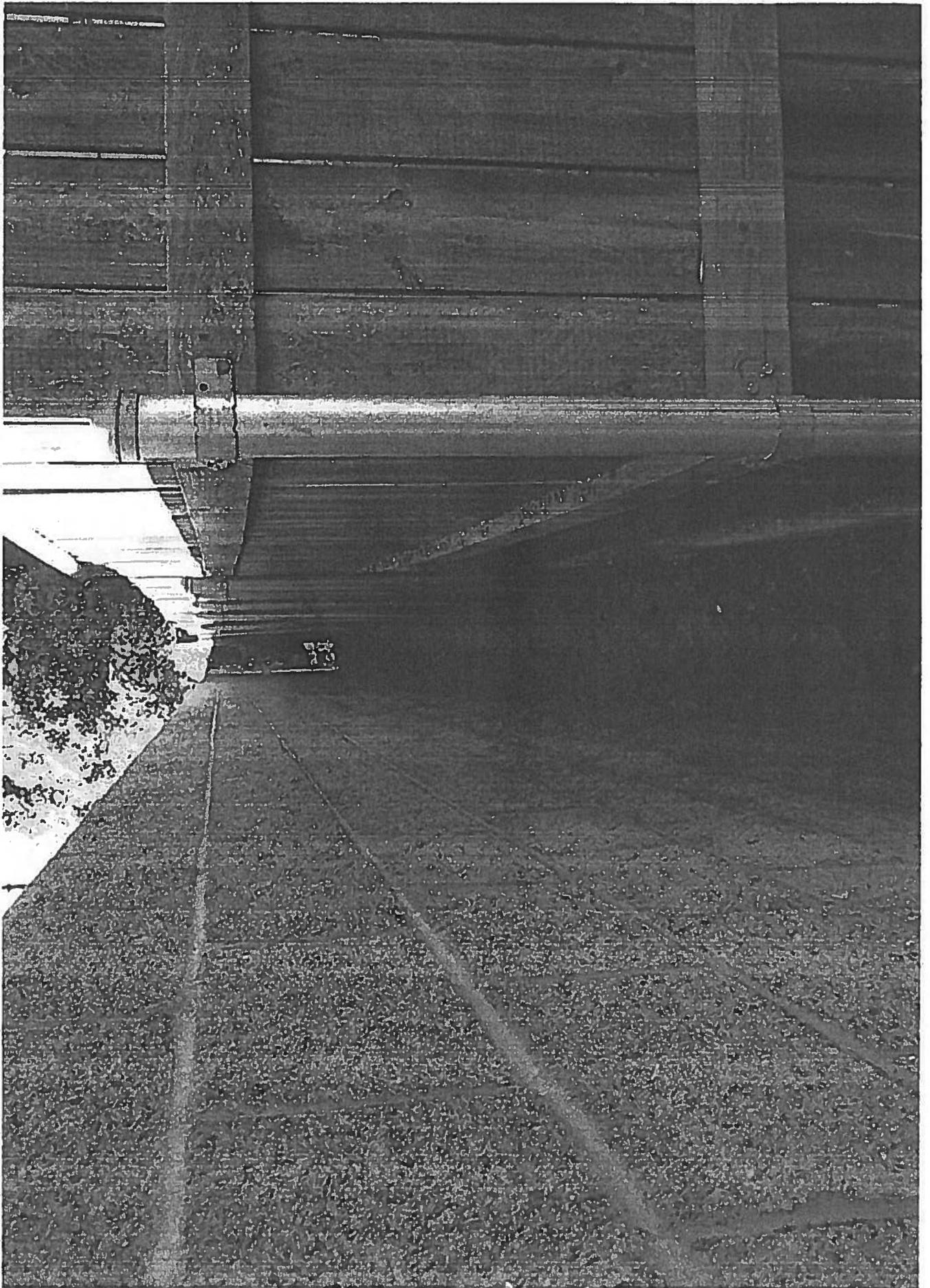
Mr Limon had shown me those plans with the 6 foot cap on the wall on the Fresh and Easy side before the building permit had been issued. We had agreed with Mr. Limon, that was the acceptable outcome of My Request and the Council Action. Are you telling me now that you do not know the elevations/plans that are part of the application for Fresh & Easy? You do not know yet it is ok for Fresh and Easy to just build the wall.

4/26/2012

You and Mr. Estrella are allowing Fresh and Easy to building in Violation of the City of Santa Barbara building codes and Mayor & Councils Conditions. But you do reserve the right to correct them later.....How many other applicants receive this treatment.?

You sure are giving this applicant a lot of leeway in our building process.

Thank You  
Constantinos Frangos









**ARCHITECTURAL BOARD OF REVIEW MINUTES      April 16, 2011****1.      336 N MILPAS ST****C-2 Zone****(3:10)**

Assessor's Parcel Number: 031-371-021  
 Application Number: MST2006-00236  
 Architect: Perkowitz + Ruth Architects  
 Owner: Fresh & Easy Neighborhood Market

(A revised proposal for a new one-story 11,680 square foot commercial building for Fresh and Easy Neighborhood Market. The proposal includes 51 parking spaces, a voluntary merger of three lots totaling 39,130 square feet, and demolition of three existing non-residential buildings totaling 12,919 square feet. The project will result in a Measure "E" credit of 1,451 square feet.)

**(Review of the as-built relocation of perimeter site walls and associated reduction in landscaping planting area. A waiver is requested to provide less than the required depth of the perimeter planters.)**

Actual time: 3:16

Present: Chris Perry, Project Manager, Perkowitz +Ruth Architects; Jeremy Salt, Engineer, Penfield & Smith; Bob Cunningham, Landscape Architect.

Public comment was opened at 3:22 p.m.

Clark Ortone, adjacent resident to the east, expressed appreciation of Fresh & Easy for relocating the site walls and resolving the problem related to his driveway.

Constantine Frangos, expressed concern that the wall does not comply with the City Council's condition that the wall be less than 6 feet tall on the south side of the property.

Public comment was closed at 3:27 p.m.

Staff comments: Jaime Limon, Design Review Supervisor, provided a background of the appeal to City Council. He explained that it was Council's direction that more sidewalk width be obtained along Milpas Street, and the wall at Mr. Frangos's property line be kept to a maximum of 6 feet height. Mr. Limon stated that inspections were obtained for the relocated site walls, and explained that the wall on the south side of the property does generally comply with City Council direction to be no taller than six feet.

Motion: Approval of the Review After Final with the following comments:

1. The height of the wall as interpreted by City Planning staff is satisfactory.
2. A waiver for a reduction of landscaping is supported and proposed landscaping is sufficient.

Action: Zink/Mosel, 5/0/0. Motion carried. (Gradin/Rivera absent)









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ONLY

UNAUTHORIZED VEHICLES WILL BE  
TOWED AWAY AT VEHICLE OWNERS EXPENSE  
PER C.V.C. 22656A SBPD Ph: 897-2300

# Community Development City Council



**APPEAL OF ABR  
REVIEW AFTER FINAL APPROVAL  
FOR 336 N. MILPAS ST. PROJECT**

**June 19, 2012**

**STATE STREET**

# Vicinity Map



# Project Description

- ◆ 1-Story Retail Market project – Fresh & Easy
- ◆ Approx. 12,000 sf
- ◆ Lot merger of three lots
- ◆ 49 parking spaces
- ◆ Demolition of 13,500 sf
- ◆ Soil Remediation – Excavation and removal of contaminated soil- Approx. 1,000 tons
- ◆ Building permit for new building issued 11/2011
- ◆ Protection of Street Trees

# Site Photos –Pre construction



View of the adjacent residence to the east from existing parking lot



# Site Photos



View of the existing west elevation on Milpas Street



# Site Photos



View of the existing building at the southeast corner of the property



# Council Appeal- June 7, 2011

Denied appeal by Mr. Frangos and directed staff to:

1. Reduce the proposed 8-foot wall to 6 feet along southern property line, and
2. Increase the width of sidewalk along Milpas Street to the maximum extent feasible but in any case at least a minimum of 2 ft at the tree pinch points

# Milpas St Sidewalk



# Review After Final Revisions June 2012 - Current Appeal

Perimeter site wall relocations ranging from 16” to 23”

Adjustments/reductions to planter widths due to field changes

Appeal filed regarding ABR approval decision of  
April 16, 2012

# Site Photos- Perimeter Site Walls



# Stepped Block Wall and planter widths



# ABR Review - 2012

- Wall and Landscaping design changes approved by unanimous vote
- Amount of landscaping is sufficient

Motion: Approval of the Review After Final with the following comments:

The height of the wall as interpreted by City Planning staff is satisfactory.

A waiver for a reduction of landscaping is supported and proposed landscaping is sufficient.

Action: Zink/Mosel, 5/0/0. Motion carried.  
(Gradin/Rivera absent)









# Summary of Appeal Issues

- ◆ Perimeter block walls in excess of 6 foot height maximum as per previous Council direction
- ◆ Reduction in planter widths should not have been granted by the ABR
- ◆ Request that Council “require project to lower walls and provide additional landscaping to meet the requirement which exists citywide”

# Staff Responses to Appeal Issues

## Outlined in Staff Report -

- ◆ Heights are consistent with previous Council direction to limit wall height at southern wall to six feet

Different measurements- Stepped wall conditions

Minimal impact to neighbor (appellant's) views

- ◆ Perimeter block walls were moved and did result in less landscaped planting areas

Amount of plants not reduced in these areas

- ◆ Reduction in planter landscaping should not have been granted by the ABR

The ABR has authority reduce or waive landscape planter requirements if alternative designs are "equally effective."

# Staff's Recommendation Based on:

- ◆ ABR approval of landscaping reduction and wall revisions to project,
- ◆ Wall relocation is beneficial to adjacent to adjacent property owners
- ◆ Wall heights not an impact to neighbor
- ◆ Project design is in substantial conformance with Council direction



before



after

# Views from Appellant's Property



# Staff Recommendation:

- ◆ Deny appeal and support ABR decision
- ◆ Grant Final Approval of project

**End**