



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** June 30, 2009

**TO:** Mayor and Councilmembers

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

**SUBJECT:** Zoning Ordinance Amendment Pertaining To Non-Residential Construction Projects (Measure E)

**RECOMMENDATION:** That Council:

- A. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Section 28.87.300 of Chapter 28.87 of Title 28 of the Municipal Code Regarding Limitations on Non-Residential Development Within the City; and
- B. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Establishing Procedures for Administration of the Amendments to Titles 28 and 29 of the Municipal Code Implementing the General Plan Update Growth Decisions and Charter Section 1508, and Rescinding Resolution No. 99-036.

**EXECUTIVE SUMMARY:**

Council is considering a proposed Zoning Ordinance Amendment to continue the existing standards for review of non-residential construction projects. These standards were adopted to be consistent with City Charter Section 1508 Non-Residential Growth Limitation and the General Plan Update process of the late 1980s. As Council is aware, the City is currently processing a General Plan update known as *Plan Santa Barbara (Plan SB)*. This update is expected to result in new growth management policies and programs. The purpose of this proposal is to maintain the status quo until new regulations are adopted by Council following the conclusion of *PlanSB*.

**DISCUSSION:**

Background - Charter Section 1508

In November 1989, city voters approved an amendment to the City Charter establishing Section 1508 to regulate non-residential growth in the community. By its own language, Charter Section 1508 does not extend beyond December 31, 2009. The significant growth management decisions as prescribed by Charter Section 1508, and made by the Council in the General Plan Update process of 1990, are implemented in the Zoning Ordinance. (See Municipal Code Section 28.87.300, Development Plan Review and Approval.) This section contains many key provisions, including definitions, allocation categories such as Community Priority, Small Additions, etc., and standards for

processing all non-residential projects in the city. Reflecting the expiration of Charter Section 1508, Municipal Code Section 28.87.300 was drafted so that its provisions applied to development occurring before January 1, 2010.

#### Proposed Amendment

Community Development staff and the City Attorney initiated this zoning ordinance amendment in order to continue the regulations for processing non-residential projects, unchanged, beyond January 1, 2010. This proposed amendment to the Municipal Code and Resolution 99-036 does not affect the expiration of Charter Section 1508. Charter Section 1508 will still sunset on December 31, 2009.

On May 12, 2009, the Ordinance Committee considered the proposed amendment and voted 3 to 0 to forward the ordinance amendment to the Planning Commission for a public hearing and to return to Council for introduction and adoption.

#### Plan SB

Planning Staff has explained during *PlanSB* that the City intends to continue processing projects under the current standards until the Council adopts new policies and standards. In consultation with the City Attorney, it was determined that to be completely clear, Section 28.87.300 of the Municipal Code should be amended to extend the date from January 1, 2010 to a later date. This extension would maintain the status quo until *PlanSB* is completed. As *PlanSB* results in changes to City policy regarding non-residential construction, those policy changes would be incorporated into the Municipal Code through the adoption of the *PlanSB* implementing ordinances.

Staff anticipates that Council action on key parts of *PlanSB* will happen next year, and that some additional time will also be necessary to ensure that implementing ordinances that govern future growth management are appropriately reviewed and adopted. Therefore, we recommend that the date specified in Section 28.87.300 be changed from January 1, 2010, to a later date. When this amendment was initiated the proposed date was January 1, 2015; however, based on input from the Planning Commission, staff now recommends an extension through January 1, 2013.

#### Planning Commission Review

The Planning Commission considered the proposed amendment at its meeting of June 4, 2009. The Commission voted 3 to 1 to recommend approval of the amendment with only a two-year extension rather than the five-year time period originally proposed. Commissioner Lodge expressed that the proposal for a five-year extension was acceptable and therefore did not support the motion to reduce the extension to two years. The other Commissioners (Jostes, Bartlett, and Thompson) all expressed a desire to move the *PlanSB* process along faster. The Commission has recommended in the *PlanSB* process that the amount of non-residential growth for the *Plan SB* planning period should be limited to the square footage remaining from the original 3 million square foot allotment established by Charter Section 1508. The Planning

Commission has also expressed a desire that this limited square footage of floor area be targeted to community benefit projects. There is still quite a bit of analysis in the Environmental Impact Report, review by the public, and decision-making to be considered by Council before we have a better understanding of how the new growth management program will work. Staff expressed that perhaps a compromise of three years would be better, as there is concern that the proper drafting of new ordinances and implementation of priority policies from *PlanSB* will take some time, and that further extensions of the current ordinance could become more complex as we move further into the *PlanSB* process.

### 3 Million Square Feet, Small Additions & Economic Development

Municipal Code section 28.87.300 stipulates that approvals under the ordinance shall not exceed 3 million square feet above the October 1988 baseline condition through January 1, 2010. This clause is one of the three statements proposed to be amended to change 2010 to 2013. Therefore, the ordinance would continue to cover the original 3 million square feet. Staff recommends that the ordinance continue to operate in its current manner until 2013. For that to happen, one change is needed to Council Resolution 99-036 to "restock" the Small Addition category.

Under Measure E, up to 600,000 square feet of the 3 million square feet of potential nonresidential growth was allocated to the Small Addition category. Pursuant to Section 28.87.300, the allocation from the Small Addition category was limited to no more than 30,000 square feet per year. Any portion of the annual allocation for Small Additions that remained at the end of the year was transferred to the Economic Development category. This transfer is accounted for in accordance with the provisions of Resolution 99-036.

The ordinance and resolution provide that the Economic Development category is supplied with square footage of development potential based on expired Approved and Pending Projects (as defined in 28.87.300) and unallocated Small Additions. Over the life of the Economic Development category, 633,109 square feet came from Approved and Pending projects and 275,311 square feet from Small Additions. The remaining square feet in the Economic Development category, as of 2008, is 395,410 square feet.

As a part of the proposed extension of Section 28.87.300, staff recommends that the Council approve an amendment to Resolution 99-036 to re-allocate 90,000 square feet (30,000 sf for each of the 3 years extension of ordinance) from the Economic Development category back to the Small Addition category with 305,410 square feet remaining in Economic Development. This would enable the continuation of the annual allocation of up to 30,000 square feet for Small Additions for the proposed three-year extension of the ordinance. As before, the annual unallocated Small Addition square feet would continue to be transferred into the Economic Development category. The entire amount of the proposed reallocation is contained within the original 3 million square feet as approved in Charter Section 1508 and implementing ordinances. This

proposal in no way expands the amount of potential nonresidential development beyond the original 3 million square foot limit.

#### Public Input

Public input to date on the proposed amendment includes concern that the local economy not be taken for granted, and that the PlanSB process consider both economic and environmental impacts (see attached letter). At the Ordinance Committee meeting, a few members of the public came forward to support this amendment, yet had questions and concerns about the relationship between Measure E, this ordinance, and the Transfer of Existing Development Rights (TEDR) ordinance (see attached letter). Staff and the City Attorney responded to the questions about the approval of the TEDR ordinance and how *PlanSB* includes a policy to study the TEDR program in terms of its past role under growth management programs based on Charter Section 1508, and how it may be used for potential development in the future, based on the new growth management programs that come from *PlanSB*. Development potential and associated impacts are all being studied in the environmental review process, and staff believes it will be important for the Council to establish the primary policies on both non-residential and residential growth before determining if or how to adjust the current TEDR ordinance.

#### Environmental Review

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15305. The City's adopted list of projects that are consistent with this exemption class include:

- Creation of minor new, and minor amendments to existing land use plans, ordinances, guidelines, regulations and/or development standards which do not result in any changes in land use density and which have no potential for significant environmental effects.
- Minor Zoning Ordinance amendments that do not significantly change plan uses in an area.

**ATTACHMENTS:** 1. Economic Development Tables  
2. Letters from the public

**PREPARED BY:** Bettie Weiss, City Planner

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

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

Category	Pending	Approved	Building Permit/C of O Issued	Unallocated	To Economic Development
Approved Projects (900,000) <sup>1,2</sup>	155,000	115,996	570,383	0	58,621
Pending Projects (700,000)	36,000	11,091	78,421	0	574,488
Vacant Property (500,000)	100,963	2,400	80,527	316,110	N/A
Total Small Addition (600,000) <sup>3</sup>	45,960	26,712	222,017	30,000	275,311
<b>2008 Small Addition (30,000)<sup>4</sup></b>	<b>5,186</b>	<b>4,300</b>	<b>64</b>	<b>0</b>	<b>20,514</b>
Community Priority (300,000)	68,189	73,389	125,641	32,781	0
<b>Economic Development<sup>5,6</sup></b>	<b>104,522</b>	<b>2,703</b>	<b>405,785</b>	<b>395,410</b>	<b>908,420</b>
<b>Total (3,000,000)</b>	<b>510,634</b>	<b>232,291</b>	<b>1,482,774</b>	<b>774,301</b>	

<sup>1</sup> Includes Rancho Arroyo and Park Plaza Specific Plans  
<sup>2</sup> Includes 155,000 of Pending square footage for Cabrillo Plaza Specific Plan.  
<sup>3</sup> 275,311 square feet under "To Economic Development" is comprised of 1/1/90-06/30/96 expired and 1/1/90-12/31/08 "not applied for" square footage.  
<sup>4</sup> Included in the total Small Additions calculations above.  
<sup>5</sup> 186,259 square feet under "Building Permit/C of O Issued" is comprised of Minor Additions associated with 1997-2008 Small Additions and 219,526 sq. ft. of Economic Development that received building permits, as required by Council Resolution 99-036  
<sup>6</sup> 908,420 square feet under "To Economic Development" is included in calculations for the Economic Development category, but not counted in 3,000,000 sf total.  
**NOTE: Per Council Resolution Economic Development SF tracked differently. Shown here for representative purposes only.**

**PROJECTS WITH PRELIMINARY OR FINAL  
ECONOMIC DEVELOPMENT DESIGNATIONS**

PROJECT/ADDRESS	PRELIM. DESIG. (SQ. FT.)	FINAL DESIG. (SQ. FT.)	STATUS/ COMMENT
Gateway Project (Miravant) 6100 Hollister Avenue MST97-00715		80,320	Approved 5/28/2000
Architectural Millworks 815 Quinientos Street MST97-00320		15,000	C of O 1/20/2004
Penfield and Smith 111 E Victoria St MST2002-00243		7,905	BP 2/11/2005
Software.com 630-634 Anacapa Street MST97-00520	26,493		Withdrawn
Alliance Manufacturing Software 1035 Chapala Street MST98-00051	30,257		Withdrawn
Fielding Institute 4151 Foothill Road MST2001-00840 MST2008-00496	22,499 22,499 1,703		Prelim with MST2001-00840
Airport Mobile Structure 500 Fowler Rd MST2002-00265		720	Approved 6/20/02
Cottage Hospital 320 W Pueblo St MST2003-00152		182,541	Under Construction
Granada Theatre 1216 State St MST2004-00005		13,360	Approved 3/23/04
101 E Victoria MST2006-00758		2,703	Approved 12/23/2008
<b>SUBTOTALS</b>	<b>24,202*</b>	<b>302,549</b>	<b>SUBTOTALS</b>
<b>ALLOCATED TO DATE: 322,025 SQFT*</b>			
<b>REMAINING UNALLOCATED: 395,410 SQFT</b>			

06-11-09

\*Does not include SF from Software.Com or Alliance, which have been withdrawn



THE TOWBES GROUP, INC.

ASSET MANAGEMENT  
CONSTRUCTION

May 11, 2009

Ordinance Committee  
City of Santa Barbara  
PO Box 1990  
Santa Barbara, CA 93102-1990

RE: Non-Residential Construction Projects Regulations (Measure E)

Gentlemen:

While I believe it is reasonable for the City Council to extend Measure E until it decides upon actions to be taken on PlanSB, I hope the City will decide to review the economic impacts of PlanSB along with the environmental impacts.

There is a tendency for all of us to take the economy for granted until something like the current recession rolls around, when we realize that a healthy economy can't be taken for granted. Deservedly or not, Santa Barbara does not have a reputation of being a business-friendly community. If it chooses to continue its current policies, it should understand the economic impacts as well as the environmental impacts so that it can make informed decisions.

Thank you for your consideration.

Sincerely yours,

MICHAEL TOWBES

/bjr

cc: Santa Barbara City Council  
Planning Division/Community Development Department  
Santa Barbara City Planning Commission

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## LEAGUE OF WOMEN VOTERS OF SANTA BARBARA, INC.

328 East Carrillo Street, Suite A  
Santa Barbara, California 93101

TEL/FAX (805)965-2422

email: info@lwesantabarbara.org  
www.lwesantabarbara.org

Statement to City of Santa Barbara Ordinance Committee on 5-12-09

Subject: Zoning Ordinance Amendment for Measure E Regulations

I'm Connie Hannah, speaking for the Santa Barbara League of Women Voters. The League is working to understand the ramifications of the information about Measure E entitlements that emerged during the recent appeal on the El Encanto project. How is it possible for owners to have a right to fully develop one site for residential, and then sell that same square footage to another site? This Transfer of Existing Development Rights is unbelievable double-dipping, and it threatens Santa Barbara with a huge overload of commercial development. If Measure E is what makes this kind of entitlement possible, then Measure E must be changed during this renewal.

For months the Planning Commission has been discussing ways to limit future commercial development so that we can improve our jobs/housing imbalance. This policy totally invalidates those efforts. The remaining commercial from over-developed sites like Chapala One and Paseo Chapala alone would again overwhelm this balance. The League is familiar with the Yanonali condominium project which rezoned a waterfront area site from light industrial to mixed use. That was immediately a great financial boon to the owner. That was interesting because it was purely a residential project, but they put a very small corner store in to justify their mixed use designation. We do not see how they can have any further rights to transfer from this site.

Since the subject of today's meeting is the renewal of Measure E, we ask the City to determine why this interpretation, which has recently emerged, allows doubling of development rights. The League worked to pass Measure E, and we have appreciated the excellent effect it has had on city planning. In passing this measure, the public intent was to control the amount of commercial development being permitted, and we think we should make sure now to return to the original intent of Measure E.