



City of Santa Barbara

Planning Division

PLANNING COMMISSION MINUTES

September 6, 2007

CALL TO ORDER:

Vice Chair Myers assumed the Chair for the meeting of September 6, 2007
Chair Myers called the meeting to order at 1:03 P.M.

ROLL CALL:

Present:

Vice-Chair George C. Myers
Commissioners Bruce Bartlett, Stella Larson, Addison S. Thompson and Harwood A. White, Jr.

Absent:

Charmaine Jacobs
John Jostes

STAFF PRESENT:

Stephen Wiley, City Attorney
N. Scott Vincent, Assistant City Attorney
Bettie Weiss, City Planner
Jan Hubbell, Senior Planner
Daniel Kato, Senior Planner
Jaime Limón, Senior Planner
Kelly Brodison, Assistant Planner
Adam Nares, Planning Technician II
Gabriela Feliciano, Commission Secretary

I. PRELIMINARY MATTERS:

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

None.

- B. Announcements and appeals.

Senior Planner Jan Hubbell reminded the Commission that there will be a Joint Meeting with the City Council on September 10th at 2:30 P.M. to be held in the Louise Lowry Davis Center. The discussion will be on Plan Santa Barbara with a summary report on the outcome of Round I and a preliminary look at Round II. Also discussed will be building height issues from the Joint meeting with the Council, Architectural Board of Review, and Historic Landmarks Commission held in July.

- C. Comments from members of the public pertaining to items not on this agenda. [Due to time constraints, each person is limited to two (2) minutes.]

David Newbauer expressed concern for all the current development on Marina Drive and Campanil Drive without consideration being given to drainage that goes into constrained pipes that run through Sea Ledge Lane in three different spots. Would like the Commission to consider the impact on Campanil Hill and Marina and what it is doing to the bluff and neighboring properties that have to deal with the water issues.

II. NEW ITEMS:

ACTUAL TIME: 1: 06 P.M.

APPLICATION OF BOB PRICE, AGENT FOR LEON F. LUNT AND JOYCE M. LUNT, 3427 SEA LEDGE LANE, APN: 047-082-009, A-1/SD-3 ONE FAMILY RESIDENCE AND COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL – 1 UNIT PER ACRE (MST2006-00092)

This revised proposal responds to concerns raised by the Planning Commission in June 2007 and consists of the demolition of the existing 460 square foot attached two-car garage and 1,218 square feet of the existing residence in preparation for a remodel and two-story addition including 1,551 square feet for the first floor, 1,016 square for the second floor, a new 612 square foot basement and a new 540 square foot attached two-car garage for a net increase of 2,041 square feet all on a 32,189 square foot A-1/SD-3 zoned lot in the Hillside Design District and the Appealable Jurisdiction of the Coastal Zone. The project site is currently developed with a 2,954 square foot one-story single-family residence with an attached 460 square foot two-car garage. The proposal also includes resurfacing the existing 565 square foot deck and replacement of the guardrail, replacement of a retaining wall and the replacement of the existing septic system and drywells. When the project is complete, the development on the site will consist of a 5,455 square foot two-story residence which includes the 612 square foot basement and a 540 square foot attached two-car garage.

The discretionary applications required for this project are:

1. A Modification to allow an “as-built” portion of an existing deck to encroach into the 15’ required interior yard setback in the A-1 Zone (SBMC §28.15.060);

2. A Coastal Development Permit (CDP2006-00003) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC § 28.45.009).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Sections 15315 [Minor Land Divisions] and 15303 [New Construction].

Case Planners: Jaime Limón, Senior Planner and Kelly Brodison, Assistant Planner
Email: jlimon@SantaBarbaraCA.gov; kbrodison@SantaBarbaraCA.gov

Kelly Brodison, Assistant Planner, gave the Staff's presentation.

Staff responded to the Planning Commission's question about the Single Family Design Guidelines and the square footage Floor Area Ratio (FAR) number being used for this project by stating that the modification proposed does not invoke increasing the size of the house.

Trish Allen, Suzanne Elledge Planning and Permitting Services, gave the applicant's presentation.

Ms. Allen answered Planning Commission questions about the FAR without the basement, which is 15%, and represented a 4% reduction from the last presentation

Mr. Limón responded to the Commission's question about the applicant's response to Architectural Board of Review (ABR)'s earlier comments concerning the width of the second story. ABR reviewed the project at the time the Neighborhood Preservation Ordinance (NPO) was being updated and was generally supportive of the project.

Chair Myers opened the public hearing at 1:48 P.M. and acknowledged the following speakers, in support the project, who waived their time to the applicant's presentation: Alerto Barbaran, John Brooks, and Art Bosse.

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

1. David Newbauer: concerned with size of project, compatibility with area.
2. Paula Westbury: against additional development; house should remain as is.

With no one else wishing to speak, the public hearing was closed at 1:52 P.M. Chair Myers also acknowledged that letters were received both in support and in opposition to the project.

Commissioners' comments:

1. Two Commissioners appreciated the applicant's response to prior hearing recommendations, but still had concerns about: a) the reduction in the second floor not being enough; and b) expansion of basement is inappropriate.

2. Three Commissioners would like to have the Single Family Design Board review the project.
3. Two Commissioners could the support square footage if the modification were removed.
4. Some Commissioners were not as concerned with the size of the house and felt that the volume of the house is less than what is often associated with a house of this square footage. Not as concerned with the slight increase in the basement, especially since it has been pulled back from the setback.
5. One Commissioner supported Staff's position on no deck encroachment modification.
6. Two Commissioners felt that the size of the house and the basement were acceptable and supported the modification as an appropriate improvement stating that a properly built and maintained deck provides bluff top protection; changes to the deck could have an adverse effect. One Commissioner felt that the design is still a little large.
7. One Commissioner asked the Commission to further discuss the deck as a necessity to secure improvements. One Commissioner added that support for the deck provides support for protecting the bluff top. Another Commissioner felt differently by stating that deck expansion is based on the design proposal and not a hardship on the site.

Scott Vincent, Assistant City Attorney, provided interpretation of the necessary finding for a modification in this context, referencing the language in the Staff Report taken from the Zoning Ordinance. Mr. Vincent sees the word 'necessary' as modifying the word 'modification' explaining that the modification is necessary in order for the improvement to exist, not that the improvement is necessary. The word modifying 'improvement' is the word 'appropriate'. In order to approve the modification, the Commission must find that the improvement proposed is appropriate for the site. There is room for interpretation on what is 'appropriate'.

Mr. Limón added additional alternatives to the protection of the bluffs that could be considered, such as on-grade platforms, if the Commission chose to eliminate the deck setback modification.

Ms. Allen reminded the Commission that a lot of modifications had already been removed. The reduction from the last presentation is already eliminating a nonconforming element from the building setback. This modification is asking for an existing condition to remain.

MOTION: Thompson/Bartlett

Assigned Resolution No. 034-07

Approve the modification and the Coastal Development Permit making the findings outlined in the Staff Report and subject to the conditions of approval in the Staff Report.

This motion carried by the following vote:

Ayes: 3 Noes: 2 (Larson, White) Abstain: 0 Absent: 2 (Jacobs, Jostes)

Commissioners Larson and White could support either the modification or the house size, but not both.

Chair Myers announced the ten calendar day appeal period.

III. DISCUSSION ITEM:

ACTUAL TIME: 2:19 P.M.

SEMI ANNUAL MEASURE E UPDATE

Planning Staff will present a bi-annual update for 2007 on Charter Section 1508 (Measure E) including status on the use of square footage in the various categories.

Case Planner: Adam Nares, Planning Technician II
Email: anares@SantaBarbaraCA.gov

Adam Nares, Planning Technician II, gave the Staff's presentation, joined by Bettie Weiss, City Planner.

Chair Myers opened the public comment at 2:30 P.M. and, with no one wishing to speak, closed the hearing.

Staff answered the Planning Commission's questions about the large number of projects pending approval, explaining that many were for condominiums that require a longer review process; also explained were contributory factors that add to the City's growth fluctuation, including economic, environmental, and water quality issues. The pending projects category is very broad; pre-application review projects are included in the presentation numbers, but many choose not to continue with the review process after the pre-application review.

The Planning Commission asked how to handle pending projects as Measure E comes to a close. Bettie Weiss, City Planner, responded that, as Measure E is evaluated for renewal through the Plan Santa Barbara General Plan Update process, there will be impacts on projects in the pipeline that will need to be considered as part of creating the replacement of Measure E, which also may include residential development. As in any policy shifting period, it will be necessary. Ms. Weiss noted that the demand for small additions has gone down during the 20 year period; in some early years, it was necessary to do a lottery to determine what applications would be considered.

IV. ZONING ORDINANCE AMENDMENT:

ACTUAL TIME: 2:50 P.M.

CITY INTERIM ORDINANCE RELATED TO NEW MEDICAL MARIJUANA DISPENSARIES

Planning Staff will conduct a public hearing on a proposed City zoning ordinance which would preclude new medical marijuana dispensaries within the City for a period of 180 days beginning August 14, 2007. The purpose of the ordinance is to give the City Council and Planning Commission sufficient time to draft and adopt a comprehensive City zoning ordinance amendment containing long-term regulations for the proper location and

operation of medical marijuana dispensaries within the City. Nothing in either ordinance would allow Medical Marijuana Dispensaries to operate in a manner contrary to state law.

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

Danny Kato, Senior Planner, gave the Staff's presentation, joined by Steve Wiley, City Attorney.

Staff answered Planning Commissioners' questions about the potential for sale of marijuana at pharmacies and the establishment of a primary caregiver; justification for the need for ten medical marijuana dispensaries as related to the Santa Barbara City population; the identification and validation of a medical marijuana dispensary as a nonprofit; the number and nature of complaints received; classification of dispensaries relocating within the six month ordinance; and the location of medical marijuana dispensaries in the City.

Steve Wiley, City Attorney, stated that, if a medical marijuana dispensary was registered with a business tax certificate and open and operating prior to August 14, 2007, then this ordinance would not preclude them from moving to another location. It was also noted that this is an interim ordinance. A later Conditional Use Permit (CUP) Ordinance will come back before the Commission and City Council that would regulate medical marijuana dispensaries similar to those that regulate adult businesses and specifically regulate location.

Chair Myers opened the public hearing at 3:31 P.M with the following people expressed public comment:

1. Kathy Sheffield requested regulation of dispensaries; concerned with noise and crime associated with them, specifically 211 W. Sola Street. Regulation should include where it is located, medical setting, notification to neighbors, a moratorium, background checks, control of the number of dispensaries, a list of prescribing doctors, a hospice setting, a reason for prescription, and parking. There are no dispensaries in Carpinteria, the City of Los Angeles, or Ventura, so many people are coming here.
2. Susan Lafond spoke in support of interim ordinance and concerned with dispensary activities in contrast to Federal and State laws. Referenced the State law as specifically stating that dispensaries can only sell to County residents. Would like to know how many physicians in the City are allowed to issue certificates. The State Code also states that medical marijuana cannot be sold within 1000 feet of a school, recreation center or other facility, unless in a residence.
3. Joan Livingston, neighbor to Acme dispensary at 211 W. Victoria, expressed concern that self-regulation is currently not adopted by all dispensaries, the impact of parking in the neighborhoods, and fumes of marijuana affecting both adults and children. Supports a moratorium be enacted.

4. Sharon Palmer, Registered Nurse, The Compassion Center of Santa Barbara County, commented that the dispensary has conducted itself ethically. Only RN's have been hired to dispense marijuana. Cannabis is a plant and drug companies cannot patent a plant so therefore not dispensed at pharmacies. In favor of taxing cannabis. Does not see a need for additional rules or regulations.

One Commissioner asked about the consumption of marijuana on the dispensary premises. Ms. Palmer stated that she was only aware of Acme dispensary allowing consumption; most dispensaries do not allow consumption within 1000 feet of the dispensary.

5. Ethan Kravitz, a person familiar with medical marijuana law, commented that doctors can only recommend, but not prescribe, marijuana to patients which is why pharmacies cannot dispense. Pharmacy prescriptions are regulated by the Drug Enforcement Agency (DEA) which does not recognize medical marijuana. It will not be possible to get an accurate count of medical marijuana patients in the County since an ID card is optional, so most patients do not register. All that is required is a note from a licensed doctor to go into a dispensary.

One Commissioner asked Mr. Kravitz how a doctor's letterhead is confirmed as valid and contrasted the prescription process which is tracked. Mr. Kravitz stated that most dispensaries have the patient fill out forms and call the doctor and check with the medical board for verification.

With no one else wishing to speak, the public hearing was closed at 3:31 P.M.

Mr. Kato read off a list of ten known dispensaries in Santa Barbara.

Commissioner's comments regarding interim ordinance:

1. Consensus of Commissioners was in support of a medical marijuana dispensary interim ordinance.
2. Suggested controls in Section D that insure that current operating dispensaries operate in accordance with California law.
3. Suggested clarification of the language in the fourth paragraph on page two (the last whereas) that appears to be missing some additional words.
4. Suggested that the language in section two, number four could be reworded differently as it may not be appropriate to dispensaries.

Commissioner's comments regarding future regulation:

1. Would like to see the distribution of medical dispensaries on a map that shows the existing number of dispensaries and their proximity to schools and day care facilities; and land use issues.
2. Suggested appropriate locations be included in the ordinance, such as a hospice or a hospital.
3. Suggested that dispensaries be for people that live in the local area only.
4. Suggested that medical marijuana not be consumed on premises, or anyone be allowed to drive after consumption.
5. Suggested that any medical marijuana growing operation should be inspected. We should know where it's being grown and how much is in cultivation and associated with a dispensary.
6. Suggested site visits to see first hand what is working and what is not, before jumping to conclusions based on one bad example.
7. Many Commissioners expressed interest in prohibiting the consumption of marijuana at the dispensary site and also prohibiting the growing of plants on site.
8. Operating hours are critical and should be included.

Mr. Wiley stated that subsection C already adequately addresses California law compliance and is referred to as SB420. It does not imply that a dispensary is in compliance with Federal Law.

MOTION: Thompson/Larson

Assigned Resolution No. 035-07

Recommend approval to the City Council to adopt the City Interim Control Ordinance, prohibiting the establishment of new medical Marijuana dispensaries, Citywide, for a period of six months beginning upon the effective date of the ordinance, with the Planning Commission comments and recommendations as discussed.

This motion carried forward by the following vote:

Ayes: 5 Noes: 0 Abstain: 0 Absent: 2 (Jacobs/Jostes)

V. ADMINISTRATIVE AGENDA:

A. Committee and Liaison Reports.

Commissioner White noted the Harbor Commission's minutes and requested information on the West Beach Pedestrian Improvement Project. He did not recall the subject being discussed before the Planning Commission.

Ms. Hubbell responded that discussion has taken place at the Staff level and provided an update. A Coastal Development Permit is required and the project will

be coming before the Planning Commission. The consensus of Commissioners suggested a concept review of the project.

Chair Myers expressed concerns about safety issues, competition between pedestrians and bicyclists, etc., on the bike path in the area making it difficult to use.

- B. Review of the decisions of the Staff Hearing Officer in accordance with SBMC §28.92.080.

None.

- C. Action on the review and consideration of the items listed in I.B.2. of this Agenda.

MOTION: White/Larson

Approve the minutes from August 9, 2007 with edits.

This motion carried forward by the following vote:

Ayes: 4 Noes: 0 Abstain: 1 (Bartlett) Absent: 2 (Jacobs/Jostes)

VII. ADJOURNMENT:

MOTION: Thomspen/Larson

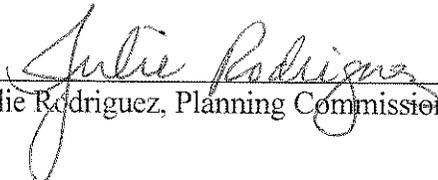
To adjourn the meeting of September 6, 2007.

This motion carried forward by the following vote:

Ayes: 5 Noes: 0 Abstain: 0 Absent: 2 (Jacobs/Jostes)

Chair Myers adjourned the meeting at 3:55 p.m.

Submitted by,



Julie Rodriguez, Planning Commission Secretary

