



**City of Santa Barbara**  
Community Development Department

**Memorandum**

**DATE:** June 2, 2011

**TO:** Planning Commission

**FROM:** Susan Reardon, Staff Hearing Officer *SR*  
Renee Brooke, Senior Planner *RLB*

**SUBJECT:** Review of Staff Hearing Officer Actions in 2010

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The purpose of this memo is to provide the Planning Commission with information regarding the Staff Hearing Officer (SHO) review process since the last overview with the Planning Commission in January 2010. Since that overview, there have been no changes regarding the types of projects that are reviewed by the SHO.

The SHO reviews applications for:

- 1) Modifications;
- 2) Residential subdivisions of no more than four units or lots, including new condominiums and condominium conversions;
- 3) New commercial condominiums and commercial condominium conversions for any number of units;
- 4) New non-residential development projects with no more than 3,000 square feet of new floor area;
- 5) Lot line adjustments involving four or fewer lots;
- 6) Performance standard permits;
- 7) Medical marijuana storefront collective dispensary permits; and
- 8) Minor coastal development permits.

**Staff Hearing Officer Actions**

**Modification Projects**

A major element of the SHO process is the consideration of Modification requests. Staff recommendations and SHO actions on Modification requests are based on policy direction from Council and the Planning Commission, and on the specifics of each case. The key considerations Staff makes in looking at modifications include the following:

1. Avoid modifications when good alternatives exist that comply with the ordinance.

2. Recognition that many areas of the city have become nonconforming since the major rezoning of 1975, and whole neighborhoods are developed with a different standard than the current code. A uniform improvement sometimes seems to be the fair and appropriate action.
3. Site constraints can be justification for modifications, such as: odd shaped or small lots; multiple front yards; existing development footprint, etc.
4. The flexibility of the modification process can be good when the project design is improved and no impacts are created.

Staff continues to hold pre-application meetings with potential applicants for modifications. During this pre-application meeting, Staff reviews plans, photos, and property history, and makes a very preliminary decision about whether to support the proposed Modification(s). This pre-application screening is very important in the early identification of issues and concerns, and in the identification of alternatives that conform to the zoning requirements, site development, and/or neighborhood issues.

Staff continually recommends that potential applicants propose development that conforms to the Zoning Ordinance. A vast majority of potential applicants follow the recommendation and no longer pursue the modification. From January – December 2010, a total of 180 pre-application meetings were held; of which 57 (or 32%) applied for Modifications.

The Modifications requested last year were divided among the following categories:

	<u>Jan –Dec. 2010</u>
➤ Front setback	24%
➤ Interior setback	33%
➤ Open yard	4%
➤ Fences/hedges/walls/screens	6%
➤ Other various	33%

This is similar with past years' categories:

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
➤ Front setback	32%	40%	30%	40%	24%
➤ Interior setback	21%	25%	35%	26%	33%
➤ Open yard	19%	15%	12%	6%	4%
➤ Fences/hedges/walls/screens	14%	11%	13%	9%	6%
➤ Other various	14%	9%	10%	19%	33%

As can be seen, the number of front setback modification requests is down sharply. This is due in part to the increased scrutiny on front setback modification requests. Also, the number of modification requests in the “other” category has increased due to two Housing Authority projects. One involved exterior improvements to an existing

multi-family affordable housing apartment complex which resulted in a request for seven distance between building modifications and the other project involved the construction of a new multi-family affordable housing complex that, due to site constraints, among other things, involved eight distance between building modification requests.

The number of modification requests has gradually gone down over the last several years:

- 214 modification requests in 2004
- 156 modification requests in 2005
- 133 modification requests in 2006
- 149 modification requests in 2007
- 101 modification requests in 2008
- 114 modification requests in 2009
- 95 modification requests in 2010

This can be attributed to several factors. One is the general slow down in the economy and the other is that the City is more critical in the review and support of modification requests.

If we compare the number of modification applications reviewed to the average number of building permits the City issues in a year, we find the percentage to be very small. About three percent of all projects requiring a building permit request modifications (about 3,000 building permits are applied for annually).

### Development Review Projects

The main objective in the establishment of the SHO process was to streamline the review of development applications for small, non-controversial projects and to allow more time at the Planning Commission hearings to review major projects and policy concerns. Over the last year, the SHO has acted on nine development review projects (See attached Exhibit), including two Medical Marijuana Storefront Collective Dispensary Permit applications. In this same time period, the Planning Commission acted on 26 development review applications. The SHO review represents 30 percent of the development review actions taken by the City, thus freeing up significant time on the Planning Commission agendas for major projects and policy issues.

### Appeals and Suspensions

Over the last year there have been two appeal hearings on SHO actions. This is approximately two percent of the total number of projects acted on by the SHO. In addition, there was one SHO action suspension hearing.

### SHO Appeals

#### *401 ½ Old Coast Highway*

On April 21, 2010, the SHO denied an application for a modification of the rear setback to allow the conversion of an existing commercial unit into a dwelling unit located on the rear property line. The project would result in a total of three residential units on site. The applicant appealed the denial. Prior to the Planning Commission hearing, an additional distance between buildings modification was added. On June 10, 2010 the Planning Commission upheld the decision of the SHO to deny the rear setback modification and denied the new distance between buildings modification. The applicant appealed the Planning Commission's denial to the City Council and, on August 17, 2010, the City Council approved the project.

#### *2915 De La Vina*

On December 11, 2010, the SHO denied an application for a Medical Marijuana Storefront Collective Dispensary Permit to legalize an existing medical marijuana facility. The applicant appealed that decision. On February 3, 2011, the Planning Commission upheld the SHO decision and denied the application. The applicant appealed the Planning Commission's denial and, on April 12, 2011, the City Council upheld the decision of the Planning Commission and denied the project.

### SHO Suspensions

#### *512 Bath Street*

On June 14, 2010, the SHO approved an application for various modifications (lot area, parking, building separation, interior setback) to allow the construction of 53 efficiency apartments affordable to very low- and low-income households. Tenants of the site will be persons with special needs and downtown workers. Mission Creek flows along the rear border of the project. The SHO action was suspended by the Planning Commission liaison given concerns with the proposed creek setback. On July 15, 2010, the Planning Commission approved the requested modifications with the condition that the project be moved a minimum of five additional feet from Mission Creek.

### Conclusion

The Staff Hearing Officer process continues to work as intended. Of the 35 land development actions taken last year, nine cases or 30% were heard by the Staff Hearing Officer and this has allowed more time at the Planning Commission for review of major projects and policy concerns.

Staff continues to hold the modification pre-application meetings and encourage applicants to propose development that is consistent with the zoning regulations and the majority of applicants follow this advice. The number of modification applications

continues to make up a small percentage of the total number of building permit applications the city receives in a year.

Staff's review of the appeals and suspension which have occurred over the last year indicates that in general, the Planning Commission, SHO, and Staff seem to be on the same track in terms of implementing City policies and the intent of development standards. The relationship and regular communication between the SHO and Planning Commission liaison is very important for the flow of information and consistency in the application of City policy to reduce the potential number of appeals. Additionally, the appeal process is valuable for the small number of cases where issues require more consideration to resolve.

Exhibit:  
Staff Hearing Officer Actions, January – December 2010



**Modification Actions  
Jan 2010 – Dec 2010**

Type of Modification	Approved	Tea Fire Rebuild	Denied/ Partial appv'd	Total
Front Setback	16	5	2-P	23
Interior Setback	21	4/3-P	1-D/2-P	31
Rear Setback			1-D	1
Double Setback				
Open Yard	4			4
10% Open Yard	1			1
Common Open Yard	1			1
Private Outdoor Living Space				
Distance between bldgs	15		1-P	16
Parking location	3			3
Parking req.	3			3
Parking uncovered				
Fence/wall/hedge	4 + 2 interior yd			6
Lot Area	1			1
Accessory Structure – size	1 (garage)		1-P	2
Accessory Structure location	1			1
Solar Height Limit	2			2
Floor Area Unit Size				
Street Frontage				
Height Limit				
<b>Total</b>	<b>75</b>	<b>12</b>	<b>8</b>	<b>95</b>

## **Development Review Projects January - December 2010**

### **New Residential Condominiums**

#### *1006 & 1008 Chino Street*

Demolish two existing single-family residences and a detached garage and construct three new residential condominiums each with an attached two car garage. No modifications were requested.

### **Condominium Conversions**

#### *321 East Canon Perdido Street*

Convert an existing four-bedroom, two-story residence into two condominiums on a 7,900 square foot parcel. No modifications were requested.

### **Lot Line Adjustment**

#### *140 & 180 Conejo Road*

Lot Line Adjustment between to existing parcels. No modifications were requested.

### **Coastal Development Permits**

#### *1280 Coast Village Road*

Legalize the conversion of 767 square feet office/retail use to a restaurant dining area. Twenty-five new seats would be added. The project also included improvements (landscaping and striping) to the existing parking area to provide 6 parking spaces for the new seats. No modifications were requested.

#### *222 Helena Ave*

Convert an existing retail space to a new bar/restaurant. A parking modification was granted as part of the project.

#### *1126 Del Mar Ave*

Convert a portion of an existing single family residence into a secondary dwelling unit. No modifications were requested.

#### *646 Sea Ranch*

Legalize an existing 139 square foot detached accessory building and construct a new 334 square foot detached artist studio. A modification to allow the accessory structure in the front yard was also granted as part of the project.

### **Medical Marijuana Storefront Collective Dispensary Permit**

#### *2915 De La Vina Street*

Legalize an existing medical marijuana storefront collective dispensary.

#### *16 South La Cumbre Road*

Convert an existing retail building into a medical marijuana storefront collective dispensary