



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: November 29, 2012

AGENDA DATE: December 6, 2012

PROJECT: Amendments to Title 28 of the Municipal Code for Implementation of Nonresidential Growth Management Program

TO: Planning Commission

FROM: Planning Division, (805) 564-5470
Bettie Weiss, City Planner
John Ledbetter, Principal Planner
Rob Dayton, Principal Transportation Planner
Beatriz Gularte, Project Planner

I. PURPOSE OF MEETING

The purpose of the meeting is for the Planning Commission to formalize its recommendations to City Council on amendments to the City's Zoning Ordinance implementing the General Plan Growth Management Policies, including: Policy LG2, Limit Nonresidential Growth and LG7, Community Benefit Nonresidential Land Uses. Amendments are proposed for the Development Plan Ordinance, Santa Barbara Municipal Code Section 28.87.300, the Transfer of Existing Development Rights (TEDR) Ordinance Chapter 28.95, the Development Potential sections throughout the Municipal Code that refer to the Development Plan Ordinance, and the Council Resolution No. 12-075.

The ordinance proposes a new Chapter 28.85, entitled "Growth Management Program" (Exhibit A). The former Development Plan Ordinance, Section 28.87.300, is proposed to be deleted from the Zoning Ordinance. Also attached is the proposed Council Resolution that provides direction for implementation of the new Growth Management Program (GMP). (Exhibit B).

II. BACKGROUND

The 2011 General Plan provides specific policies to guide the amount of nonresidential development, such as commercial, institutional, and industrial uses, allowed over the next twenty years. The prior City growth management policy, known as Measure E¹, has been implemented by Municipal Code Section 28.87.300, the Development Plan Ordinance (DPO) (Exhibit C) and Resolution No. 12-075. The existing DPO contains many key provisions,

¹ Charter Section 1508, known as Measure E, expired on January 1, 2010 due to its sunset clause and has been removed from the City's Charter.

including definitions, allocation categories such as Community Priorities, Small Addition, etc., and standards and findings for processing nonresidential projects in the city. The Council Resolution details the administrative procedures for the allocations.

The existing DPO and procedures have served the City well in implementing the nonresidential growth limitations; however, amendments are needed to implement the latest General Plan policies and Planning Commission direction while carrying over relevant components. Also, the past two decades provided experience with the ordinance that informs areas for improvements and that could streamline processing of projects.

Proposed ordinance revisions would update the nonresidential square foot amounts and categories allowing allocation of up to 1.35 million square feet net new nonresidential development to the year 2033, as adopted through the *PlanSB* General Plan update. Revisions also include: refining the category definitions, allocation process, and specifying the Development Plan permit process; including the required findings for approval. The growth management program also includes a traffic strategy for analyzing projects with respect to traffic impacts, and use of the traffic model developed as part of *PlanSB*.

On May 17, 2012, the Planning Commission initiated amendments to the GMP with recommendations for processing of Small Additions, Community Benefit Projects, amendments to the definition of floor area, and the findings currently required for Development Plans. These are described in more detail below.

On June 21, 2012 and September 6, 2012, meetings were held with the Planning Commission to discuss staff's initial approach for the Traffic Management Strategy for direction to change the current traffic finding in the existing DPO.

Between May and September, staff also met with two focus groups comprised of stakeholders knowledgeable about the development process (e.g., architects, planning consultants, traffic consultants, and land development attorneys). The three goals of the focus groups were to explain the staff proposal, demonstrate the differences between the current system and the staff proposal, and to solicit informed input on the subject to assist during Planning Commission discussion and decision-making.

On November 20, 2012, the Council adopted a one year time extension to the current Development Plan Ordinance and Resolution to allow time to process these zoning amendments. The current Development Plan Ordinance will expire on January 1, 2014. Soon after adoption of the new ordinance, Planning Staff will provide a final accounting of how much square footage was allocated and built from the Measure E three million square feet from 1990 to 2013.

III. KEY ORDINANCE PROVISIONS

Any new project submitted after the effective date of the revised ordinance that results in net new square footage will need a square footage allocation from the 1.35 million or be excluded

from the provisions as described below. An individual project can potentially obtain an allocation of square footage from multiple categories consistent with the Traffic Management Strategy.

The GMP is being amended to implement the new 1.35 million square foot allocation for the next two decades and to track the cumulative total allocated per lot under the various category provisions initiated since 1989 when the existing ordinance went into effect.

Below is a summary of the following key ordinance provisions:

- A. Establishment of the Nonresidential Growth Limit for the Next 20 Years and Identify the General Plan Allocation Categories - SBMC §28.85.010.A
- B. Identify the Types of Nonresidential Floor Excluded from the Development Limit – SBMC §28.85.010.B
- C. Definitions – SBMC §28.85.020
- D. Development Plan Review Procedures – SBMC §28.85.030
- E. Standards for Review and Findings – SBMC §28.85.040
- F. Traffic Management Strategy Implementation – SBMC §28.85.050
- G. Amendments Regarding Transfer of Existing Development Rights – SBMC Chapter 28.95

A. General Plan Allocation Categories

General Plan Policy LG2 establishes the new nonresidential square footage allowance for the next 20 years as 1.35 million square feet and specifies how allowance will be allocated by category. The 1.35 million net new square feet is to be allocated to Small Additions, Vacant Property and Community Benefit categories as follows:

1. **Small Additions (400,000 s.f.)** – General Plan Policy LG2 allocates up to 400,000 square feet to Small Additions over 20 years. In order to regulate the pace of growth, Small Additions are limited to 20,000 square feet annually with the potential for unallocated Small Addition square footage to roll over, increasing the amount of square footage that could be allocated in the following year.

A project can be allocated up to 2,000 square feet per legal lot from the Small Additions category for a cumulative total of 3,000 square feet if combined with a 1,000 Minor Addition (see a discussion of Minor Additions under Excluded Square Footage below). Once Small Additions reach a cumulative total on the lot of 2,000 square feet over the amount of development that existed on the lot as of December 6, 1989 (beyond 1,000 sq. ft. of Minor Additions), no additional Small Addition square footage can be allocated to that lot. This is a continuation of the current development potential allowances established with Measure E.

Under the current ordinance, at the end of each year, unused Small Additions square footage or Small Addition square footage that had been allocated to a project for which the land use permit approvals had expired during the year rolled over into the Economic Development category. In May, the Planning Commission recommended that the

Planning Commission decide annually whether unused, expired or withdrawn Small Addition square footage would roll over to either the Small Additions or Community Benefit categories. This change in the allocation process for Small Additions is explained in the GMP §28.85.010.A. and Resolution page 6.

2. **Vacant (350,000 s.f.)** – In 1990, 500,000 square feet was allocated under Measure E for vacant properties. The amount was based on a vacant land survey conducted in the City in 1988 that identified approximately 32 acres of vacant land and an additional 100,000 square feet within the Airport Specific Plan area. Vacant Property square footage allocations will continue to be available to those lots that were vacant as of October 1988, at a rate of up to .25 Floor Area Ratio (FAR) of the lot area. Under the current DPO, approximately 357,620 square feet remains unallocated from the 1990 Vacant category. Staff expects the 350,000 allocation under General Plan Policy LG2 and incorporated into the new ordinance to be sufficient to accommodate anticipated development on vacant properties over the next 20 years. The provisions of the Vacant Property allocation category are proposed to remain the same under the new ordinance.
3. **Community Benefit (600,000 s.f.)** - Community Benefit projects may be designated by Council as either a Community Priority or Economic Development project. A Community Priority project is one that meets a present or projected need directly related to public health, safety or general welfare. Under Measure E, a total of 300,000 square feet was provided in this category. Approximately 228,810 square feet was allocated to projects from 1990 to the present.

With the 2011 General Plan update, Community Priority category was revised to include other community benefit types of nonresidential projects (e.g. Economic Development projects) and was allocated 600,000 square feet. These categories are further defined in proposed SBMC §28.85.020 with the designation process specified in the proposed Council Resolution (Exhibit B).

In May, the Planning Commission recommended that the City Council designation and allocation from the Community Benefit category occur once at the beginning of a project permit process, rather than continuing the current procedure with a preliminary allocation for the initial application and a final allocation at permit approval. It now is proposed that there be only one review at Council to determine whether the project can be designated as a Community Benefit Project and allocated floor area from that category, after which the project would proceed through the standard planning process required of the application. It will no longer be necessary for the Planning Commission to make a recommendation to Council on a Community Benefit Final allocation.

General Plan Policy LG7. identifies “Green” Economic Development as a Community Benefit Nonresidential land use category, and an associated implementation action further defines what constitutes a “green” product or job. In addition, General Plan Policy EF5. calls for the promotion and economic development of “Green”/ Sustainable

businesses where practicable. After further analysis, staff recommends at this time that the “Green” Economic Development category not be differentiated from other Economic Development because in doing so, we believe long-term reporting and monitoring would be required to ensure the use of the project remains “Green” and this is neither practical nor cost effective to implement. However, staff supports emphasizing promotion of “Green”/Sustainable businesses through programmatic incentives as envisioned under Policy EF5.

B. Excluded Square Footage

A “Nonresidential Construction Project” is defined in the GMP as one that adds new floor area and excludes repair or replacement of existing floor area in the calculation of new floor area. With the adoption of the 2011 General Plan update, some additional categories of Nonresidential Construction Projects (Prior-Pending, Prior-Approved, and Government Buildings, for example) were approved for exclusion from the overall nonresidential growth allowance. While these excluded categories do not require an allocation of square footage from the 1.35 million, some are subject to the Development Plan process outlined in the ordinance and described later in the report.

Consistent with General Plan Policy LG2, the ordinance excludes the following development from the 1.35 million square feet allocated for Nonresidential Construction Projects:

1. **Demolished Floor Area** - Square footage that is demolished and rebuilt on site or on another site as part of a Transfer of Existing Development Rights (TEDR) is excluded from the 1.35 million square feet. If the square footage is rebuilt on the same site it does not count as new square footage and is not counted when determining whether Development Plan approval is required. This treatment is intended to encourage rebuilding on-site and is a continuation of the current process that has been in effect for the last 20 years.

If demolished square footage is transferred to another site, the transferred square footage is excluded from the 1.35 million limit; however, the project would still require a Development Plan under the TEDR ordinance. The only change being an exception for TEDR projects of less than 1,000 square feet, which would not require a Development Plan.

Historically, projects have generally rebuilt less square footage than what could have been reconstructed on site or elsewhere. Currently, approximately 300,000² square feet have been demolished since 1990 and have not been reconstructed, and 100,000 square

² An additional 189,000 square feet was demolished as part of the Saint Francis hospital demolition, however, that square footage cannot be transferred per the Cottage Hospital Development Agreement.

feet are approved for demolition. Approximately 76,000 square feet of demolition are part of pending or approved TEDR projects.

Under the proposed Traffic Management Strategy, the ability to transfer existing development rights will depend upon the location of the sending and receiving sites. Further explanation of TEDR projects is included later in this report.

2. **Minor Additions** – Minor Additions are projects that add or convert 1,000 square feet or less as a cumulative total on a lot since December 6, 1989. Staff considers Minor Additions to be reasonable, necessary improvements that should continue to be allowed with minimal process. Minor Additions are an important aspect of small business flexibility and are important to the economic health of existing businesses and the community. A project adding square footage only from the Minor Additions category does not require a Development Plan.
3. **Hotel Room for Room Replacement** – This is a project that replaces existing hotel rooms on a room for room basis. The GMP allows the reconstruction of larger rooms when replacing existing hotel rooms in order to support enhancements to existing properties and to maintain hotel rooms throughout the City. Any square footage associated with the replacement of a hotel room with a hotel room is excluded square footage.
4. **Government Displacement** – This is a project which involves the relocation, replacement, or repair of a structure or use acquired, removed or damaged by direct condemnation or acquisition by the government (federal, state or local), provided that the square footage does not exceed the square footage of the building acquired or removed. At one time in the early 1990's there were a few Government Displacement projects associated with the Cross Town Freeway. Although we do not foresee many projects under this category, staff recommends maintaining the exclusion in the ordinance.
5. **Prior-Pending and Prior-Approved Projects** - These are project applications that are currently in the permitting pipeline or have been approved, but not built. Prior-Pending and Prior-Approved projects are allocated under the prior Measure E allocation and not from the 1.35 million. The square footage for Prior-Pending Projects is approximately 73,754³ square feet. The square footage from Prior-Approved projects totals approximately 141,905 square feet for a combined total of 215,659 square feet (Exhibit D, Prior-Pending and Prior-Approved Projects).

These numbers could change as projects continue to process until the GMP Ordinance is formally adopted by the Council. If these projects expire or withdraw, the associated

³ This total includes 45,145 from the Paseo de la Playa, 101 Garden Street (Wright Specific Plan) that met the definition of an "Approved" project when Measure E was adopted, but has a current project permitting status of pending.

square footage allocated to them will be eliminated. However, if a Prior-Pending or Prior-Approved project submits a revised project with an increase in the nonresidential square footage, the additional square footage would need to be allocated from one of the categories under the 1.35 million allocation established under the General Plan Policy LG2.

6. **Government Buildings** – Council included this new category of projects that would be excluded from the 1.35 million net new square footage. In the past, government buildings received a Community Priority designation for their square footage. Examples of past projects that would fall within this new category include: Harbor restrooms, Waterfront offices, and Cater Water Treatment Plant.
7. **Annexations** – The policy regarding annexations is not proposed to change. If a property with existing development is annexed into the City, the existing development does not count as new square footage needing an allocation. If the annexation is proposed with new development, the new nonresidential square footage would require an allocation under the GMP. In addition, once a lot is annexed any new development proposed on the lot would be subject to the GMP.

C. **DEVELOPMENT PLAN PROCESS**

1. **Development Plan Initiation and Review**

The square footage allocations allowed from the categories of Minor Additions, Small Additions and Vacant Property will continue as cumulative totals on a lot since December 6, 1989. Under the current DPO, a Development Plan is initiated based on the cumulative total square footage that has been allocated to a lot since 1989. Once a property has received 1,000 net new square feet, any additional square footage requires a Development Plan. This has resulted in Development Plans being required for very small amounts if previous Minor or Small Additions have occurred on a lot in the past.

Under the proposed ordinance amendments, a new nonresidential construction project of 1,000 square feet or more will continue to require a Development Plan; however, that requirement will be based on the size of the project being presently reviewed and not based on a cumulative total since 1989. For example, if a project is allocated 900 square feet of Minor Additions for the first time on a lot in 2013, no Development Plan is required. If another project of 900 square feet of nonresidential floor area is proposed on the same lot in 2018, even though the second project would constitute a Small Addition of 800 square feet, the second project would not require development plan approval because the proposed project is less than 1,000 square feet of floor area.

Exhibit E outlines the review process for nonresidential construction projects that do not require the preparation of an Environmental Impact Report (EIR). Any project, irrespective of size, that requires an EIR will be subject to review and findings by the

Planning Commission. These requirements are included in SBMC 28.85.030, Development Plan Review Procedures and are similar to current processing of projects

2. Review of Public Utility Facilities

Another recommended change to the Development Plan process is for future projects involving regional public utility equipment. In May, the Planning Commission supported amendments to the current definition of floor area to exclude “infrastructure” spaces from the calculation of floor area (see Exhibit A, SBMC 28.85.020.F for revised definition). The definition of floor area has historically also exempted nonhabitable areas used for regional public utility facilities from the calculation of floor area. Staff believes this standard is awkward in that “habitable” usually refers to residential uses or conditioned space and for some utilities it is necessary to have conditioned space for equipment. Staff believes the definition of Floor Area should continue to exclude those portions of regional utility buildings occupied exclusively by equipment, but floor area associated with office space or storage should not be excluded.

Further, while Staff recommends excluding spaces occupied exclusively by equipment from the calculation of floor area for purposes of the development limit, staff recommends counting such floor area for purpose of determining whether a Development Plan is required. Staff recommends that any such facility with 3,000 square feet of new construction require a Development Plan by the Planning Commission in addition to a Conditional Use Permit, if required. This treatment of regional public utility facilities would allow for the review of a potentially large nonresidential construction project consistent with other provisions of the code (i.e. review of Community Benefit projects).

D. TRAFFIC MANAGEMENT STRATEGY

The 2011 General Plan Update FEIR found that the addition of up to 1.35 million square feet of nonresidential growth along with residential growth would cumulatively result in significant traffic impacts at identified intersections by the end of the allocation period. City Council deemed this level of potential traffic impact to be acceptable in light of the Plan’s benefits. New projects will contribute to cumulative traffic impacts; therefore, the current traffic finding required for Development Plans is proposed to be replaced. This finding is:

“The proposed development will not have a significant unmitigated adverse impact on the City’s Traffic; and resources will be available and traffic improvements will be in place at the time or project’s occupancy.”

A new Traffic Management Strategy is proposed to manage and track traffic associated with future growth. The General Plan FEIR used a Traffic Model specifically developed for the City to estimate future traffic impacts and congestion. Based upon actual traffic behavior within the City, the Traffic Model identified different traffic generation rates

based on the location within the City (i.e., Downtown vs. outlying areas). The model also determined that the effectiveness of the traffic mitigation measures identified in the FEIR varied based on location. These findings substantially inform the policies and procedures adopted in the proposed Traffic Management Strategy (Exhibit B of the Resolution).

The primary goals of the Traffic Management Strategy are to utilize existing transportation capacity efficiently and to reserve constrained transportation capacity for high priority land uses. All new nonresidential projects will be subject to the Traffic Management Strategy that will specify the types and locations of nonresidential development that can be approved and also which development can be considered for overriding findings for project specific impacts. Given the limited amount of development potential allowed under the Growth Management Program, an important component of the program is the ability to override project specific traffic impacts for those projects that the Planning Commission determines meet other objectives of the General Plan and are beneficial to the community.

Please refer to Exhibit B of the Resolution (Exhibit B) for the proposed Traffic Management Strategy. This strategy would become part of the Growth Management Plan through a Resolution of the Council.

E. TRANSFER OF EXISTING DEVELOPMENT RIGHTS

Currently, the City's Transfer of Existing Development Rights (TEDR) Ordinance, SBMC Chapter 28.95, regulates the transfer of existing floor area. Existing development rights are defined as existing floor area, approved floor area, demolished floor area, or converted floor area. Floor area can currently be transferred from a sending site to a receiving site by obtaining a Development Plan approval for both sites by the Planning Commission.

While a comprehensive revision of the TEDR Ordinance is not a part of this work effort, some revisions are necessary at this time to ensure consistency with the Growth Management Program definitions, to streamline small transfers to a receiving site within the same Development Area as the sending site, to regulate transfers amongst the Development Areas in a manner consistent with the General Plan Policy of living within our resources.

Historically, there were no particular limits on where existing development rights could be transferred within the City. The system relied on the Development Plan findings to prohibit transfers that could cause traffic impacts. The proposed TEDR Ordinance amendments are consistent with the proposed Growth Management Program and provide for the continued regulation of the transfer of existing nonresidential floor area and hotel rooms. However, some limitations are proposed with the following rules:

1. Existing development rights may be proposed for transfer between a sending site and a receiving site that are within the same development area anywhere in the city.

2. Existing development rights may be proposed for transfer from a sending site within any of the Outlying Development Areas to a receiving site in the Downtown Development Area.
3. Existing development rights cannot be transferred from a sending site in the Downtown Development Area to a receiving site in any of the Outlying Development Areas or the Airport Development Area.
4. Existing development rights cannot transfer from a sending site in one of the Outlying Development Areas to a receiving site in a different Outlying Development Area or the Airport Development Area.
5. Existing development rights cannot transfer from a sending site in the Airport Development Area to a receiving site any other development area.

These amendments to the TEDR process are intended to promote the General Plan Policy of focusing the majority of future land development within the Downtown Area while leaving flexibility to transfer existing development rights within the same development area. This is consistent with the policy of focusing future development in the Downtown Development Area, which according to the Traffic Model generates the least amount of additional traffic and can best accommodate anticipated traffic growth that is shifted from one site to another.

Staff is recommending that the Planning Commission also consider the following amendments to the existing TEDR Ordinance.

Transfers of First 1,000 Square Feet or Less - Under the current TEDR, any proposed transfer of existing development rights, requires a Development Plan by the Planning Commission. Staff would like to streamline transfers of existing development rights involving 1,000 square feet or less of demolished square footage in the same Development Area because this may be the only opportunity for some businesses to make small improvements if they have exhausted their Minor or Small Additions in the past 20 years without having to request an Economic Development allocation from Council.

This amendment would establish a similar process to Minor Additions of 1,000 square feet or less that do not need a Development Plan. Any one time transfer up to 1,000 square feet to a receiving site would not need a Development Plan and could be processed at the design review level for the exterior changes if no other land use permit is required from the Staff Hearing Officer or Planning Commission.

Staff will develop the administrative procedures for tracking and recording the appropriate legal instruments, but these projects will not need Planning Commission review if the transfer is less than 1,000 sf. This will assist in reducing the cost to the applicant: processing a Development Plan/TEDR at the Planning Commission level involves more time and cost than processing at the design review level without a Development Plan. This

would be consistent with General Plan policy EF21, Small Businesses which calls for recognizing the economic importance of small business in the community and allowing flexibility in future expansion.

F. DEVELOPMENT PLAN FINDINGS (STANDARDS FOR REVIEW)

In May 2012, the Planning Commission supported Staff's proposed amendments to the current Development Plan findings such that findings related to housing and water would no longer be necessary on a project specific case-by-case review level. The recently adopted General Plan update and associated programmatic FEIR provide a substantial resource baseline and policy basis for future growth and development over the next 20 years. Possible resource impacts will now be tracked and policies and programs will be adjusted as necessary through the Adaptive Management Program.

The following findings are recommended as those required to be made by the decision making body when a Development Plan is approved.

1. **The proposed development complies with all provisions of this Title (the Zoning Ordinance).**
This finding is fundamental; however, from time to time it is needed to explain that consistency may include granting of a modification or CUP. This finding exists in the current DPO.
2. **The proposed development is consistent with the principles of sound community planning.**
A project's consistency is analyzed based on existing City goals, policies and ordinances including the General Plan, the Zoning Ordinance, the Local Coastal Plan (if in Coastal Zone) and applicable development or design guidelines. In some cases, special studies have resulted in direction for development in a particular area such as in the Upper State Street Study. This finding exists in the current DPO and allows for a significant amount of latitude on the part of the decision makers and is used to approve a project and provide the reasoning on a project by project basis.
3. **The proposed development will not have a significant adverse impact upon the neighborhood's aesthetics/character in that the size, bulk or scale of the development will be compatible with the neighborhood based on the Project Compatibility Analysis found in SBMC §22.22.145 and §22.68.045."**

Historically, design review by either the ABR or the HLC informs the Planning Commission for making this finding on a particular project. In 2008, in order to promote consistency between the City land use decision making process (SHO or Planning Commission) and the City design review process, the Council adopted the Project Compatibility Analysis criteria. The design review boards must consider the six

criteria in their review of every project that goes before them and a noticed public hearing is required.

- 4. The proposed development is consistent with the policies of the City of Santa Barbara Traffic Management Strategy as expressed in the allocation allowance specified in Section 28.85.050.**

The current DPO and review standards pose significant limitation on the ability of the Planning Commission and Council to approve projects which contribute or result in significant traffic impacts for which the mitigation is not feasible or available. This finding has historically been the most difficult for new construction projects and thus a significant amount of project environmental review was dedicated to analyzing existing traffic impacts and possible traffic effects for the next increment of growth.

In order to utilize the City's transportation capacity efficiently and to prioritize constrained transportation capacity for high priority land uses, a new Traffic Management Strategy as described earlier in this report is being proposed. Only certain categories of development will be allowed in certain areas. For those projects requiring a Development Plan, this finding will be required.

G. ENVIRONMENTAL REVIEW

The General Plan Final Program Environmental Impact Report (FEIR) certified in September 2010 and December 2011 initially assessed citywide impacts associated with 2,178,202 square feet of nonresidential development. Subsequently, an Addendum to the Final EIR analyzed a revised, lower growth management program of 1.85 million square feet of nonresidential development (up to 1.35 million SF growth policy cap plus 0.5 million SF for excluded development). The FEIR and Addendum concluded that even with identified mitigation measures, unavoidable significant impacts associated with increased traffic congestion and greenhouse gas generation would occur by 2030 as a result of maximum allowable new development under the General Plan policies.

On September 18, 2012, the City Council adopted the City's Climate Action Plan. An Addendum to the Program FEIR was prepared to document the Climate Action's Plan updated greenhouse gas emissions analysis, which showed that future citywide greenhouse gas emissions would be lower than earlier identified in the FEIR and would meet the State target, thereby constituting a less than significant impact.

The FEIR identified that vehicle trips associated with new development would increase the number of intersections exceeding the City's level of service standard from 13 to up to 20 - 26 with the growth level provided under General Plan policies, and feasible mitigation measures would only partially offset the impact. The City Council adopted findings of overriding consideration for this significant cumulative traffic impact and also adopted

General Plan Circulation Element policies directing that traffic impacts should be minimized as feasible.

The FEIR traffic model analysis completed for the General Plan found that the Downtown Area is distinguished from all Outlying Development Areas within the City because land developed within the Downtown will generate the least amount of vehicle traffic due to the mix of land uses/trip destinations and substantial travel via walking, biking, and transit. Additionally, transportation implementation actions recommended in the Circulation Element will predominantly be effective in the Downtown development area. By helping to direct future incremental growth toward areas that would generate less traffic, the proposed Traffic Management Strategy component of the implementing ordinance amendments reflects the General Plan policies for growth limitation in a manner to minimize traffic impacts and conserve remaining roadway capacity.

The zoning amendments implementing the General Plan growth limitation policies constitute a citywide program. The policies and standards for the City's projected growth have been previously analyzed for environmental impacts in the Final EIR and Addenda for the General Plan and Climate Action Plan. Specifically, the environmental and traffic impacts associated with implementing General Plan Policy LG2 and the growth limitation policy for up to 1.35 million net new square feet was included in the analysis of the General Plan FEIR and Addenda. Potential future development under these zoning amendments is within the growth projections and traffic distribution assumptions for that impact analysis.

The California Environmental Quality Act (CEQA) Guidelines Section 15168 for Program Environmental Impact Reports (EIRs) provide for preparing a Program EIR for a series of actions characterized as one large project related in connection with issuance of rules, regulations, plans, or other criteria to govern the conduct of a continuing program. Use of a Program EIR is intended to streamline environmental review and avoid duplicative reconsideration for subsequent implementing steps.

CEQA Section 21083.3 and Guidelines Section 15183 mandate that projects which are consistent with the development density established by general plan policies for which an EIR was certified, and rezonings consistent with the plan, shall not require additional environmental review except under specified instances.

The proposed implementing ordinance amendments do not trigger the additional environmental review requirements, as follows: There are no additional site-specific or project-specific significant effects which are peculiar to the proposed zoning amendments; there are no new significant effects not addressed in the prior Program EIR; and there is no new information since the FEIR that would involve more significant impacts than identified in the FEIR. Environmental review for the proposed implementing ordinance amendments is addressed by the General Plan Program EIR and Addenda, and no further environmental review is required.

H. RECOMMENDATION AND NEXT STEPS

Staff recommends incorporation of the proposed amendments for the new Growth Management Program. Staff requests that the Planning Commission consider the proposed draft ordinance amendments, the amended Council Resolution and the Traffic Management Strategy, and direct any changes and recommendations to the City Council for adoption of the overall Growth Management Program.

Following Planning Commission review and recommendation, the Growth Management Program will be reviewed by the Council Ordinance Committee. The program would then return to the Planning Commission only if significant changes are recommended by the Ordinance Committee. Otherwise, the Ordinance Committee will review and make a recommendation for introduction and adoption by the City Council. While the current DPO is in effect until January 2014, staff anticipates that the new Growth Management Program Ordinance and the accompanying resolution would be adopted in April of 2013.

I. EXHIBITS

- A. Draft Growth Management Program and Transfer of Existing Development Rights Ordinance
- B. Draft Council Resolution w/Exhibits
- C. Existing Development Plan Ordinance, SBMC 28.87.300
- D. Prior Pending and Prior Approved Projects Table
- E. Typical Process for Nonresidential Projects by Size of Project Table

PLANNING COMMISSION DISCUSSION DRAFT 12/6/12
SHOWING CHANGES FROM EXISTING CODE FOR CHAPTER 28.95

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA ADDING CHAPTER 28.85 TO THE SANTA BARBARA MUNICIPAL CODE, DELETING SECTIONS 28.87.300 AND 28.87.350, AND AMENDING SECTIONS 28.95.010 THROUGH 28.95.070 TO IMPLEMENT THE 2011 GENERAL PLAN NONRESIDENTIAL GROWTH MANAGEMENT PROGRAM

THE COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Title 28 of the Santa Barbara Municipal Code is amended by adding Chapter 28.85 to read as follows:

28.85 Nonresidential Growth Management Program.

28.85.010 NONRESIDENTIAL DEVELOPMENT LIMITATION.

No application for a land use permit for a nonresidential construction project, as defined in Section 28.85.020 of this Chapter, will be accepted or approved on or after December 6, 1989 unless all of the new nonresidential floor area within the project is allocated from one or more of the categories specified in this Section and the project is consistent with the City's Traffic Management Strategy as implemented in Section 28.85.050.

A. **DEVELOPMENT LIMIT.** From the effective date of this ordinance until December 31, 2033, the amount of new nonresidential floor area available for nonresidential construction projects shall be restricted to no more than one million three hundred fifty thousand (1,350,000) square feet. This allowable floor area shall be allocated from the following categories, as defined in Section 28.85.020 of this Chapter:

<u>Category</u>	<u>Square Footage</u>
Community Benefit	600,000 s.f
Small Addition Floor Area	400,000 s.f.
Vacant Property	350,000 s.f.

Except as otherwise provided in this Section and as allocated by Resolution of the Planning Commission, Small Additions shall be limited to no more than twenty thousand (20,000) square feet of nonresidential floor area during each calendar year from the effective date of this ordinance through December 31, 2033. Any unused, expired, or withdrawn development square footage remaining from the annual allotment from the Small Additions category may be rolled over to the following year's Small Additions allotment or allocated to another category by resolution of the Planning Commission. Procedures for allocating square footage under these categories shall be established by resolution of City Council.

B. NONRESIDENTIAL FLOOR AREA EXCLUDED FROM THE DEVELOPMENT LIMIT. Nonresidential floor area may be constructed or converted from residential floor area without requiring an allocation from the allowable square footage specified in Subsection A of this Section so long as the nonresidential floor area falls within the following categories, as defined in Section 28.85.020 of this Chapter:

1. City Government Buildings.
2. Government Displacement Floor Area.
3. Hotel Room for Room Replacement.
4. Minor Addition Floor Area.
5. Prior-Pending Projects.
6. Prior-Approved Projects.
7. Prior-Approved Specific Plan Project.
8. Transfers of Existing Development Rights, as defined in Section 28.95.020 of

this Code.

28.85.020 DEFINITIONS.

A. COMMUNITY BENEFIT PROJECT. A project which has been designated by the City Council as satisfying one or more of the following categories is a Community Benefit Project:

1. Community Priority Project. A Community Priority Project is a project that has a broad public benefit, is not principally operated for private profit, and is necessary to meet a present or projected need directly related to public health, safety or general welfare (e.g., museums, childcare facilities, health clinics).

2. Economic Development Project. An Economic Development Project is a project that is consistent with the City Charter, General Plan and this Title, will enhance the standard of living for City and South Coast residents and will strengthen the local or regional economy by either creating new permanent employment opportunities or enhancing the City's revenue base. An Economic Development Project should also accomplish one or more of the following:

a. Support diversity and balance in the local or regional economy by establishing or expanding businesses or industries in sectors which currently do not exist on the South Coast or are present only in a limited manner; or

b. Provide new recreational, educational, or cultural opportunities for City residents and visitors; or

c. Provide products or services which are currently not available or are in limited supply either locally or regionally; or

d. Support a small and local business in the community that is started,

maintained, relocated, redeveloped or expanded.

For purposes of this Section, "standard of living" is defined as wages, employment, environment, resources, public safety, housing, schools, parks and recreation, social and human services, and cultural arts.

B. DEVELOPMENT AREA. A Development Area is a portion of the City that the City of Santa Barbara Traffic Model has shown to have distinct traffic generation patterns, as identified on the Development Area Map. The City of Santa Barbara Development Areas are shown on the map labeled "Growth Management Program Development Areas." All notations, references and other information shown on said map are incorporated by reference herein and made a part hereof.

C. EXISTING NONRESIDENTIAL FLOOR AREA. Existing Nonresidential Floor Area is nonresidential floor area that existed on a lot as of October 1, 1988 or nonresidential floor area that was approved and constructed or converted from residential floor area after October 1, 1988 in compliance with, or exempt from, a City development plan or nonresidential growth management program ordinance.

D. FLOOR AREA. Floor Area is the area included within the surrounding exterior walls of a building, or a portion thereof, excluding the area occupied by the exterior walls, vent shafts and courts, stairway landings, or areas or structures used exclusively for parking. Enclosed spaces that contain building "infrastructure" (e.g., mechanical equipment enclosures, trash and recycling enclosures, air conditioners, forced air units, electric vaults, water heaters and softeners, cellular telephone equipment, and other similar uses) shall not count toward the calculation of floor area if such areas are designed in the minimum size necessary to screen or enclose such equipment and the

space cannot be converted to storage or another use. The area occupied by an elevator shaft or stairs shall only be counted in the calculation of floor area on one floor. A building, or a portion thereof, occupied exclusively by regional public utility equipment constitutes floor area for purposes of development plan review, but shall not count toward the calculation of floor area for purposes of the development limit specified in Subsection 28.85.010.A. Any floor area which was constructed, approved, demolished or converted in violation of any provision of this Municipal Code, shall not give rise to any right to rebuild or transfer floor area.

E. GOVERNMENT BUILDING. A government building is a building owned by the City of Santa Barbara, excluding buildings or portions of buildings that are leased to private entities conducting commercial activities (e.g., the private leaseholds at the Harbor or Airport).

F. GOVERNMENT DISPLACEMENT FLOOR AREA. Government Displacement Floor Area is nonresidential floor area that is constructed or converted from residential floor area to replace nonresidential floor area that was acquired, removed or damaged by direct condemnation or negotiated acquisition by the government (federal, state or local); provided, the nonresidential floor area of the project constructed to replace a building acquired or removed by the government does not exceed the nonresidential floor area of the building so acquired or removed, unless the additional nonresidential floor area is allocated from another available category.

G. HOTEL ROOM FOR ROOM REPLACEMENT. A hotel room for room replacement is a project which consists of the replacement of existing hotel rooms at the same location, or transferred from another location as part of an approved Transfer of

PLANNING COMMISSION DISCUSSION DRAFT 12/6/12
SHOWING CHANGES FROM EXISTING CODE FOR CHAPTER 28.95

Existing Development Rights pursuant to Chapter 28.95 of this Code, on a room for room basis. A hotel room for room replacement does not include nonresidential floor area outside the hotel rooms. Nonresidential floor area outside the hotel rooms would need to be transferred from existing development rights or would require an allocation of new nonresidential floor area from an available category of development.

H. LAND USE PERMIT. A land use permit is a governmental decision concerning a permit, license, certificate, or other entitlement for use of land, including a conditional use permit, variance, modification, development plan, specific plan, general plan amendment, coastal development permit, conversion permit, subdivision map (except those creating new single family lots), building permit, grading permit, demolition permit, water service connection or any similar approval or use.

I. MINOR ADDITION FLOOR AREA. Minor Addition Floor Area is the first 1,000 square feet of new nonresidential floor area, over the amount of nonresidential floor area that existed on the lot as of December 6, 1989. Procedures for allocating and accounting for Minor Addition Floor Area shall be established by resolution of the City Council.

J. NONRESIDENTIAL CONSTRUCTION PROJECT. A nonresidential construction project is a project, or portion thereof, which consists of the construction of new nonresidential floor area or the conversion of existing residential floor area to nonresidential use. The repair, replacement, or reconstruction of Existing Nonresidential Floor Area (including existing development rights that are transferred from another site) is not considered new nonresidential floor area for the purpose of the nonresidential development limitation specified in Subsection 28.85.010.A. A

nonresidential construction project may occur in the following forms:

1. The addition of new nonresidential floor area to an existing structure; or
2. The construction of new nonresidential floor area in a free standing structure on a lot containing another structure; or
3. The construction of new nonresidential floor area as a portion of a mixed use building; or
4. The conversion of residential floor area to nonresidential floor area.
5. A new building on a vacant lot that contains nonresidential floor area.

K. NONRESIDENTIAL FLOOR AREA RATIO. The Nonresidential Floor Area Ratio of a lot is a ratio of the nonresidential floor area on the lot to the net lot area of the lot.

L. PRIOR-APPROVED PROJECTS. A Prior-Approved Project is a project for which a land use permit (other than an application for Specific Plan approval) was approved on or before the effective date of this ordinance and the approval is still valid.

M. PRIOR-APPROVED SPECIFIC PLAN PROJECT. A Prior-Approved Specific Plan Project is a project that implements a specific plan that was approved prior to April 16, 1986, the specific plan required the construction of substantial circulation system improvements, and the required circulation system improvements were either:

1. Installed prior to the effective date of this ordinance; or
2. Constructed after the effective date of this ordinance pursuant to an Owner Participation Agreement and installed prior to the approval of any development plan(s) related to the approved specific plan.

N. PRIOR-PENDING PROJECT. A Prior-Pending Project is a nonresidential construction project for which an application for a land use permit was deemed

complete by the City before the effective date of this ordinance and the application: i. has not been denied by the City; ii. has not been withdrawn by the applicant; and iii. has not yet received City approval.

O. SMALL ADDITION FLOOR AREA. Small Addition Floor Area is the 2,000 square feet of new nonresidential floor area over the amount of nonresidential floor area that existed on the lot on December 6, 1989 and any floor area that has been constructed or approved as Minor Addition Floor Area pursuant to this Chapter or any preceding development plan ordinance since December 6, 1989. Procedures for allocating Small Addition Floor Area shall be established by resolution of the City Council.

P. VACANT PROPERTY. A Vacant Property is a lot of land that was not developed with a permanent building containing floor area as of October 1, 1988 and has not since been developed with any permanent building containing floor area. A vacant property may be allocated new nonresidential floor area from the Vacant Property category up to a maximum nonresidential floor area ratio of .25. Any nonresidential development proposed for the lot over the .25 floor area ratio must be allocated from another development category available for allocation on the lot.

28.85.030 Development Plan Review Procedures.

A. DEVELOPMENT PLAN APPLICATION SUBMISSION. Before any project requiring approval of a development plan pursuant to this Chapter is hereafter permitted in any zone, including zones at the Santa Barbara Municipal Airport, a complete

development plan application for the proposed development shall be submitted to the Community Development Department for review and consideration in accordance with the provisions of this Chapter.

B. REVIEW BY PRE-APPLICATION REVIEW TEAM. All nonresidential construction projects involving the construction, addition, or conversion of more than 3,000 square feet of nonresidential floor area and all transfers of existing development rights, regardless of size, shall be reviewed by the Pre-Application Review Team as provided in Chapter 27.07 of this Code.

C. DEVELOPMENT PLAN APPROVAL REQUIREMENTS. Except as otherwise specified in this Subsection C, all nonresidential construction projects and all transfers of existing development rights require approval of a development plan.

1. Design Review Approval. Any nonresidential construction project that involves the construction, addition, or conversion of more than one thousand (1,000) square feet of new nonresidential floor area and not more than three thousand (3,000) square feet of new nonresidential floor shall require approval of a development plan from 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.

2. Staff Hearing Officer Approval. Any nonresidential construction project that involves the construction, addition, or conversion of more than one thousand (1,000) square feet of new nonresidential floor area and not more than three thousand (3,000) square feet of new nonresidential floor area and which requires approval of another land use permit from the Staff Hearing Officer shall require approval of a development plan

from the Staff Hearing Officer.

3. Planning Commission Approval. The following projects shall require approval of a development plan from the Planning Commission:

a. Any nonresidential construction project (including a regional public utility facility) that involves the construction, addition, or conversion of more than three thousand (3,000) square feet of new nonresidential floor area, or

b. Any transfer of existing development rights that involves the construction, addition, or conversion of more than one thousand (1,000) square feet of nonresidential floor area (as an aggregate total of all development categories) on the receiving site, or

c. Notwithstanding the review assignments specified in Paragraphs 1 and 2 above, any nonresidential construction project or transfer of existing development rights that requires the preparation of an Environmental Impact Report shall be reviewed by the Planning Commission.

4. Exceptions. Unless the project requires the preparation of an Environmental Impact Report, the following projects do not require the approval of a development plan:

a. A nonresidential construction project that involves the construction, addition, or conversion of not more than 1,000 square feet of nonresidential floor area (as an aggregate total of all development categories), or

b. A Transfer of Existing Development Rights that involves the construction, addition, or conversion of nonresidential floor area as long as the project will not result in more than 1,000 square feet of nonresidential floor area over the amount of nonresidential floor area that existed on the lot as of the effective date of this ordinance.

This exception is not available for a Transfer of Existing Development Rights that

involves the transfer of a hotel room on a room-for-room basis.

28.85.040 STANDARDS FOR REVIEW. The following findings shall be made prior to approving any development plan pursuant to this Chapter:

- A. The proposed development complies with all provisions of this Title; and
- B. The proposed development is consistent with the principles of sound community planning; and
- C. The proposed development will not have a significant adverse impact upon the community's aesthetics or character in that the size, bulk or scale of the development will be compatible with the neighborhood based on the Project Compatibility Analysis criteria found in Sections 22.22.145 or 22.68.045 of this Code; and
- D. The proposed development is consistent with the policies of the City of Santa Barbara Traffic Management Strategy as expressed in the allocation allowances specified in Section 28.85.050.

28.85.050 TRAFFIC MANAGEMENT STRATEGY.

In order to utilize the City's transportation capacity efficiently and to prioritize constrained transportation capacity for high priority land uses, the City has established a Traffic Management Strategy, adopted by Resolution of the City Council. In furtherance of the Traffic Management Strategy and recognizing the differential rates of traffic generation observed in the City of Santa Barbara Traffic Model between the different Development Areas, only certain categories of nonresidential development are available for allocation within the identified Development Areas.

A. DOWNTOWN DEVELOPMENT AREA. If all of the floor area for a project is proposed from a category or categories of development that are available for allocation within the development area in which the proposed project is located, the project's contribution to a significant cumulative traffic impact may be overridden. Within the Downtown Development Area, unless specifically authorized below, a project-specific significant adverse traffic impact cannot be overridden. The following categories of nonresidential development are available for allocation to lots within the Downtown Development Area:

1. Prior-Approved Projects. Prior-Approved projects do not require further environmental review.
2. Prior-Pending Projects.
3. Prior-Approved Specific Plan Projects. A Prior-Approved Specific Plan Project that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.
4. Minor Addition Floor Area. A project constructing, adding, or converting Minor Addition Floor Area that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.
5. Small Addition Floor Area.
6. Vacant Property. A Vacant Property Project that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.
7. Community Priority Projects. A Community Priority Project that presents a project-specific significant traffic impact may be approved following the adoption of a

Statement of Overriding Considerations.

8. Economic Development Projects.

9. Transfers of Existing Development Rights (TEDR), as defined in Section 28.95.020 of this Code, from any Development Area.

a. A Transfer of Existing Development Rights between lots within the same Development Area that will result in the construction, addition, or conversion of not more than 1,000 square feet of nonresidential floor area over the amount of nonresidential floor area that existed on the receiving lot as of the effective date of this ordinance and that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.

b. All other Transfers of Existing Development Rights (including Hotel Room for Room Replacements) that result in a project-specific significant traffic impact cannot be overridden.

10. Hotel Room for Room Replacement. An on-site Hotel Room for Room Replacement that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.

11. Demolition and Reconstruction of Existing Nonresidential Floor Area on the same lot. The Demolition and Reconstruction of Existing Nonresidential Floor Area on the same lot that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.

12. City Government Buildings. A government building project that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.

13. Government Displacement Floor Area. A Government Displacement Floor Area Project that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.

14. Regional Public Utility Facilities. A Regional Public Utility Facility that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.

B. UPPER STATE STREET, MESA, COAST VILLAGE ROAD, AND RIVIERA DEVELOPMENT AREAS (OUTLYING DEVELOPMENT AREAS). If all of the floor area for a project is proposed from a category or categories of development that are available for allocation within the development area in which the proposed project is located, the project's contribution to a significant cumulative traffic impact may be overridden. Within the Outlying Development Areas, unless specifically authorized below, a project-specific significant adverse traffic impact cannot be overridden. The following categories of nonresidential development are available for allocation to lots within the Outlying Development Areas:

1. Prior-Approved Projects. Prior-Approved Projects do not require further environmental review.

2. Prior-Pending Projects.

3. Prior-Approved Specific Plan Projects. A Prior-Approved Specific Plan Project that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.

4. Minor Addition Floor Area. A project constructing, adding, or converting Minor Addition Floor Area that presents a project-specific significant traffic impact may be

approved following the adoption of a Statement of Overriding Considerations.

5. Vacant Property. A Vacant Property Project that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.

6. Community Priority Projects. A Community Priority Project that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.

7. Transfer of Existing Development Rights (including Hotel Room for Room Replacements), as defined in Section 28.95.020 of this Code, from and to lots within the same Development Area. No receiving site located in an Outlying Development Area may receive a Transfer of Existing Development Rights from a sending site that is located in another Development Area.

8. Demolition and Reconstruction of Existing Nonresidential Floor Area on the same parcel. The Demolition and Reconstruction of Existing Nonresidential Floor Area on the same lot that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.

9. Government Buildings. A government building that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.

10. Government Displacement Project. A Government Displacement Floor Area Project that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.

11. Hotel Room for Room Replacement. An on-site Hotel Room for Room

Replacement that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.

12. Regional Public Utility Facilities. A Regional Public Utility Facility that presents a project-specific significant traffic impact may be approved following the adoption of a Statement of Overriding Considerations.

C. AIRPORT DEVELOPMENT AREA. If all of the floor area for a project is proposed from a category or categories of development that are available for allocation within the development area in which the proposed project is located, the project's contribution to a significant cumulative traffic impact may be overridden. Within the Airport Development Area, unless specifically stated below, a project-specific significant traffic impact may be overridden with the adoption of a Statement of Overriding Considerations. The following categories of nonresidential development are available for allocation to lots within the Airport Development Area:

1. Prior-Approved Projects.
2. Prior-Pending Projects.
3. Prior-Approved Specific Plan Projects.
4. Minor Addition Floor Area.
5. Small Addition Floor Area.
6. Vacant Property.
7. Community Priority Projects.
8. Economic Development Projects.
9. Transfers of Existing Development Rights (including Hotel Room for Room

Replacements), as defined in Section 28.95.020 of this Code, from and to lots within the

Airport Development Area are available for allocation. No receiving site located in the Airport Development Area may receive a Transfer of Existing Development Rights (including Hotel Room for Room Replacements) from a sending site that is located in another Development Area.

10. Demolition and Reconstruction of Existing Nonresidential Floor Area on the same lot.

11. Government Buildings.

12. Government Displacement Projects.

13. Regional Public Utility Facilities.

28.85.060 DEVELOPMENT PLAN NOTICE AND HEARING.

If a nonresidential construction project or transfer of existing development rights requires the approval of a development plan by the Architectural Board of Review, Historic Landmarks Commission, Staff Hearing Officer, Planning Commission, or the City Council on appeal, the Architectural Board of Review, Historic Landmarks Commission, Staff Hearing Officer, Planning Commission, or City Council shall hold a public hearing prior to taking action on any development plan. Notice of the public hearing shall be given in accordance with Section 28.87.380.

28.85.070 APPEALS.

A decision by the Architectural Board of Review, the Historic Landmarks Commission, or the Planning Commission under this Chapter may be appealed according to the provisions of Chapter 1.30. A decision by the Staff Hearing Officer

PLANNING COMMISSION DISCUSSION DRAFT 12/6/12
SHOWING CHANGES FROM EXISTING CODE FOR CHAPTER 28.95

under this Chapter may be appealed according to the provisions of Section 28.05.020 of this Code.

28.85.080 FEES.

Fees for filing applications and appeals in accordance with this Chapter shall be established by resolution of the City Council.

28.85.090 DEVELOPMENT PLAN TIME LIMITS.

Subject to the adjustments for projects with multiple approvals specified in Section 28.87.370 of this Code, development plan approvals shall have the following time limits:

A. TIME LIMIT. A development plan approved pursuant to any provision of this Title shall expire four (4) years from the date of its approval, except as otherwise provided herein. No building or grading permit for any work authorized by a development plan shall be issued following expiration of that plan.

B. CONDITIONS. Any condition imposed on a development plan may, in the discretion of the body approving the development plan, also constitute (i) a condition to the issuance of and continued validity of any building or grading permit issued to implement that development plan, (ii) a condition to the issuance of the certificate of occupancy with respect to any improvements authorized by the development plan and (iii) if recorded with the County Recorder, to the continued validity of the certificate of occupancy. Violation of any such condition shall be grounds for suspension or revocation of any building or grading permit or certificate of occupancy issued with respect to the development plan.

C. EXTENSION OF TIME PERIOD. Upon application of the developer filed prior to the expiration of the development plan, the time at which the development plan expires may be extended by the Community Development Director for one (1) year. An extension of the expiration date of a development plan shall be granted if it is found that there has been due diligence to implement and complete the proposed project as substantiated by competent evidence in the record.

D. SUSPENSION OF TIME DURING MORATORIUM. The period of time specified in Subsection A, including any extension thereof granted pursuant to Subsection C, shall not include any period of time during which a moratorium, imposed after approval of the development plan, is in existence, provided however, that the length of the moratorium does not exceed five (5) years. For purposes of this Subsection, a development moratorium shall include (i) a water or sewer moratorium, (ii) a water and sewer moratorium, and (iii) a building or grading permit moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land other than the City, which thereafter prevents, prohibits, or delays the completion of the development. Once a moratorium is terminated, the development plan shall be valid for the same period of time as was left to run on the development plan at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the development plan shall be valid for 120 days following the termination of the moratorium.

E. SUSPENSION OF TIME DURING LITIGATION. The period of time specified in Subsection A, including any extension thereof granted pursuant to Subsection C, shall not include the period of time during which a lawsuit involving the approval of the

development plan or related approvals is or was pending in a court of competent jurisdiction. After service of the initial petition or complaint in the lawsuit upon the City, the applicant may advise the City of the need for a litigation tolling stay pursuant to the City's adopted procedures.

F. DEVELOPMENT PLANS ALREADY APPROVED.

1. Beginning Date – Development Plan Approvals. For the purpose of calculating the expiration date of development plans approved prior to the adoption of the ordinance approving this Section, the date of approval of such development plans shall be deemed to be the date said ordinance is adopted by the City Council.

2. Specific Plan Development Plan Approvals. For the purposes of calculating the expiration date of a Specific Plan project Development Plan approved in accordance with Santa Barbara Municipal Code Chapter 29.30, Development Plan approvals shall be deemed to expire eight (8) years after the date of the final City action approving the project Development Plan and shall include any related project approvals or modifications granted by the City in connection therewith.

G. DISPOSITION OF FLOOR AREA ALLOCATED TO EXPIRED PROJECTS. For projects with floor area allocated from the Small Addition category, the unused floor area shall be made available for allocation to Small Addition or Community Benefit Projects, as determined by Planning Commission Resolution, upon expiration of the development plan. For projects with floor area allocated from the Community Benefit and Vacant Property categories, the unused floor area shall revert to the category from which the floor area was allocated upon expiration of the development plan. Floor area that was excluded from the development limit specified in Section 28.85.010 under the

Prior-Approved or Prior-Pending categories shall expire upon expiration of the development plan and shall not be available for another allocation.

28.85.100 MULTIPLE DEVELOPMENT PLANS.

When more than one valid approved development plan exists for a lot, upon issuance of a building or grading permit for any work authorized by one of the approved development plans, all other development plans approved for that lot are deemed abandoned by the property owner. No building or grading permit shall be issued for any work authorized by a development plan following abandonment of that plan. For projects with floor area allocated from the Small Addition category, any unused floor area shall be made available for allocation to the Small Addition category or the Community Benefit Project category upon abandonment of a development plan. For projects with floor area allocated from the Community Benefit and Vacant Property categories, any unused floor area shall revert to the category from which the floor area was allocated upon abandonment of a development plan.

SECTION 2. Section 28.87.300 of Chapter 28.87 of Title 28 of the Santa Barbara Municipal Code is deleted in its entirety.

SECTION 3. Section 28.87.350 of Chapter 28.87 of Title 28 of the Santa Barbara Municipal Code is deleted in its entirety.

SECTION 4. Sections 28.95.010 through 28.95.070 of Chapter 28.95 of Title 28 of the Santa Barbara Municipal Code are amended to read as follows:

28.95.010 Purposes.

A. To ensure a strong economy by providing a voluntary mechanism which would allow the transfer of existing nonresidential development rights from certain properties to certain other properties within the City, thereby encouraging economic vitality.

B. To encourage new development, but not new floor area, in a manner consistent with ~~Charter Section 1508~~ the City Nonresidential Growth Management Program Ordinance and Traffic Management Strategy.

C. To promote the efficient use of under used space, and creative re-use of existing buildings.

D. To encourage uses compatible with surrounding areas.

E. To provide flexibility and opportunities for redirecting growth within the growth cap.

F. To encourage the development of a balanced community with economic diversity.

G. To stimulate revitalization of existing commercial areas of the City.

H. To accommodate large scale development that is consistent with ~~Charter Section 1508~~ the City Nonresidential Growth Management Program Ordinance and Traffic Management Strategy.

I. To encourage the construction of housing.

28.95.020 Definitions.

A. Existing Development Rights consist of the following:

1. Existing Floor Area. The amount of nonresidential floor area of existing structures on a sending site; and

2. Approved Floor Area. Nonresidential floor area which has received all discretionary approvals from the City prior to the date of application for a transfer, provided that none of those approvals has expired prior to the date of such application; and

3. Demolished Floor Area. Nonresidential floor area of a structure, demolished after October 1988 and not subsequently reconstructed, and

4. Converted Floor Area. Nonresidential floor area of a structure, which has been permanently converted from nonresidential use to a residential use after October 1988.

Existing Development Rights may be aggregated from the above four categories but not so as to increase floor area above the amount allowed by ~~Charter Section 1508 and its implementing ordinances~~ the City Nonresidential Growth Management Program Ordinance (Chapter 28.85).

A transfer of Existing Development Rights shall transfer to the receiving site only ~~nonresidential floor area governed by City Charter Section 1508 and implementing ordinances~~ regulated by the City Nonresidential Growth Management Program Ordinance, and shall not transfer any other right, permit or approval. A transfer of Existing Development Rights shall not transfer credit for resource use by existing

development on the sending site to the receiving site for purposes including but not limited to environmental review, development fees, or conditions of approval. Existing Development Rights shall be measured in square feet of floor area, except that hotel and motel rooms may be measured by room when Existing Development Rights are developed as hotel or motel rooms on the receiving site, ~~and in all other cases shall be measured in square feet of floor area.~~ Hotel and motel rooms which are approved and ~~not developed~~ but not constructed at the time of transfer approval shall be measured only in square feet of floor area.

B. Floor Area. "Floor area" is defined in Section ~~28.87.300.B.4~~ 28.85.020.

C. Hotel or Motel Room. A hotel or motel room includes only that floor area within the walls of rooms let for the exclusive use of individuals as a temporary abiding place, and does not include any other areas. No replacement room shall be designed for rental or rented as more than one separate accommodation.

D. Nonresidential Floor Area. Floor area is "nonresidential" if the Community Development Director determines that the floor area was used exclusively for nonresidential purposes in October, 1988; or that the floor area was vacant in October of 1988 and the ~~latest~~ last use of the floor area prior to the proposed transfer was nonresidential ~~in nature~~; or that the floor area was approved for nonresidential purposes as described in Paragraph A.2 above.

E. Receiving Site. A site to which Existing Development Rights are transferred.

F. Sending Site. A site from which Existing Development Rights are transferred.

G. Transfer of Existing Development Rights. The transfer of Existing Development Rights as defined in Subsection A above from a sending site to a receiving site.

Existing Development Rights may be transferred by sale, exchange, gift or other approved legal means, but such transfer shall not be effective until the Planning Commission, or City Council on appeal, has approved the transfer and the conditions of the transfer have been satisfied.

28.95.030 Approval of Transfer of Existing Development Rights.

A. Application Review. The application(s) and supporting documentation submitted by the applicant(s) shall be reviewed by the Community Development Department. If the application(s) for processing are determined to be complete by the Community Development Department, the applicant(s) shall proceed in accordance with the standard application process in place at the time of submittal.

B. Transfer Approval. Existing Development Rights may be transferred from sending site(s) to receiving site(s) pursuant to the provisions of this Chapter and any guidelines adopted by City Council resolution pursuant to this Chapter. ~~Development plan proposals for the sending site(s) and the receiving site(s) shall receive a single transfer approval, in addition to all other discretionary approvals required, and shall be considered one "project" for purposes of environmental analysis.~~

After approval, any change in the project, at either the sending site(s) or receiving site(s) which is not determined by the Planning Commission and/or the Community Development Director to be in substantial conformity with the approved project, shall be a new project and require a new application, review, and approval and/or disapproval. No transfer or receipt of Existing Development Rights shall be valid or effective unless

the transfer and receipt, and development plans for both the sending site(s) and receiving site(s), comply with all requirements of this Municipal Code and have been reviewed and approved by the Planning Commission, or City Council on appeal, and all applicable conditions to the transfer have been satisfied.

C. Community Priorities. Any Existing Development Rights approved as a community priority on a sending site may be transferred only if the new development on the receiving site is also approved as a community priority.

D. Multiple Sending and Receiving Sites. Existing Development Rights may be transferred from more than one sending site to a single receiving site. Existing Development Rights may be transferred from one sending site to more than one receiving site.

E. Compliance with Traffic Management Strategy. Every transfer of Existing Development Rights must comply with the City Traffic Management Strategy as implemented in Section 28.85.050 of this Code. Any Existing Development Rights proposed for transfer must qualify for allocation at the Receiving Site.

28.95.040 Amount of Existing Development Rights That Can Be Transferred from a Sending Site to a Receiving Site.

A. The total amount of Existing Development Rights that can be transferred to a receiving site is subject to the applicable zoning of that receiving site, provisions of the Municipal Code, and any and all other applicable City rules and regulations.

B. The total amount of Existing Development Rights that can be transferred from a

sending site is equal to the difference between the eliminated floor area on the sending site and the floor area of all nonresidential structures constructed or proposed to be constructed on the sending site.

28.95.050 Development Plan Approval.

The following Transfers of Existing Development Rights must receive development plan approval by the Planning Commission, or the City Council on appeal:

A. Any transfer of more than 1,000 square feet of Existing Development Rights from a sending site,

B. Any transfer that involves the transfer of a hotel room on a room-for-room basis,
and

C. aAny project using that is constructing, adding, or converting more than 1,000 square feet of nonresidential floor area on a receiving site and which includes any amount of transferred Existing Development Rights must receive development plan approval by the Planning Commission, or the City Council on appeal. Once a development plan is approved for a sending site, the sending site development plan approval may be used for subsequent transfers of Existing Development Rights from the sending site as long as the Community Development Director determines that the condition of the sending site following such subsequent transfers will substantially conform to the original development plan approval.

28.95.060 Review and Findings.

The Planning Commission, or the City Council on appeal, shall review each application for a transfer of Existing Development Rights and shall not approve any such transfer unless it finds that:

A. The proposed development plans for both the sending and receiving sites are consistent with the goals and objectives of the General Plan of the City of Santa Barbara and the Municipal Code; and

B. The proposed developments will not be detrimental to the site(s), neighborhood or surrounding areas; and

C. The floor area of proposed nonresidential development on the receiving site does not exceed the sum of the amount of Existing Development Rights transferred when added to the amount of Existing Development Rights on the receiving site, and does not exceed the maximum development allowed by the applicable zoning of the receiving site.

D. Each of the proposed nonresidential developments on the respective sending site(s) and receiving site(s) will meet all standards for review as set forth in Section ~~28.87.300.E~~ 28.85.040 of the Municipal Code and all provisions of this Chapter, and will comply with any additional specific conditions for a transfer approval.

E. Development remaining, or to be built, on a sending site is appropriate in size, scale, use, and configuration for the neighborhood and is beneficial to the community.

28.95.070 Conditions of Approval.

A. The Planning Commission, or the City Council on appeal, shall require conditions of development plan approval for plans submitted for sending and receiving sites.

Conditions may include, but are not limited to a development agreement, as defined in State law, executed by the City and the sending site owner or the receiving site owner, or both. The Planning Commission, or the City Council on appeal, may impose other conditions and restrictions upon the proposed development plans and transfer approval consistent with the General Plan and may require security to assure performance of all conditions and restrictions.

B. The Planning Commission, or City Council on appeal, shall require, as conditions of development plan approval for plans submitted for the sending and receiving sites that:

1. Whenever a sending site owner is required by this Chapter to offer to dedicate the sending site to the City or other governmental entity approved by the City, and the floor area to be transferred will be eliminated by demolition, a sending site owner shall make such offer prior to issuance of a demolition permit for the sending site. If the City or other governmental entity approved by the City rejects said offer of dedication, the Planning Commission approval is null and void; and

2. Any Existing Development Rights, measured in square feet of floor area, and/or number of hotel or motel rooms when appropriate, and whether such Existing Development Rights derive from existing, approved, demolished or converted floor area, shall be clearly and accurately designated on both the sending and receiving site

development plans; and

3. Prior to issuance of any necessary permit relating to any Existing Development Rights approved for transfer from a sending site, the option, deed, easement, covenant, or other legal instrument by which the existing development rights are being transferred, and proof of recordation of the development plan for both sending and receiving sites shall be reviewed and approved by the Community Development Director.

4. Proof of the elimination of the transferred floor area from the sending site must be reviewed and approved by the Community Development Director prior to recordation of the approved instrument of transfer. The City shall be a party to the instrument of transfer; and

5. Prior to the issuance of any building permit for the project proposed on the receiving site pursuant to this Chapter, proof of recordation of the transfer instrument, and proof of elimination of the Existing Development Rights on the sending site shall be accepted as satisfactory by the Community Development Director.

DRAFT

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA ADOPTING AMENDED ADMINISTRATIVE PROCEDURES FOR THE IMPLEMENTATION OF THE GENERAL PLAN GROWTH MANAGEMENT PROGRAM AND THE ADOPTION OF THE CITY TRAFFIC MANAGEMENT STRATEGY

WHEREAS, in 1989, the City Council placed a nonresidential growth limitation before City voters as ballot Measure E, which was approved and incorporated into the City Charter as Charter Section 1508, and limited nonresidential growth to not more than three million square feet until 2010.

WHEREAS, on February 12, 1991, the City Council adopted amendments to the Zoning Ordinance as well as a Resolution to implement the Growth Decisions and Charter Section 1508 which expired on December 31, 2009.

WHEREAS, in 2005, the City Council initiated the update to the General Plan including an updated Land Use element to specifically address the expiration of Charter Section 1508, and to determine future nonresidential growth in the City.

WHEREAS, on July 14, 2009 and November 20, 2012, the City Council adopted ordinances amending Section 28.87.300 of the Municipal Code extending the regulations relating to nonresidential growth management through January 1, 2014. The City Council extended Section 28.87.300 for the purpose of maintaining the status quo concerning nonresidential growth management until the completion of the updated General Plan and to allow for the orderly implementation of policies regarding nonresidential growth management.

WHEREAS, on January 1, 2010, Charter Section 1508 expired according to its own terms.

WHEREAS, on December 1, 2011, the City Council adopted the update to the General Plan with growth limitations for the next 20 years, along with goals, policies and standards to implement the Growth Management Program considering the community's values of "living within our resources."

WHEREAS, the updated General Plan includes Policy LG2, Limit Nonresidential Growth, that limits most new nonresidential floor area to 1.35 million square feet over the 20 year life of the General Plan excluding Prior-Pending projects, Prior-Approved projects, Government buildings, Minor Additions and the demolition and replacement of existing square footage from the development limitation.

WHEREAS, General Plan Policy LG2 includes implementation actions that necessitate updating the City's Development Plan Ordinance (SBMC § 28.87.300) and Transfer of Existing Development Rights Ordinance (SBMC Chapter 28.95) to continue to limit nonresidential growth (LG2.1), establish required findings for new development approvals (LG2.3) and consider the disposition of future demolished nonresidential square footage (LG2.4) that is not rebuilt on site.

WHEREAS, the updated General Plan includes policies (Principles for Development) to focus growth in the Downtown, encourage a mix of land uses, strengthen mobility options, and promote healthy active living, including encouraging a mix of land uses, particularly Downtown, to maintain its strength as a viable commercial, retail, and workplace center.

WHEREAS, one of the key tenets of the General Plan is for the remaining increment of growth to occur within commercial and multi-family districts with more availability and use of alternative modes of transportation in order to minimize congestion.

WHEREAS, a Final Program Environmental Impact Report (FEIR) was certified in September of 2010 and December 2011 for the General Plan. The FEIR assessed citywide impacts associated with 2,178,202 square feet of nonresidential development. Subsequently, an Addendum to the FEIR analyzed a revised lower growth management program of 1.85 million square feet of nonresidential development (addressing up to 1.35 million square feet within the growth limitation policy and 0.5 million square feet for excluded uses). The FEIR and Addendum evaluated the potential environmental effects from citywide development under General Plan Update policies over the twenty-year Plan horizon.

WHEREAS, the FEIR and Addendum concluded that even with identified mitigation measures, unavoidable significant impacts associated with increased traffic congestion and greenhouse gas generation would occur by 2030 as a result of potential new development under the General Plan policies.

WHEREAS, on September 18, 2012, the City Council adopted the City's Climate Action Plan. An Addendum to the FEIR was prepared to document the Climate Action's Plan updated greenhouse gas emissions analysis, which showed that citywide greenhouse gas emissions would be lower than earlier identified in the FEIR and would meet the State target, thereby constituting a less than significant impact.

WHEREAS, the FEIR identified that the increase of vehicle trips associated with the potential development under the General Plan would increase the number of intersections exceeding the City's level of service standard from 13 to up to 20 – 26.

WHEREAS, the City Council approved the General Plan Update and adopted a statement of overriding considerations finding the anticipated cumulative traffic impact to be acceptable given the benefits of the Plan.

WHEREAS, new development will contribute to the identified cumulative traffic impact, and the previous finding required for Development Plan approval - "The proposed development will not have a significant unmitigated adverse impact on the City's Traffic; and resources will be available and traffic improvements will be in place at the time or project's occupancy." is proposed to be replaced. A new Traffic Management Strategy is necessary to manage and track traffic associated with future growth.

WHEREAS, the FEIR traffic analysis completed for the General Plan found that the Downtown area is distinguished from other development areas because land developed within this area will generate the least amount of traffic. Additionally, implementation actions recommended in the Circulation Element are anticipated to be more effective in the Downtown development area than within the other Development Areas.

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

1. The Council of the City of Santa Barbara hereby adopts The Administrative Procedures for the Implementation of the General Plan Growth Management Program attached hereto as Exhibit A.

2. The Council of the City of Santa Barbara hereby adopts The Traffic Management Strategy attached hereto as Exhibit B.

3. The Council of the City of Santa Barbara makes the following findings in accordance with the California Environmental Quality Act regarding the adoption of General Plan Growth Management Program:

A. CEQA Section 21083.3 and Guidelines Section 15183 provides that projects which are consistent with the development density established by general plan policies for which a FEIR was certified, and rezonings consistent with the plan, shall not require additional environmental review except under specified instances. The City Environmental Analyst determined that the proposed implementing ordinance amendments do not trigger the additional environmental review requirements for the following reasons:

- i. There are no additional site-specific or project-specific significant effects which are peculiar to the proposed zoning amendments;
- ii. There are no new significant effects not addressed in the prior Program FEIR; and
- iii. There is no new information since the FEIR that would involve more significant impacts than identified in the FEIR.

Environmental review for the proposed implementing ordinance amendments is addressed by the General Plan FEIR and Addenda, and no further environmental review is required. The zoning amendments to implement growth limitations are a citywide program and any future project-specific significant effects will have environmental review.

B. The policies and standards for the city's projected growth have been previously analyzed in the FEIR and Addenda for the General Plan and Climate Action Plan. Specifically, the environmental and traffic impacts associated with implementing General Plan Policy LG2 and 1.35 million net new square feet of nonresidential floor area was included in the analysis of the General Plan FEIR and Addendum and the potential development is within the growth and traffic distribution assumptions.

C. The City Planner is the custodian of the record of proceedings for the General Plan Update, FEIR, the Addenda, and the documents and other materials which constitute the record of proceedings for City actions related to the General Plan Update and FEIR that are located at the City of Santa Barbara Community Development Department, Planning Division, 630 Garden Street, Santa Barbara, California. Copies of these documents are available for public review during normal business hours upon request at the office of the City of Santa Barbara Community Development Department, Planning Division.

4. Resolution No. 12-075 is hereby rescinded.

5. This Resolution shall become effective upon the effective date of the ordinance adopting the City's Nonresidential Growth Management Program Ordinance (SBMC Chapter 28.85).

EXHIBIT A

The Administrative Procedures for the Implementation of the General Plan Growth Management Program

The following are administrative procedures for the implementation of the City's Nonresidential Growth Management Program Ordinance (Municipal Code Chapter 28.85) through January 1, 2033 and the Traffic Management Strategy by which nonresidential development will be evaluated.

1. Applications.

Applications for land use permits for nonresidential construction projects and transfers of existing development rights, as those terms are defined in Sections 28.85.020 and 28.95.020 of the Santa Barbara Municipal Code, shall be submitted in accordance with the following procedures:

A. Minor Additions, Projects on Vacant Property, Government Displacement Projects, and City Government Buildings.

An application for a land use permit for a nonresidential construction project involving a proposed minor addition, a project on vacant property, a government displacement project or a city government building shall be submitted to the Community Development Department in accordance with the standard application requirements in place at the time of the application submittal.

B. Prior-Pending or Prior-Approved Projects.

If a Prior-Pending Project or a Prior-Approved Project that includes nonresidential floor area that would otherwise require an allocation of floor area from one of the categories specified in Subsection A of Section 28.85.010 of the Municipal Code expires or is withdrawn, any future project on the lot involving nonresidential floor area shall be required to submit a new application to the Community Development Department in accordance with the standard application requirements in place at time of the application submittal.

If a Prior-Pending or Prior-Approved project is withdrawn or expires, any future project on the lot will require a new allocation of square footage under Chapter 28.85.

C. Small Additions.

An application for a land use permit for a nonresidential construction project involving a proposed small addition shall be submitted to the Community Development Department in accordance with the following procedures:

(1) **Annual Allocation.** The annual allocations available from Small Additions shall be the total of 20,000 and any unused Small Additions from the previous year as may be carried over from time to time by resolution of the Planning Commission. The Planning Commission will decide annually whether unused or expired Small Additions from the previous year should roll over to Small Additions for the next year or to the Community Benefit allocation category.

(2) **Initial Application Period.** Applications for small additions will be accepted on the first two (2) business days of each calendar year. Applications received during this two (2) day period will be reviewed by staff to determine the total amount of square footage requested from the small addition category.

(a) **Initial Applications Less than Annual Allocation.** If the total amount of small addition square footage requested is less than or equal to the 20,000 square foot annual allotment, plus any rollover approved by the Planning Commission from the previous year, the accepted applications will be allocated square footage in the amounts requested. Subsequent applications for small additions will be accepted on a first-come, first-served basis until the 20,000 square foot annual limit plus any approved rollover from the previous year has been reached. Applications submitted after the annual allocation has been expended will be returned to the applicant, with the names of the applicants for the next 10,000 square feet of small additions placed on a Reallocation List for use in the event that projects originally accepted are reduced in size, withdrawn, abandoned or denied. All other potential applicants will be advised to reapply in January of the following year.

(b) **Initial Applications Greater than Annual Allocation.** If the total amount of small addition square footage requested in the applications received within the Initial Application Period exceeds the 20,000 square foot annual limit, plus any approved rollover, priority for square footage allocations will be determined by the casting of lots in a manner deemed appropriate by the Community Development Director. Each proposed development project for which an application has been received will have one lot in the lottery, regardless of the number of small additions requested or the number of properties involved in the proposed project. Projects will be allocated small addition square footage in the order drawn until the 20,000 square foot limit plus any approved rollover has been reached. Projects which were not drawn during the initial 20,000 square foot allocation plus any approved rollover will continue to be drawn for priority placement on a Reallocation List for use in the event that projects originally accepted are reduced in size, withdrawn, abandoned, or denied. Subsequent to the lottery, all other potential applicants will be advised to reapply in January of the following year.

D. Community Benefit Projects.

An application for a land use permit for a nonresidential construction project which seeks designation by the City Council as a community benefit project shall be subject to the following procedure:

(1) Contents.

An application for a land use permit for a nonresidential construction project proposed as a Community Benefit project shall be submitted to the Community Development Department for a recommendation of community benefit. The following information shall be included in the application packet:

- A completed Master Application form;
- 3 copies of a Plot Plan including the following:
 - Vicinity Map
 - North Arrow
 - Scale (not smaller than 1" = 20')
 - Project address and property owners
 - Land Use Zone
 - Total site acreage
 - Property boundaries
 - Setback dimensions
 - Maximum height of the buildings
 - Assessor's Parcel Number(s)
 - Location of proposed Structures
 - Indication of removal of any structures
 - Major trees should be indicated including those proposed for removal
 - Footprint of structures on adjacent properties
 - Location of existing and proposed parking spaces
 - Legend including: net lot area of parcel in square feet and acres, site statistics showing both square footage and percentage of site coverage for all buildings and parking statistics showing the number of spaces required by ordinance and the total number of on-site space (existing and proposed);
- Letter from the applicant containing a description of the project including but not limited to the square footage of existing and proposed structures (consistent with the definition of Floor Area contained in Section 28.85.020 of the Zoning Ordinance), and the square footage associated with any proposed demolition;

- For Community Priority Projects, a Needs Assessment providing Staff and the Council with information necessary to make the finding that the proposed project meets a “present or projected need directly related to public health, safety or general welfare”. The content of the Needs Assessment should be as follows:

- An introduction outlining the proposal
- A summary of the development history of the site; past development activity at the site should be documented, noting types and dates of past permits
- A description of the existing and proposed uses and associated square footage. This section should address the need for expansion and reasons why an allocation is necessary.

- For Economic Development Projects, an assessment providing Staff and the Council with information necessary to make the finding that the proposed project will “enhance the standard of living for City and South Coast Residents and will strengthen the local and regional economy”. The content of the assessment should be as follows:

- An introduction outlining the proposal.
- A summary of the development history of the site; past development activity at the site should be documented, noting types and dates of past permits.
- A description of the existing and proposed uses and associated square footage. This section should address the need for expansion and reasons why an allocation is necessary.
- Documentation of how the project meets the definition of an Economic Development Project in Section 28.85.020 of the Zoning Ordinance.

(2) **Designation.**

The City Council shall consider an application for designation as a Community Benefit Project at a public hearing noticed in accordance with Section 28.87.380 of the Municipal Code. The staff recommendation shall be presented to the City Council for an identification of community benefit status. The designation of a project as a Community Benefit Project enables the acceptance of the application for processing, but does not commit the City Council, or any City agency, board or commission to approval of the project. If a project is granted a Designation as a community benefit project, the project application shall continue through the review process in place at the time of application.

(3) Reservation of Community Benefit Square Footage.

If an application meets the following criteria, square footage from the Community Benefit categories can be reserved without applying for a land use permit. The application process for a reservation shall be the same as outlined in (1) and (2) above. In order to be eligible for a reservation of square footage, the project must exceed 10,000 square feet and be a component of a recognized Master Plan with interrelated phases of construction, which has been reviewed by the Planning Commission and can be fully implemented within 10 years.

For the purposes of a community priority or economic development project square footage reservation, a Master Plan shall include the following information:

- The potential for short and long range development for the facility and site;
- A brief history of development occurring at the facility;
- Description of the type and number of parking spaces existing;
- Plans to indicate the size and conceptual location of proposed structures;
- Proposed schedule of implementation of each component.

If Council finds that the project meets the definition of a Community Benefit Project, as specified in Section 28.85.020 of the Municipal Code, a reservation of square footage from the Community Benefit Category may be granted by a resolution of the City Council for a period not to exceed five years. Prior to expiration of the Resolution reserving the square footage, the applicant shall submit a complete application for a land use permit.

E. Hotel Room for Room Replacement.

An application for a land use permit for a nonresidential construction project which involves the replacement or remodeling of existing hotel rooms on a room for room basis shall be submitted to the Community Development Department in accordance with the standard application process in place at the time of submittal. All applications involving room for room replacement shall include a site plan identifying the location and size of all existing hotel rooms. An additional site plan showing the proposed size and location of all rooms after the replacement project is completed shall also be submitted.

2. Project Review and Approval.

The Nonresidential Growth Management Program Ordinance limits the categories of development available for allocation within certain Development Areas. The Traffic Management Strategy limits the ability to override project-specific traffic impacts. The purpose of these limits is to promote the General Plan Policy of "Living within Our Resources".

Section 28.85.050 of the Santa Barbara Municipal Code implements the City's Traffic Management Strategy as part of the City's Nonresidential Growth Management Program by specifying what categories of development are available for allocation within a particular Development Area and specifying whether such development may have project specific significant traffic impacts. The following discussion explains the organization of Section 28.85.050 and its operation:

A. Default Rule for Project-Specific Significant Traffic Impacts

Each subsection of 28.85.050 (A. - Downtown Development Area, B. - Outlying Development Areas, and C. - Airport Development Area) specifies a default treatment of project-specific significant traffic impacts for projects within that Development Area (i.e., whether or not project-specific significant impacts may be overridden).

B. Categories of Development Available for Allocation

Each subsection lists the categories of development that are available for allocation within that Development Area as separate numbered paragraphs. If a category is listed, that category of floor area or project is available for allocation within that Development Area. If a category of development is not listed, the category of development is not available for allocation within that Development Area.

C. Exceptions to Default Rule for Project-Specific Traffic Impacts

Some of the paragraphs listing an available category of development have a description of the treatment of project-specific significant traffic impacts for that category of development. If a category of development is listed and has no further discussion within the numbered paragraph, then that category of development follows the default rule regarding project-specific traffic impacts stated at the beginning of the subsection. If there is further discussion following the listing of the category, the further discussion describes an exception for that category of development from the default rule for the Development Area.

3. Tracking of Floor Area.

A. Minor Additions.

(1) **Maximum.** Although Minor Addition Floor Area is excluded from the development limit, it is tracked by the Community Development Department. For legal lots that existed as of December 6, 1989, the cumulative total of Minor Addition Floor Area allowed for each lot shall not exceed 1,000 square feet over the nonresidential floor area that existed on the lot as of December 6, 1989.

(2) **Minor Additions Developed with Other Categories of Development.** Minor Addition square footage developed in conjunction with a Small Addition or allocations from other categories of nonresidential development specified in Section 28.85.010 shall be counted as a Minor Addition.

(3) **Buildings Occupying Two or More Lots.** If an existing building occupies two or more lots, the maximum square footage available for allocation as a Minor Addition to the combined project shall equal the sum of the Minor Addition square footage that could be developed on the individual lots in compliance with current zoning standards (assuming surface parking). The application shall demonstrate the ability to develop the square footage on a site plan.

B. Small Additions.

(1) **Maximum.** For legal lots that existed as of December 6, 1989, the cumulative total of that Small Addition Floor Area allowed for each lot shall not exceed 2,000 square feet over the nonresidential floor area that existed on the lot as of December 6, 1989. In no case shall the combined total of Small Addition Floor Area and Minor Addition Floor Area on a lot exceed 3,000 square feet.

(2) **Buildings Occupying Two or More Lots.** If an existing building occupies two or more lots, the maximum square footage available for allocation as a Small Addition to the combined project shall equal the sum of the Small Addition square footage that could be developed on the individual lots in compliance with current zoning standards (assuming surface parking). The application shall demonstrate the ability to develop the square footage on a site plan.

C. Merged or Adjusted Lots.

If two or more lots are merged or have their lot lines adjusted as part of a development, any Minor Addition or Small Addition allocation that remains available to each of the individual lots prior to the merger or adjustment may be assigned to the merged or adjusted lot to the extent the application demonstrates on a site plan that the lot from which the allocation is assigned could have developed the remaining square footage in compliance with current zoning standards (assuming surface parking) prior to the merger or lot line adjustment.

D. Subdivisions.

For lots subdivided after October 1988, any Minor Addition or Small Addition allocation remaining for the parent lot at the time of subdivision shall be divided evenly between all of the resulting lots. The remaining Minor Addition or Small Addition allocation may be divided in a different manner between the resulting lots if subdivider documents the alternative division of the allocation in a written instrument approved as to form by the City Attorney and recorded with the County Recorder at the time of the recordation of the final or parcel map of the subdivision.

E. Reallocation of Floor Area.

(1) **Prior-Pending and Prior-Approved Projects.** If a Prior-Pending Project or Prior-Approved Project expires or is withdrawn, any nonresidential floor area allocated to the project shall be extinguished and shall not be available for allocation to another project.

(2) **Small Addition Floor Area.** Small Addition Floor Area that is not allocated within a calendar year may be rolled over to the Small Addition allocation for the subsequent year or to the Community Benefit Project category as determined by Resolution of the Planning Commission. If a waitlist has been established for the allocation of Small Addition Floor Area pursuant to Section 1.C.(2)(b) of this Resolution, any Small Addition Floor Area that expires or is withdrawn during such calendar year shall be allocated to projects on the waitlist. If any balance of expired or withdrawn Small Addition Floor Area remains after allocation to projects on the waitlist, the remaining balance may be rolled over to the Small Addition allocation for the subsequent year or to the Community Benefit Project category as determined by Resolution of the Planning Commission.

(3) **Community Benefit Projects and Vacant Property Projects.** If a Community Benefit Project or a Vacant Property Project expires or is withdrawn, the nonresidential floor area allocated to the project shall return to the development category or categories from which it was allocated.

EXHIBIT B

Growth Management Program Traffic Management Strategy *Policies and Procedures to Assess Traffic Impacts for Land Development Projects*

The following set of policies and procedures outline the operational details of the City of Santa Barbara's Traffic Management Strategy, a part of the City's overall Growth Management Program. The strategy supports and implements the City's policy, stated in the General Plan, for limited incremental nonresidential growth in order to minimize traffic impacts on City roadways. The development anticipated over the next 20 years is expected to cumulatively result in increased traffic congestion citywide and up to 26 impacted intersections. The intent of this strategy is to minimize the expected traffic impacts while balancing the need for economic development, and to establish a simplified, more certain, and less costly development entitlement process.

The need for a traffic management strategy was identified in the Final Environmental Impact Report (FEIR) for the *Plan Santa Barbara* General Plan Update (2011). The FEIR used a Traffic Model specifically developed for the City to estimate future traffic impacts and congestion. Based upon observations of actual traffic behavior within the City, the Traffic Model identified different traffic generation rates based on the location of uses within the City. The model also determined that the effectiveness of the traffic mitigation measures identified in the FEIR varied based on location. These findings substantially inform the policies and procedures adopted in this Traffic Management Strategy.

The primary goal of this Traffic Management Strategy is to utilize existing transportation capacity efficiently and to reserve constrained transportation capacity for high priority land uses. The City's Adaptive Management Plan will be used to monitor impacted intersections and provide decision points during the 20-years life of the plan to apply traffic mitigation efforts, adjust land use growth, or re-think the strategy altogether.

A. Policy Direction for Balancing Growth: Where, What, and How Much

The General Plan establishes an overall Growth Management Program for 20 years prioritizing affordable housing and specific categories of new nonresidential development included in a development limit of 1.35 million square feet of net-new nonresidential floor area. Per General Plan policy, there are categories of development that are not included in the 1.35 million square feet limit, including: Prior Pending and Prior Approved projects, City Government Buildings, Minor Additions, reconstruction of demolished floor area on-site, and floor area involved in a Transfer of Existing Development Rights. The Nonresidential Growth Management Program Ordinance, in conjunction with these policies adopted by

Council Resolution, establishes the parameters for development allowances consistent with the General Plan.

The cumulative traffic impacts identified in the FEIR and found acceptable with the Council's corresponding adoption of a Statement of Overriding Considerations provide the basis for approval of development consistent with the General Plan as implemented through this strategy.

Included is a Map of the Growth Management Program Development Areas used in this Traffic Strategy. The Development Areas are established based upon observations from the Traffic Model. The Traffic Model demonstrated that traffic generation rates and distribution patterns vary within different areas of the City. The Downtown Development Area is distinguished from all other Development Areas because land developed within this area will generate the least amount of traffic per square foot of development given the mix of land uses, the grid street system, and the availability of a variety of transportation modes including biking, walking and transit. Additionally, the mitigation measures included in the General Plan will have the greatest effectiveness of offsetting traffic impacts in the Downtown Development Area.

To provide flexibility and to encourage infill and redevelopment in each respective Development Area, this strategy provides for the transfer of existing nonresidential floor area and hotel rooms. For the Downtown Area, existing development rights may be proposed for a TEDR from anywhere in the City (other than from the Airport) to the Downtown Area. Transfers within the Downtown Area are also allowed.

1. Downtown Area

Allowed Development Categories

In support of General Plan goals and policies, the Traffic Management Strategy is designed to create flexibility and encourage the majority of future land development to occur within the Downtown Area. The following are the categories of development allowed in the Downtown Development Area:

- 1) Prior-Approved Projects
- 2) Prior-Pending Projects
- 3) Prior Approved Specific Plan Projects
- 4) Minor Addition Floor Area
- 5) Small Addition Floor Area
- 6) Vacant Property (up to .25 Floor to Lot Area Ratio)
- 7) Community Priority Projects
- 8) Economic Development Projects *
- 9) Nonresidential Transfer of Existing Development Rights (TEDR) *

- 10) Hotel Room for Room Replacement
- 11) Demolition and Reconstruction of Existing Nonresidential floor area on site, no net new floor area
- 12) Government Buildings and Regional Public Utility Projects
- 13) Government Displacement Floor Area

2. Outside of the Downtown - Outlying Development Areas

Allowed Development Categories

The Upper State Street, Mesa, Coast Village Road, and Riviera Development Areas (Outlying Development Areas) are all treated similarly in this strategy. The Traffic Model showed that land development within the Outlying Development Areas would generate significantly more traffic per square foot or per unit than the same land uses located in the Downtown Development Area. Additionally, the Traffic Model showed that the traffic mitigation measures identified in the FEIR are substantially less effective in reducing traffic impacts in the Outlying Development Areas. Consequently, in order to reserve traffic capacity for high priority land uses, new nonresidential square footage is limited in the Outlying Development Areas to the following categories:

- 1) Prior-Approved Projects
- 2) Prior-Pending Projects
- 3) Prior-Approved Specific Plan Projects
- 4) Minor Addition Floor Area
- 5) Vacant Property (up to .25 Floor Area Ratio)
- 6) Community Priority Projects
- 7) Transfer of Existing Development Rights (TEDR) from within the same Development Area*
- 8) Demolition and Reconstruction of Existing Nonresidential floor area on site, no net new floor area
- 9) Government Buildings and Regional Utility Projects
- 10) Government Displacement Projects
- 11) Hotel Room for Room Replacement on site

3. Limitations Related to Transfer of Existing Development Rights and Project Specific Impacts (for the project types noted with an asterisk*).

Transfer of Existing Development Rights (TEDR)

The Municipal Code provides development potential and a process for review and approval of transfers of existing development rights (TEDR). This strategy and accompanying ordinance amends the TEDR ordinance. A TEDR is allowed from the

Outlying Development Areas, not including the Airport, into the Downtown Development Area but is not allowed from the Downtown Development Area to the Outlying Development Areas or the Airport Development Area. TEDRs are not allowed between the various Outlying Development Areas or from the Downtown Development Area or any of the Outlying Development Areas to the Airport Development Area.

These limitations on TEDR projects promotes the policy of focusing future development in the Downtown Development Area. The Downtown Development Area is shown by the Traffic Model to generate the least amount of additional traffic and to be the most able to mitigate the effects of the anticipated traffic growth. The allowance for transfers within the same Development Area reflects the nature of traffic patterns within the development areas observed in the Traffic Model. A land use can move from one location to another location within the same Development Area and only experience slight changes in traffic patterns. While shifts in traffic patterns within a Development Area will be measured using the Traffic Model, the change is not anticipated to rise to the level of project specific impact.

Economic Development

Projects seeking development allocations from the Economic Development category are encouraged; provided, the project does not cause a project-specific significant traffic impact. Project-specific significant traffic impacts are viewed as an indication that an economic development project is consuming a disproportionate amount of the City's transportation capacity. Therefore, an economic development project that presents a project-specific significant traffic impact cannot be approved under this Strategy.

Significant Project Specific Traffic Impacts

The Traffic Management Strategy specifically identifies projects with contributions to cumulative traffic impact levels as assessed in the FEIR. Council determined this cumulative traffic impact to be acceptable and consistent with the General Plan. However, when a project's anticipated impact rises to the level of a project-specific significant traffic impact, it is inconsistent with this policy because a single project is using a disproportionate share of the remaining roadway capacity.

The only categories of development allocation for which anticipated traffic impacts at the Project Specific level may be considered are:

- 1) Prior Approved Specific Plan Projects
- 2) Minor Addition Floor Area
- 3) Community Priority Projects

- 4) Nonresidential Transfer of Existing Development Rights (TEDR) of not more than 1,000 square feet and within the same Development Area
- 5) Hotel Room for Room Replacement on site
- 6) Demolition and Reconstruction of Existing Nonresidential floor area on site, no net new floor area
- 7) Government Buildings and Regional Public Utility Projects
- 8) Government Displacement Floor Area
- 9) Vacant Property (up to .25 Floor to Lot Area Ratio)

All other proposals must either reduce the size of the project or mitigate the project-specific impact, which may require the construction of new public improvements. In these cases, staff will strategize with developers to consider project alternatives that would avoid the Project Specific level of impact.

4. Airport Development

The FEIR considered traffic impacts in the Airport Development Area as part of the regional analysis. It has been the City's practice to coordinate the traffic analysis of projects at the airport with the County, City of Goleta and Caltrans, as appropriate. The level of service capacity and traffic thresholds for the transportation systems in and around the Airport are different than those applied to City intersections in the Downtown Development Area and the Outlying Development Areas. This policy proposes to continue the City's existing practices regarding traffic analysis of projects at the Airport and provides that additional environmental analysis, as necessary, will be completed prior to decisions on development proposals at the Airport.

The development categories that may be considered for the Airport include:

- 1) Prior-Approved Projects
- 2) Prior-Pending Projects
- 3) Prior-Approved Specific Plans
- 4) Minor Addition Floor Area
- 5) Small Additions Floor Area
- 6) Vacant Property (up to .25 Floor Area Ratio)
- 7) Community Priority
- 8) Nonresidential Transfer of Existing Development Rights (TEDR) only to and from within the Airport Development Area
- 9) Economic Development Projects
- 10) Transfers of Existing Development Rights from within the Airport Development Area
- 11) Demolition and Reconstruction of Existing Nonresidential Floor Area on site
- 12) Government Buildings and Regional Utility Projects

B. Environmental Assessment Procedures

Whenever appropriate, the 2011 FEIR will be used to inform decision makers of that development's traffic impact. Because the FEIR is a Program document, it may be used to streamline the environmental process. If a proposed project is consistent with the development density established in a General Plan for which an EIR was certified, additional environmental review is not required, except as necessary to determine whether there are project-specific significant effects which are peculiar to the project or its site. The City can find that these projects are covered by the overriding considerations made by the Council at the time the General Plan was approved. Additional traffic modeling may be needed in cases where a project may generate a project-specific significant traffic impact.

In all cases, discretionary projects will be assessed for potential environmental impacts and processed per City environmental review procedures and the California Environmental Quality Act (CEQA).

Use of the General Plan EIR Traffic Model is anticipated as part of the project level environmental assessment, which will result in faster, more reliable proposal consistency determinations. Using the City's Traffic Model will also avoid developer expenses normally incurred investigating potential traffic impacts, and significantly reduce costs for further environmental review should that be required. Periodic calibration of the model with current traffic counts will also occur in connection with the Adaptive Management Program.

Regular maintenance of the City's Traffic Model will require a revenue stream within the Land Development Team (LDT) process, which will be developed as a part of the LDT fee program. A Traffic Model Review fee will provide the necessary revenue. This fee will be charged to all projects that propose to add new nonresidential floor area or new residential units. The fee will be scaled to the size and level of traffic impact generated by a development. Proposals that require additional environmental review will require additional fees.

Project Level Access Requirements

Each development proposal will also be evaluated for site access design to ensure that a project has an appropriate connection to the transportation system, including traffic flow, bicycle and pedestrian accommodations, and appropriate access to transit. Some projects may require improvements to the project site design or its interface with the public right-of-way in order to accommodate a project's access needs or in rare instances to reduce the project's project-specific traffic impacts to a less than significant level. These types of improvements ensure safe access and minimize a project's disruption to the traffic flow of adjacent street(s). Any required access improvements must be in place prior to permission to occupy an approved development.

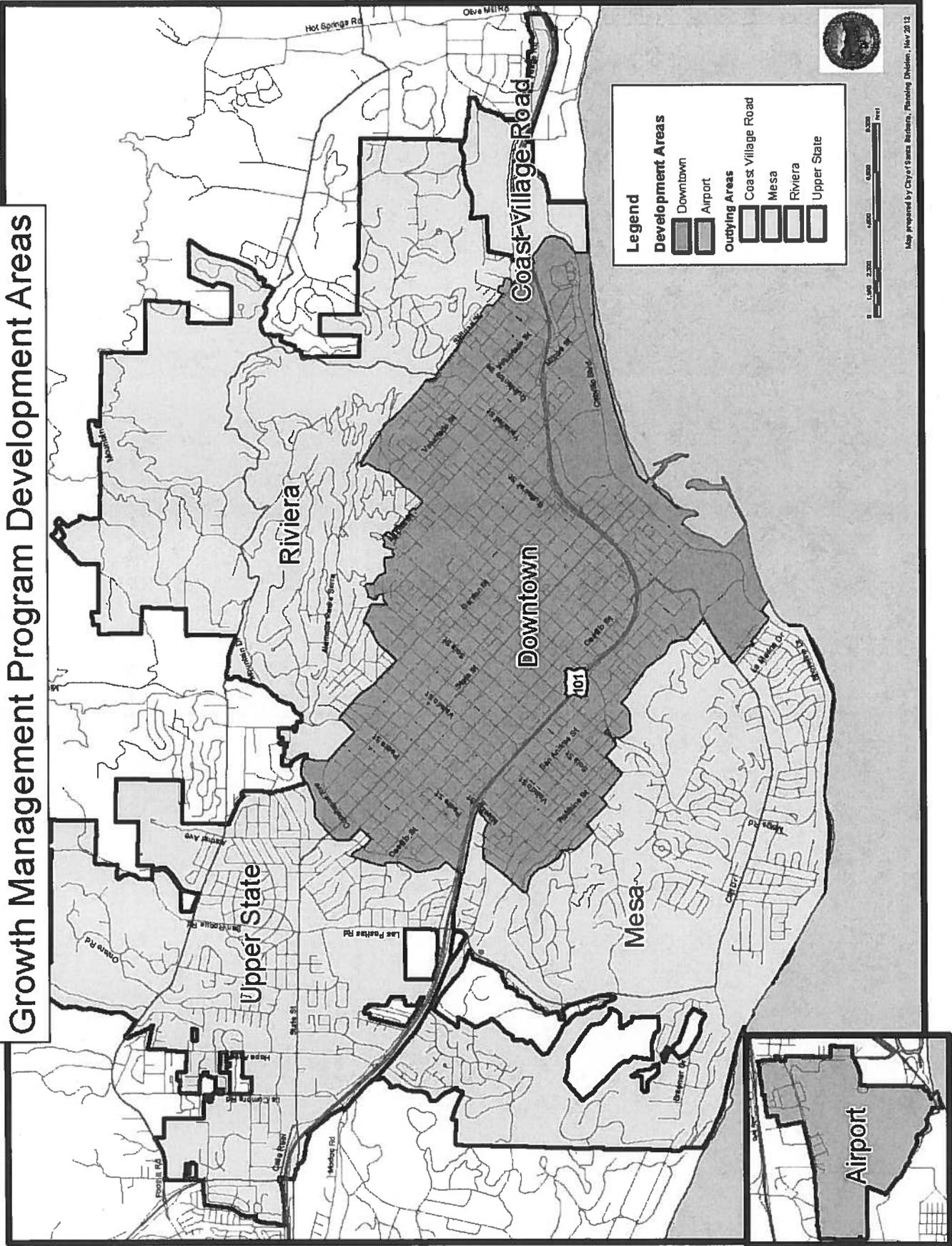
C. Traffic Mitigation Program and Adaptive Management

An important part of the Traffic Growth Management Plan is traffic mitigation. Traffic mitigation measures were specifically identified in the 2011 FEIR and incorporated in to the General Plan. A Traffic Mitigation Program will be developed alongside the Adaptive Management Program. The purpose of the program is: 1) to offset anticipated cumulative traffic impacts and 2) to identify a funding mechanism to pay for the implementation of the mitigation measures.

Because all new developments with additional nonresidential square feet and/or residential units are anticipated to contribute to a significant cumulative traffic impact, all projects will be required to participate in the mitigation program at some level as determined by the City Council with adoption of the program. The program will include a preliminary schedule and prioritization of the implementation of mitigation measures.

This program will be integrated with the Adaptive Management Program so the Planning Commission and City Council can make General Plan course corrections over the 20-year life of the plan. The Adaptive Management Plan will measure the rise of traffic congestion over time. Decision makers will be able to respond to a rise in congestion levels by reprioritizing mitigation measures and/or increasing funding levels to quicken the pace of implementation.

Growth Management Program Development Areas



Map prepared by City of Santa Barbara, Planning Division, May 2012



City of Santa Barbara

Development Plan Ordinance

28.87.300 Development Plan Review and Approval.

A. DEVELOPMENT PLAN.

1. Requirement for Development Plan.

a. Planning Commission Review Required. No application for a land use permit for a nonresidential construction project as defined in Subsection B of this Section will be accepted or approved on or after December 6, 1989 unless the project falls within one or more of the categories outlined in Paragraph 2 of this Subsection and defined in Subsection B of this Section. Before any nonresidential construction project is hereafter constructed in any zone including zones at the Santa Barbara Municipal Airport, a complete development plan for the proposed development shall be submitted to the Planning Commission for review and approval. In addition, before residential floor area in any building or structure located in any zone including zones at the Santa Barbara Municipal Airport is converted to nonresidential use, a complete development plan for the proposed conversion shall be submitted to the Planning Commission for review and approval. Before any transfer of existing development rights may be approved pursuant to Chapter 28.95, development plans for both the sending site(s) and receiving site(s) as defined therein shall be approved by Planning Commission or City Council on appeal pursuant to this section.

Any nonresidential project except for Transfer of Existing Development Rights projects, which involves an addition of greater than three thousand (3,000) and less than ten thousand (10,000) square feet of floor area and which does not require the preparation of an Environmental Impact Report, shall be placed on the Planning Commission Consent Calendar for review and action. The only findings in Paragraph D.1 applicable to these projects are Findings d, e, f, and g. These findings shall be made at the time of Planning Commission approval.

b. Exceptions.

(1) Notwithstanding the provisions of Subparagraph a. of this Subsection, any nonresidential project which involves an addition of one thousand (1,000) square feet or less, and which does not require the preparation of an Environmental Impact Report, shall not be required to receive development plan approval.

(2) Notwithstanding the provisions of Subparagraph a. of this Subsection, any nonresidential construction project which involves the following shall not be required to receive development plan approval from the Planning Commission:

- a. an addition of greater than one thousand (1,000) and less than or equal to three thousand (3,000) square feet of floor area, and;
- b. does not require the preparation of an Environmental Impact Report, and;
- c. does not require some other form of discretionary approval from the Planning Commission under other applicable provisions of this Code.

(3) Development plan approval for projects not requiring Planning Commission approval under subparagraph (2) above shall be required from the Staff Hearing Officer if the application requires discretionary review by the Staff Hearing Officer under another provision of this Code. Otherwise, development plan approval for projects not requiring Planning Commission approval under subparagraph (2) above shall be required at the time of Preliminary Approval from 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. Such projects are subject to the findings in Subsection E of this Section and the provisions of Section 28.87.350.

2. Development Potential.

a. Nonresidential Construction Project. Nonresidential construction projects, as defined in Subsection B of this Section, shall be restricted to no more than three million (3,000,000) square feet until the year 2013. This allowable square footage shall be allocated in the following categories, as defined in Subsection B of this Section.

Category	Square Footage
Approved Projects	900,000 s.f.
Pending Projects	700,000 s.f.
Vacant Property	500,000 s.f.
Minor Additions	Exempt
Small Additions	600,000 s.f.
Community Priorities	300,000 s.f.

Small Additions shall be limited to no more than thirty thousand (30,000) square feet annually. Procedures for allocating square footage under these categories shall be established by resolution of City Council.

Notwithstanding the development restrictions established above, the Planning Commission or City Council on appeal may approve nonresidential development projects determined by the City Council to promote Economic Development. However, the total development square footage of all Economic Development Projects approved prior to January 1, 2013, shall not exceed the total square footage of "Approved" or "Pending" projects which have expired or been abandoned and any unused development square footage remaining from the annual allotment in the "Small Additions" category as of the date the Planning Commission or City Council on appeal approves a particular Economic Development Project. Nothing herein shall be deemed to authorize the approval of nonresidential development totalling in excess of three (3) million square feet above the October 1988 baseline condition until January 1, 2013.

b. Other Nonresidential Development. Other nonresidential development may occur so long as it falls within the following categories, as defined in Subsection B of this Section.

- (1) Government Displacement Project.
- (2) Hotel Room for Room Replacement Project.

B. DEFINITIONS.

1. Approved Projects or Revisions thereto. A project which satisfies any of the following criteria:

a. An application for a land use permit for the project (other than an application for Specific Plan approval) which was approved on or before October 26, 1989 and the approval is still valid.

b. The project pertains to implementation of a Specific Plan which was approved prior to April 16, 1986, and the Plan required the construction of substantial circulation system improvements, and all of those improvements were either:

- (1) Installed prior to the effective date of this ordinance; or
- (2) Subsequently constructed pursuant to an Owner Participation Agreement (OPA) and installed prior to the approval of any development plan(s).

c. The project consists of a revision to a project which qualifies under either Subparagraph a. or b. of this Paragraph B.2, provided the revision will result in no increase in floor area over the approved

Measure E Ordinance (Development Plan Review and Approval)

amount. Once a revision to a project has been approved that reduces the floor area from the originally approved amount, the unused floor area shall not be reallocated to the project as part of a future revision. The unused floor area shall be available for Economic Development Projects.

2. Community Priority. A project which has been designated by the City Council as a community priority necessary to meet a present or projected need directly related to public health, safety or general welfare.

3. Economic Development Project. A project which has been designated by the City Council as a project that is consistent with the City Charter, General Plan and this Title, will enhance the standard of living for City and South Coast residents and will strengthen the local or regional economy by either creating new permanent employment opportunities or enhancing the City's revenue base. An Economic Development Project should also accomplish one or more of the following:

a. Support diversity and balance in the local or regional economy by establishing or expanding businesses or industries in sectors which currently do not exist on the South Coast or are present only in a limited manner; or

b. Provide new recreational, educational, or cultural opportunities for City residents and visitors; or

c. Provide products or services which are currently not available or are in limited supply either locally or regionally.

For purposes of this Section, "standard of living" is defined as wages, employment, environment, resources, public safety, housing, schools, parks and recreation, social and human services, and cultural arts.

4. Floor Area. Floor Area is the area included within the surrounding exterior walls of a building or portion thereof, exclusive of the area occupied by the surrounding walls, vent shafts and courts, or areas or structures used exclusively for parking. Nonhabitable areas used exclusively for regional public utility facilities shall not count toward the calculation of floor area. Any floor area which was constructed, approved, demolished or converted in violation of any provision of this Municipal Code, shall not give rise to any right to rebuild or transfer floor area.

5. Floor Area Ratio. The area expressed as the ratio of floor area to total square footage of a parcel.

6. General Welfare. A community priority project which has a broad public benefit (for example: museums, child care facilities, or community centers) and which is not principally operated for private profit.

7. Government Displacement Project. A project which involves the relocation, replacement, or repair of a structure or use acquired, removed or damaged by direct condemnation or negotiated acquisition by the government (federal, state or local), provided the square footage of a project constructed to replace a building acquired or removed by the government does not exceed the square footage of the building so acquired or removed.

8. Hotel Room for Room Replacement Project. A project which consists of replacement or remodeling of existing hotel rooms at the same location on a room for room basis.

9. Land Use Permit. A governmental decision concerning a permit, license, certificate, or other entitlement for use of land, including a conditional use permit, variance, modification, development plan, specific plan, general plan amendment, coastal development permit, conversion permit, subdivision map (except those creating new single family lots), building permit, grading permit, demolition permit, water service connection or any similar approval or use.

10. Minor Addition. A project which consists of a minor addition defined as:

a. A nonresidential addition of one thousand (1,000) square feet or less of floor area to an existing structure; or

Measure E Ordinance (Development Plan Review and Approval)

- b. Construction of a free standing nonresidential structure of one thousand (1,000) square feet or less of floor area on a parcel containing another structure; or
- c. Conversion of residential floor area to no more than one thousand (1,000) square feet of nonresidential floor area; or
- d. Concurrent construction of nonresidential floor area of one thousand (1,000) square feet or less associated with a new structure constructed under the Approved, Pending, Community Priority or Vacant Property categories.
- e. The one thousand square foot limitation defined in subparagraphs a. through d. above is a cumulative total available per parcel. Once a cumulative total of 1,000 square feet of Minor Additions has been reached, any further additions up to a total of 3,000 square feet (including the Minor Additions) shall be allocated from the Small Addition category.

(1) EXCEPTION: If an existing or proposed building occupies two or more parcels created prior to October 1988, the maximum square footage available for a Minor Addition shall equal the sum of the Minor Additions which could be approved on the individual parcels pursuant to the findings in Subsection E of this Section. For parcels created after October 1988, any remaining Minor Addition allocation shall be divided evenly between all of the parcels created from each parcel eligible for a Minor Addition. The remaining allocation may be divided in a different manner between the parcels created if this division is executed in a legal instrument that is recorded with the County recorder and approved as to form by the City Attorney for each parcel involved at the time of recordation of the Final or Parcel map for the subdivision.

11. Nonresidential Construction Project. A project, or portion thereof, which consists of the construction of or addition of new floor area for other than residential use or the conversion of existing residential floor area to nonresidential use. Repair or replacement of existing floor area is not included in the calculation of new floor area for the purpose of this Section.

12. Pending Project or Revisions thereto. A project which satisfies any of the following criteria:

a. An application for a land use permit for the project was accepted on or before October 26, 1989 and the application: (1) has not been denied by the City; (2) has not been withdrawn by the applicant; (3) has not yet received City approval or (4) has received City approval after October 26, 1989 and that approval is still valid.

b. The project pertains to implementation of a Specific Plan which was approved prior to April 16, 1986 and the project does not qualify under Subparagraph 1.b. of this Subsection.

c. The project consists of a revision to a project which qualifies under either Subparagraph a. or b. of this Paragraph 12, provided the revision will result in no increase in floor area over the amount shown on the pending application. Once a revision to a project has been approved that reduces the floor area from the originally approved amount, the unused floor area shall not be reallocated to the project as part of a future revision. The unused floor area shall be available for Economic Development Projects.

13. Residential Unit. A dwelling unit as defined in Chapter 28.04, but not including any of the following:

a. A hotel or boarding house as defined in Chapter 28.04 which includes a motel, bed and breakfast inn, or similar facility in which the average duration of stay of the residents, during the six month period prior to February 1, 1990, was less than thirty (30) days.

b. A mobile-home or recreation vehicle as defined in Chapter 28.04.

14. Small Addition. A project which consists of a small addition defined as:

a. A nonresidential addition of more than one thousand (1,000) and less than or equal to three thousand (3,000) square feet of floor area to an existing structure; or

Measure E Ordinance (Development Plan Review and Approval)

b. Construction of a free standing nonresidential structure of more than one thousand (1,000) and less than or equal to three thousand (3,000) square feet of floor area on a parcel containing another structure; or

c. Conversion of residential floor area to more than one thousand (1,000) and less than three thousand (3,000) square feet of nonresidential floor area; or

d. Concurrent construction of nonresidential floor area of more than one thousand (1,000) and less than or equal to three thousand (3,000) square feet associated with a new structure constructed under the Approved, Pending, Community Priority or Vacant Property categories.

e. The limitations on floor area defined in subparagraphs a. through d. above establish the cumulative total available per parcel. In any case, the combined total of Minor and Small Additions shall not exceed a cumulative total of three thousand (3,000) square feet.

(1) EXCEPTION: In the case where an existing or proposed building occupies two or more parcels created prior to October 1988, the maximum square footage available for a Small Addition shall equal the sum of the Small Additions which could be approved on the individual parcels pursuant to the findings in Subsection E of this Section. For parcels created after October 1988, any remaining Small Addition allocation shall be divided evenly between all of the parcels created from each parcel eligible for a Small Addition. The remaining allocation may be divided in a different manner between the parcels created if this division is executed in a legal instrument that is recorded with the County recorder and approved as to form by the City Attorney for each parcel involved at the time of recordation of the Final or Parcel map for the subdivision.

f. Procedures for allocating square footage in the Small Addition category shall be established by resolution of the City Council.

15. Vacant Property. A project on a parcel of land which was vacant in October 1988, which consists of construction of a nonresidential structure with a floor area ratio of no more than 0.25.

C. REVIEW BY PRE-APPLICATION REVIEW TEAM. All nonresidential construction projects requiring the preparation of an Environmental Impact Report or involving greater than 3,000 square feet of floor area and subject to this Section shall be reviewed by the Pre-Application Review Team as provided in Chapter 27.07 of this Code.

D. STANDARDS FOR REVIEW. Unless specifically exempt, the following findings shall be made in order to approve a development plan submitted pursuant to this Section.

1. Findings:

a. The proposed development complies with all provisions of this Title; and

b. The proposed development is consistent with the principles of sound community planning; and

c. The proposed development will not have a significant adverse impact upon the neighborhood's aesthetics/character in that the size, bulk or scale of the development will be compatible with the neighborhood; and

d. The proposed development will not have a significant unmitigated adverse impact upon City and South Coast affordable housing stock; and

e. The proposed development will not have a significant unmitigated adverse impact on the City's water resources; and

f. The proposed development will not have a significant unmitigated adverse impact on the City's traffic; and

g. Resources will be available and traffic improvements will be in place at the time of project occupancy.

2. Potential for Overriding Considerations:

a. A finding of significant adverse impact under Subparagraph 1.c above can be overridden if it is determined that the economic, social or public benefits of the proposed development outweigh its significant adverse impacts.

b. A finding of significant adverse impact under Subparagraphs 1.a or 1.b above cannot be overridden.

c. A finding of unmitigated significant adverse impact under Subparagraphs 1.d, 1.e, 1.f, or 1.g above for a Minor Addition Project, Government Displacement Project or that portion of a project which qualifies as a Government Displacement Project, a Community Priority Project, and an Approved Project or Revision thereto can be overridden if it is determined that the benefits of the proposed development outweigh its significant adverse impacts.

3. Exception. Notwithstanding any provision of this Section to the contrary, a development plan shall not be denied based on a finding pursuant to Subparagraph 1.d of this Subsection E if (i) the plan incorporates revisions to a development plan approved by the Planning Commission under this Section prior to February 25, 1988, and (ii) the project shown on the plan will not generate a demand for new housing in excess of the demand generated by the previously approved project.

E. DEVELOPMENT PLAN NOTICE AND HEARING. The Staff Hearing Officer, Planning Commission, or City Council on appeal, shall hold a public hearing prior to taking action on any development plan. Notice of the public hearing shall be given in accordance with Section 28.87.380.

F. SUSPENSIONS AND APPEALS.

1. A decision by the Staff Hearing Officer under this Section may be suspended or appealed according to the provisions of Section 28.05.020.

2. A decision by the Planning Commission under this Section may be appealed according to the provisions of Chapter 1.30. In addition to the procedures specified in Chapter 1.30, notice of the public hearing before the City Council on an appeal from a decision of the Planning Commission regarding a decision of the Staff Hearing Officer shall be provided in the same manner as notice was provided for the hearing before the Planning Commission.

G. FEES. Fees for filing applications and appeals shall be established by resolution of the City Council.

H. EXPIRATION OF DEVELOPMENT PLANS. A development plan approved pursuant to this Section shall expire pursuant to the provisions of Section 28.87.350. For projects with floor area allocated from the Approved, Pending, Economic Development and Small Addition categories, the unused floor area shall be made available for allocation to Economic Development Projects upon expiration of the development plan. For projects with floor area allocated from the Community Priority and Vacant Property categories, the unused floor area shall revert to the category from which the floor area was allocated upon expiration of the development plan.

I. MULTIPLE DEVELOPMENT PLANS. When more than one valid approved development plan exists for a lot, upon issuance of a building or grading permit for any work authorized by one of the approved development plans, all other development plans approved for that lot are deemed abandoned by the property owner. No building or grading permit shall be issued for any work authorized by a development plan following abandonment of that plan. For projects with floor area allocated from the Approved, Pending, Economic Development and Small Addition categories, any unused floor area shall be made available for allocation to Economic Development Projects upon abandonment of a development plan. For projects with floor area allocated from the Community Priority and Vacant Property categories, any unused floor area shall revert to the category from which the floor area was allocated upon abandonment of a development plan. (Ord. 5493, 2009; Ord. 5380, 2005; Ord. 5378, 2005; Ord. 4995, 1996; Ord. 4945, 1996; Ord. 4918, 1995; Ord. 4858, 1994; Ord. 4851, 1994; Ord. 4790, 1992; Ord. 4761,

1992; Ord. 4696, 1991; Ord. 4670, 1991; Ord. 4557, 1988; Ord. 4535, 1985; Ord. 4530, 1988; Ord. 4529, 1988; Ord. 4492, 1988; Ord. 4361, 1986; Ord. 4140, 1982.)

28.87.350 Development Plan Time Limits.

A. **TIME LIMIT.** A development plan approved pursuant to any provision of this Title shall expire four (4) years from the date of its approval, except as otherwise provided herein. No building or grading permit for any work authorized by a development plan shall be issued following expiration of that plan.

B. **CONDITIONS.** Any condition imposed on a development plan may, in the discretion of the body approving the development plan, also constitute (i) a condition to the issuance of and continued validity of any building or grading permit issued to implement that development plan, (ii) a condition to the issuance of the certificate of occupancy with respect to any improvements authorized by the development plan and (iii) if recorded with the County Recorder, to the continued validity of the certificate of occupancy. Violation of any such condition shall be grounds for suspension or revocation of any building or grading permit or certificate of occupancy issued with respect to the development plan.

C. **EXTENSION OF TIME PERIOD.** Upon application of the developer filed prior to the expiration of the development plan, the time at which the development plan expires may be extended by the Community Development Director for one (1) year.

An extension of the expiration date of a development plan shall be granted if it is found that there has been due diligence to implement and complete the proposed project as substantiated by competent evidence in the record.

D. **SUSPENSION OF TIME DURING MORATORIUM.** The period of time specified in Subsection A, including any extension thereof granted pursuant to Subsection C, shall not include any period of time during which a moratorium, imposed after approval of the development plan, is in existence, provided however, that the length of the moratorium does not exceed five (5) years. For purposes of this Subsection, a development moratorium shall include (i) a water or sewer moratorium, (ii) a water and sewer moratorium, and (iii) a building or grading permit moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land other than the City, which thereafter prevents, prohibits, or delays the completion of the development.

Once a moratorium is terminated, the development plan shall be valid for the same period of time as was left to run on the development plan at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the development plan shall be valid for 120 days following the termination of the moratorium.

E. **SUSPENSION OF TIME DURING LITIGATION.** The period of time specified in Subsection A, including any extension thereof granted pursuant to Subsection C, shall not include the period of time during which a lawsuit involving the approval of the development plan or related approvals is or was pending in a court of competent jurisdiction, if the stay of time period is approved by the Planning Commission or City Council pursuant to this Section. After service of the initial petition or complaint in the lawsuit upon the City, the developer may apply to the City for a stay pursuant to the City's adopted procedures. Within forty (40) days after receiving the application, the City shall either stay the time period for up to five years or deny the requested stay. The City Council may, by resolution, establish procedures for reviewing a request for a stay, including, but not limited to, notice and hearing requirements, appeal procedures and other administrative requirements.

F. DEVELOPMENT PLANS ALREADY APPROVED.

1. **Beginning Date – Development Plan Approvals.** For the purpose of calculating the expiration date of development plans approved prior to the adoption of the ordinance approving this Section, the date of approval of such development plans shall be deemed to be the date said ordinance is adopted by the City Council.

Measure E Ordinance (Development Plan Review and Approval)

2. Specific Plan Development Plan Approvals. For the purposes of calculating the expiration date of a Specific Plan project Development Plan approved in accordance with Santa Barbara Municipal Code Chapter 29.30, Development Plan approvals shall be deemed to expire eight (8) years after the date of the final City action approving the project Development Plan and shall include any related project approvals or modifications granted by the City in connection therewith. (Ord. 5380, 2005; Ord. 5308, 2004; Ord. 4361, 1986.)

H:\Group Folders\PLAN\Handouts\Zoning Cabinet\Measure E Ordinance - Development Plan.doc

Revised October 12, 2009

**Prior-Pending and Prior-Approved Nonresidential Projects
December 2012**

Prior-Pending Net New Square Feet									
ADDRESS	APN	APPLICATION #	Airport	Downtown	Riviera	Upper State	Coast Village	Mesa	
602 W ANAPAMU ST	039-151-014	MST90-02931		4,800					
350 CHAPALA ST B	037-450-023	MST2012-00096		460					
101 GARDEN ST - Wright Property	017-630-018	MST2006-00210		45,125					
115 E GUTIERREZ ST	031-271-030	MST2012-00069		598					
1298 LAS POSTAS RD - Elings Park	047-010-034	MST2006-00509						13,821	
101 STATE ST	033-075-006	MST2011-00171		7,501					
1936 STATE ST	025-372-001	MST2011-00167		1,449					
			0	59,933	0	0	0	0	13,821

Prior-Pending Total: **73,754 S.F.**

Prior-Approved Net New Square Feet									
ADDRESS	APN	APPLICATION #	Airport	Downtown	Riviera	Upper State	Coast Village	Mesa	
412 ANACAPA ST	031-271-019	MST2008-00322		3,375					
528 ANACAPA ST	031-201-029	MST2012-00300		2,000					
710 ANACAPA ST	031-081-013	MST2008-00362		40					
517 CHAPALA ST	037-163-007	MST2005-00088		429					
1255 COAST VILLAGE RD	009-291-018	MST2011-00220						2,000	
1298 COAST VILLAGE RD	009-230-043	MST2004-00493						1,778	
4151 FOOTHILL RD	059-160-017	MST2008-00496					56,372		
513 GARDEN ST	031-202-009	MST2010-00168		1,730					
134 HARBOR WAY	033-120-018	MST2007-00356		66					
702 LAGUNA ST	031-092-023	MST2010-00288		2,000					
1900 LASUEN RD	019-170-022	MST2007-00140			6,000				
803 N MILLPAS ST	031-042-028	MST2006-00510		200					
635 OLIVE ST	031-160-012	MST2012-00156		1,997					
540 W PUEBLO ST - Cancer Center	025-090-046	MST2007-00092		25,845					
35 STATE ST - Entrada	033-102-004	MST97-00357		8,508					
125 STATE ST	033-075-012	MST2009-00119		14,691					
518 STATE ST	037-173-046	MST2005-00477		1,487					
3880 STATE ST	057-240-046	MST2006-00185				733			
920 SUMMIT RD - Montecito CC	015-211-009	MST2005-00831						7,771	
101 E VICTORIA ST	029-071-013	MST2006-00758		4,703					
520 E YANONALI	017-113-016	MST2009-00011		180					
			0	67,251	6,000	57,105		11,549	0

Prior-Approved Total: **141,905 S.F.**

Grand Total **215,659 S.F.**

Typical Process for Nonresidential Projects by Size of Project¹

Project Size**	Dev. Plan Required	Design Review	SHO or PC	Notes	Change in Current Process**
1. 1,000 s.f. or less	No	Yes	Only if other land use permit is needed	<ul style="list-style-type: none"> SHO for modifications, mixed use with 4 or less condos. PC if mixed use with 5 or more condos or CUP. 	No
2. 1,000 – 3,000 s.f.	Yes	Yes	SHO	<ul style="list-style-type: none"> Design Review if no other land use permit is needed. SHO if other land use permit is needed. PC if mixed use with 5 or more condos or CUP. 	No
3. 3,000 s.f. or more	Yes	Yes	PC		No
4. Demo/Replace Same or Less	No	Yes	Only if other land use permit is needed	<ul style="list-style-type: none"> SHO for modifications, mixed use with 4 or less condos. PC if mixed use with 5 or more condos or CUP. 	No
5. TEDR 1,000 s.f. or less	No	Yes	Only if other land use permit is needed	<ul style="list-style-type: none"> When not combined with other square footage allocations. Project review is based on total size of the addition. SHO for modifications, mixed use with 4 or less condos. PC if mixed use with 5 or more condos or CUP. 	Yes**
6. TEDRs 1,000 s.f. or greater	Yes	Yes	PC	<ul style="list-style-type: none"> Development Plan required for sending and receiving site. 	No
7. Hotel Room for Room Replacement on site	No	Yes	Only if other land use permit is needed	<ul style="list-style-type: none"> Any hotel expansion in addition to the rooms would require review based on project size. 	No
8. Hotel Room for Room Replacement off site (TEDR)	Yes	Yes	PC	<ul style="list-style-type: none"> Development Plan required for sending and receiving site. 	No
9. Regional Public Utility Facilities Greater than 3,000 s.f.	Yes	Yes	PC	<ul style="list-style-type: none"> For structures 3,000 s.f. or greater. If less than 3,000 s.f., Development Plan could be granted by other decision making body depending if no other land use permits needed (e.g. modifications or CUP) 	Yes**

EXHIBIT E

¹ This is a typical process when adding new nonresidential square feet. Projects located in the Coastal Zone or zones that require a Development Plan by the Planning Commission or Planning Commission for any other reason specified in the Municipal Code could require reviews at the Planning Commission level.

