



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: December 5, 2013
AGENDA DATE: December 12, 2013
PROJECT ADDRESS: 101 South La Cumbre Rd (MST2013-00018)

TO: Planning Commission
FROM: Planning Division, (805) 564-5470, extension 2687
 Danny Kato, Senior Planner
 Suzanne Riegle, Associate Planner

I. BACKGROUND

On October 30, 2013, the Staff Hearing Officer (SHO) considered a proposal for the redevelopment of the site located at 101 South La Cumbre Road. Please refer to SHO Staff Report dated October 24, 2013, 2013 for details (Exhibit A).

The SHO approved a Development Plan and Modifications to allow a building greater than 15-foot tall to be located within the SD-2 zone's required 20-foot front setbacks. The Modification to allow the trash enclosure to encroach into the front setback was not approved. The project was conditionally approved as detailed in SHO Resolution No. 064-13 (Exhibit B). On November 11, 2013, an adjacent property owner appealed the SHO's decision. The appeal letter (Exhibit D) states the adjacent property owner's concerns that include: the authority of the SHO to review the project, the limits for redevelopment, view blockage of Santa Ynez Mountains, view blockage of his business, and the inappropriate use of the California Environmental Quality Act Exemption Section 15183.

II. PROJECT DESCRIPTION

The 25,765 square foot site is developed with a 1,737 square foot gas station (closed since 2005), a surface parking lot, and related structures, all of which are proposed to be demolished. The project site is actively undergoing soil remediation for ground water contamination caused by leaking underground storage tanks. The proposal includes the redevelopment of the site with a one-story, 4,737 square foot commercial building, a 25-space parking lot, soil excavation, installation of remediation equipment and vapor intrusion barriers, and site improvements. The improvements include an outdoor seating area, installation of new landscaping, construction of a trash enclosure, and elimination of driveway aprons along the La Cumbre Road and La Cumbre Lane frontages.

III. REQUIRED APPLICATIONS

The discretionary applications requested for the project are:

1. A Front Setback Modifications to allow a building greater than 15 feet in height to be constructed within the required 20-foot front setback on La Cumbre Road and La Cumbre Lane (SBMC §28.45.008 and §28.92.110);
2. A Front Setback Modification to allow a trash enclosure within the required 10-foot front setback on La Cumbre Lane (SBMC §28.45.008 and §28.92.110); and
3. A Development Plan for the allocation of 3,000 square foot of additional commercial development from the Prior Pending Category (SBMC §28.85).

IV. RECOMMENDATION

Staff recommends that the Planning Commission deny the appeal and uphold the Staff Hearing Officer’s decision to partially approve the subject application, making the findings and subject to the conditions of approval contained in SHO Resolution No. 064-13.

V. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant:	Cearnal Andrulaitis LLP		
Property Owner:	Avenue 26 Holdings LLC		
Site Information			
Parcel Number:	051-022-027	Lot Area:	39,352 sq. ft.
General Plan:	Commercial	Zoning:	C-2/SD-2
Existing Use:	Former Gas Station	Topography:	2% est. avg. slope

B. PROJECT STATISTICS

	Existing	Proposed
Non-Residential building	1,737 sq. ft.	+ 3,000 = 4,737 sq. ft.
Parking	Un-striped parking	19 spaces required 25 spaces provided

VI. DISCUSSION

With the project as approved by the Staff Hearing Officer, described below, the project would meet the ordinance requirements of the C-2/SD-2 Commercial and Special District 2 Zones.

A. FRONT SETBACK MODIFICATION

The appellant states that the approval of the modification creates a negative visual impact for his personal property. The new building will block the view of his building from La Cumbre Road as viewed driving south on La Cumbre Road and from the Five Points Shopping Center.

Although the proposed one-story development is located within the front setback, either a 15 foot tall, one-story building that meets the 10 foot front setback or two-story building that meets the 20 foot front setback (thus not needing any Modifications) could be constructed on the site, and either such buildings could block the view of the appellant's building as much as or more than the proposed building. The SBMC does not protect private views.

The applicant's project includes Front Setback Modification requests to allow a building or structure greater than 15-feet tall to encroach in the required 20-foot SD-2 setback along both frontages, and to allow parking and a trash enclosure to encroach into the required ten-foot SD-2 Setback. As demonstrated on the site plan (Exhibit E), the proposed building steps up in height from 15' to 16'6" to 20'6". At the point where the building is 15 feet tall, it is about 11 feet from the front lot line. At the points where the building is 16' 6" tall, it is about 15 from the front lot line. At the point where the building is 20' 6" tall, it is between 21 and 28 feet from the front lot line.

In addition, there are proposed trellis and awning features along the streetscape that are located within the required 20-foot SD-2 setback. The awnings that are located on the south side of the building will provide shielding from direct sun on the windows. The proposed trellis and awnings, in combination with the varying building height and setback, provide visual relief and separate identities for each prospective tenant space, and is consistent with the goals and policies of the Upper State Street Area Design Guidelines.

An aerial photograph (Exhibit F) demonstrates the pattern of existing development with the West Sub Area. The proposed building will provide greater setbacks than the development on adjacent properties within this block.

The Staff Hearing Officer (SHO) found that the Modification to allow the building to be located within the required 20-foot front setback is necessary to secure an appropriate improvement on the lot, and is consistent with the legislative intent of the SD-2 Zone and the USSADG. The SHO found that the Modification to allow the trash enclosure to be located within the required 10-foot front setback was inconsistent with the Zoning Ordinance and the USSADG.

1. Upper State Street Area Design Guidelines (USSADG).

The Upper State Street Area Design Guidelines (USSADG) were adopted in September 2009, and provide guidance to the discretionary review bodies for the redevelopment or alterations to properties located within the Upper State Study Area. The subject property is located on a corner lot in the area identified as the West Sub-Area. The West Sub-Area is defined as Highway 101 to San Roque Creek just east of Hitchcock Way and includes two regional shopping centers (Five Points Center and La Cumbre Plaza) and generally larger parcels and developments. The Upper State Street Area is distinguished by scenic views of the Santa Ynez mountain range to the north. Generally, the views of the mountains area seen while travelling east along State Street, with the most expansive views along State Street. The goal of the USSADG is to maintain the backdrop of panoramic mountain views that contributes to the area's sense of

place and protect or establish intermittent and recurring mountain view corridors and viewing locations. The USSADG guidelines for mountain views include direction to create or frame view corridors and specific direction for redevelopment of lots with frontage along the north and south sides of State Street with emphasis on protection of views at corners that intersect with State Street.

The existing service building has a maximum height of 21' – 6", and the previous pump island canopy that was demolished in September 2005 had a height of 16' – 3". The canopy was located approximately 4'-4" from the existing front lot line along La Cumbre Road. The previous development blocked views of the Santa Ynez Mountains as demonstrated in the attached photo taken in 1999 (Exhibit G). The proposed building's variation in height would help to frame views of the Santa Ynez Mountains from both La Cumbre Rd and La Cumbre Lane. In addition, the location of the building towards the westerly property line along La Cumbre Road will create a new view corridor from the southerly property line towards the Santa Ynez Mountains to the north. This view corridor did not previously exist, and aligns with the parking area for the adjacent property located at 55 South La Cumbre (O'Reilly Auto Parts).

The USSADG includes criteria that should be evaluated to determine the appropriateness of modifications. The SHO discussed the Front Setback Modification Considerations that are listed in the USSADG as Guideline 4.a-i, on page 2-4 during the October 30, 2013 hearing. Considerations a. and b. are specific to other sub-areas and properties that have frontage along State Street. The SHO found that project met criteria c, d, f, g, h, and i. The SHO addressed the remaining consideration as follows:

- c. The project does not significantly alter the existing mountain views. The proposed building places taller portions of the building further away from the front setback, thereby reducing the impact on mountain views. The minor architectural elements, including the trellis and the awnings, will not block additional mountain views because they are located on the south and westerly side of the building, and are significantly shorter than the proposed building.
- d. The project does not have project specific traffic impacts, and the project's parking needs have been met. The SHO noted the parking provided exceeded the parking requirement for a retail building.
- f. The project will not conflict with existing or future transit lines due to its location at the intersection.
- g. The proposed building setbacks are compatible with the setbacks and character of the existing development in the surrounding sub-area and block. The SHO discussed the particular site constraints, and the proposed layout of the development, including the location of the patio area at the front of the building, and the location of the parking at the rear of the building.

- h. The project is located on a corner lot with the parking at the rear consistent with the guideline for development in the West-Sub Area.
- i. The proposed project includes following work that benefits the community at large: 1) The use of open space within the setback, including large planters and the private patio area at the corner, which functions as an activity node (gathering places with distinctive visual features that create an animated pedestrian experience), although it is on private property. 2) The widening of the existing public right-of-way through dedication. 3) The construction of wider public sidewalks with parkways with new street trees along the La Cumbre Road frontage, consistent with the Pedestrian Master Plan. 4) The construction of a new private sidewalk along the La Cumbre Lane, which will provide the missing sidewalk connection between the public sidewalk on La Cumbre Road and the private sidewalk that begins in front the adjacent property at 3888 La Cumbre Lane and extends along the north side of the private road to the sidewalks within La Cumbre Plaza. 5) The overall reduction in the number of existing curb cuts.

2. Legislative Intent of Special District Two (SD-2) Zone

The SD-2 Special District Zone was adopted for Upper State Street in 1979 to address deteriorating traffic conditions, and the rapid rate of development occurring within the corridor. Since that time, most of the identified traffic improvements have been constructed, the associated traffic mitigation fees repealed, and nonresidential growth measures were adopted to regulate commercial growth.

The SD-2 development standards, such as requirements for the amount of parking, building height limitations, and building setback distances from the street, remain in effect today. In applying these provisions to individual development projects over the last 25 years, modifications to the setback and parking standards have been granted in some instances. The approval of the Front Setback Modification will not result in a project specific traffic impact as further discussed in the traffic analysis contained in Section VI.A. of this staff report.

3. Architectural Board of Review

This project was reviewed by the Architectural Board of Review (ABR) on three occasions: February 4, May 28, and July 8, 2013. The Board assessed the project using the Project Compatibility Analysis described in SBMC § 22.68.045, and found the project aesthetically acceptable. SBMC § 22.68.045 requires the ABR consider the following items:

- a. Compliance with City Charter and Municipal Code and consistency with relevant Design Guidelines.
- b. Compatible with architectural character of the City and the neighborhood.

- c. Appropriateness of size, mass, bulk, height, and scale.
- d. Sensitivity to adjacent Landmarks and other historic resources.
- e. Public views of the ocean and mountains.
- f. Use of open space and landscaping.

The ABR found that, conceptually, the project is compatible with the surrounding neighborhood in size, bulk, and scale, as discussed in the attached meeting minutes (Exhibit H). The Board forwarded the project to the SHO, and found that the proposed Front Setback Modification did not pose an adverse aesthetic impact or consistency issues with the Upper State Street or Urban Design Guidelines.

B. DEVELOPMENT PLAN

Santa Barbara Municipal Code Chapter 28.85, which became effective on April 11, 2013, now regulates the City's Nonresidential Growth Management Program. From January 1, 1990 to April 10, 2013, nonresidential growth was regulated by a program known as Measure E.

Because the subject application was submitted prior to the effective date of the current Growth Management Program, it was allocated 3,000 square feet of additional development potential from Measure E (Prior-Pending Category). The demolition and reconstruction of square footage is not considered new non-residential floor area subject to the growth limitation. The project includes the demolition and reconstruction of the 1,737 square foot service station building plus the 3,000 square feet allocated from the Prior-Pending category for a total of 4,737 square feet.

The project was reviewed by Staff for compliance with the standards for review listed in SBMC § 28.85.040. The City Transportation Division Staff has found the project to be consistent with policies of the City of Santa Barbara Traffic Management Strategy as expressed in the allowances specified in SBMC § 28.85.050 and further discussed in Section VII.A. of this staff report. As previously described in Section VI.A.3. of this staff report, the Architectural Board of Review found that the development would not have a significant adverse impact on the community's aesthetics or character in that the size, bulk, and scale of the development will be compatible with the neighborhood, based on the Project Compatibility Analysis criteria found in SBMC § 22.68.045. With the approval of the requested Setback Modifications, the project can be found to be consistent with the City's Zoning Ordinance requirements and the goals and policies of the City's General Plan.

The appellant's letter included concerns that the redevelopment of site should be limited to 3,000 square feet, and that because the project is greater than 3,000 square feet, it should have been reviewed by the Planning Commission. It is clear from SBMC Chapter 28.85 that the growth limitation does not apply to existing floor area that is demolished and reconstructed.

Under Measure E, projects must be reviewed by the Planning Commission if their net new square footage is greater than 3,000 s.f. The City's Nonresidential Growth

Management Program was reviewed and adopted by City Council earlier this year. The City Council did not intend on altering this requirement. Therefore, Staff believes that the project, including a net increase of 3,000 square feet of non-residential floor area, was appropriately reviewed by the SHO.

VII. ENVIRONMENTAL REVIEW AND USE OF CEQA SECTION 15183:

A. Traffic:

Staff prepared a preliminary traffic analysis to determine whether a potential project-specific impact is anticipated for the 4,737 square foot commercial building (assuming use of the proposed Traffic Management Strategy). The project site is located in the Upper State Street Area of the City of Santa Barbara. "Commercial Services" traffic model rates were used from the City's traffic model. The proposed use would generate 40 a.m. peak hour trips (PHT) and 47 p.m. PHT. Upon distribution of these trips onto the areas street network, no project specific traffic impact is anticipated.

B. Hazardous Materials:

The Santa Barbara County Public Health Department, Environmental Health Service Division (EHS), Leaking Underground Fuel Tank (LUFT) Program has reviewed and approved the following documents prepared by Cardno ERI: *A Feasibility Test Report and Remedial Action Plan (RAP)* dated March 21, 2013 (Exhibit I) and a *Revised Soils Management Plan*, dated August 14, 2013 (Exhibit J), which outlines the procedures for handling potentially contaminated soils that may be encountered during the site redevelopment. The RAP describes that with the redevelopment of the site, the location of the new building will require the destruction of monitoring well (MW) 02, installation of a replacement well outside of the building footprint, installation of a new horizontal well for vapor extraction, and the installation of lateral piping from MW25 to remediation equipment, all of which would be completed prior to site redevelopment.

The *Feasibility Test Report and Remedial Action Plan (RAP)* and the *Revised Soils Management Plan* as approved by EHS includes several measures for addressing hazardous materials remediation. A copy of the EHS approval letters dated June 7 and August 14, 2013 are attached as Exhibit K. Some of the measures outlined in the aforementioned reports for the redevelopment of site include installation of a vapor barrier be incorporated as part of the building foundation, a remediation system to be installed and operated for one to two years, ongoing monitoring of soils samples during excavation, recycling of contaminated soils that exceed standards, soils testing for hydrocarbons and volatile organic compounds to performed by a State of California Laboratory, and that the final report summarizing the field procedures and signed by the State of California professional geologist is to be submitted to ExxonMobil and Santa Barbara County Environmental Health Services. The standard regulatory measures, imposed by both the City of Santa Barbara and the County Health Department's, Leaking Underground Fuel Tank Program will reduce the project specific impacts to a less than significant level.

C. Mountain Views

As described in Section VII.A.1. of this staff report, the proposed one-story building is located on a corner lot in the USSADG West Sub Area. The proposed project includes a one-story building that will not result in a significantly alter or eliminate mountain views.

D. CEQA Environmental Determination:

The scope of work of the project is within the scope of the 2011 General Plan and the Program EIR analysis for the General Plan. The project is consistent with the development density designated and analyzed by the Program EIR, and potential project-specific environmental effects are addressed with existing development standards and regulations. Based on City Staff analysis, no further environmental document is required for this project pursuant to the California Environmental Quality Act (Public Resources Code §21083.3 and Code of Regulations §15183- Projects Consistent with the General Plan) and the CEQA Certificate of Determination (Exhibit H). City Council environmental findings adopted for the 2011 General Plan remain applicable for this project. A decision-maker finding that the project qualifies for the §15183 CEQA determination is required.

VIII. STORM WATER MANAGEMENT PLAN (SWMP) COMPLIANCE

The project proposes to demolish and redevelop the existing site, including some of the remediation equipment. The project has been designed to allow for the relocation of the remediation equipment, which will remain in place for one to two years after the completion of the redevelopment of the project site. The project will require Tier 3 compliance with the City's Storm Water Management Plan to the maximum extent feasible. Santa Barbara County Public Health Department, Environmental Health Service Division (EHS), Leaking Underground Fuel Tank Program raised concerns with increased water infiltration, as it may cause underground water to expand laterally, thus enlarging the existing plume of contamination in the northwest corner of the parcel. EHS Staff advised City Staff that the project could potentially include best management practices including infiltration in the south east corner of the lot. Staff has recommended a condition of approval that a site/landscaping plan demonstrating compliance with Tier 3 SWMP requirements to the maximum extent feasible be approved by both Santa Barbara City Creeks Division and EHS prior to Final approval by the Architectural Board of Review.

IX. FINDINGS AND CONDITIONS

Staff recommends that the Planning Commission make the following findings, and read the Environmental finding into the record:

A. ENVIRONMENTAL REVIEW

The project qualifies for an exemption from further environmental review under CEQA Guidelines Section 15183, based on the City staff analysis and the CEQA certificate of determination on file for this project.

B. MODIFICATION

The Front Setback Modifications for the building to encroach into the front setbacks of La Cumbre Road and La Cumbre Lane are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure an appropriate improvement on the lot. The development is consistent with the legislative intent of the SD-2 Zone Setback, the Upper State Street Design Guidelines, the Urban Design Guidelines, and the pattern of development in the sub-area. In addition, the project will provide a “missing-link” of sidewalk to provide pedestrian access from La Cumbre Road to shopping within La Cumbre Plaza, as described in Section VII.A of the staff report.

The Front Setback Modification for the trash enclosure is inconsistent with the purposes and intent of the Zoning Ordinance and is not necessary to secure an appropriate improvement on the lot. The location of the trash enclosure is inconsistent with the legislative intent of the SD-2 Zone Setback and inconsistent with the Upper State Street Design Guidelines.

C. DEVELOPMENT PLAN

1. With the approval of the requested Modifications, the proposed development complies with all provisions of the Zoning Ordinance, as described in Section VI.A. of the staff report;
2. The proposed development is consistent with the principles of sound community planning, it is consistent with the Nonresidential Growth Management Program, which implements the General Plan; the Upper State Street Design Guidelines, the SD-2 Zone Legislative Intent and the Zoning Ordinance;
3. 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 22.68.045, as discussed in Section VI.A.3. of the staff report; and
4. The proposed development is consistent with the policies of the City of Santa Barbara Traffic Management Strategy (approved by City Resolution No. 13-010 dated as of March 12, 2013) as expressed in the allocation allowances specified in SBMC Section 28.85.050, described in Section VII.A. of the staff report.

Staff recommends that the project approval be made subject to the following conditions (these conditions were imposed by the Staff Hearing Officer in SHO Resolution 064-13):

- A. The following public improvements shall be required to be constructed and shall be shown on the plans prior to permit issuance:
 1. The proposed driveway shall be constructed per the City standard detail for a commercial driveway. The driveway shall be a dust pan style and not an alley entrance style.
 2. A 15' radii curb shall be constructed at the intersection of La Cumbre Road and La Cumbre Lane.

3. A dual directional pedestrian ramp shall be constructed at the intersection of La Cumbre Road and La Cumbre Lane.
 4. A Carrillo style decorative traffic signal pole with teardrop-style luminaire shall be installed adjacent to La Cumbre Road per City Standard Detail L-08. (same style as Calle Real/La Cumbre Rd signal)
 5. A decorative A-10 pole shall be installed adjacent to La Cumbre Lane per City Standard Detail L-08.
- B. A site /landscaping plan, demonstrating compliance with Tier 3 SWMP requirements to the maximum extent feasible, shall be approved by both the Santa Barbara City Creeks Division and the Santa Barbara County Public Health Department, Environmental Health Service Division (EHS) prior to Final Approval of the project by the Architectural Board of Review.
- C. Per SBMC § 22.04.020, during all ground disturbing activities the construction shall comply with all Santa Barbara County Air Pollution Control District's dust control measures identified as Construction Impact Mitigation.
- D. The project must comply with all Hazardous Materials measures that are outlined in the *Feasibility Test Report and Remedial Action Plan* (RAP) dated March 21, 2013 and the *Revised Soils Management Plan*, dated August 14, 2013 as approved and conditioned by the Santa Barbara County Public Health Department, Environmental Health Service Division (EHS), Leaking Underground Fuel Tank (LUFT) Program approval letters dated June 7 and August 14, 2013. Hazardous Materials measures specified in the referenced reports include, but are not limited to: the installation of an engineered vapor barrier to be incorporated into the building's foundation, soils management, the demolition, relocation and reconstruction of monitoring wells, the installation and operation of remediation equipment and monitoring wells until the remediation case is closed.

Exhibits:

- A. Staff Hearing Officer Staff Report, dated October 24, 2013, without attachments
- B. Staff Hearing Officer Resolution No. 064-13
- C. SHO Minutes, dated October 30, 2013
- D. Appellant (Kenneth Levin) letter, dated November 8, 2013.
- E. Site Plan and elevations (under separate cover)
- F. Aerial Photograph of Neighborhood
- G. 1999 Photograph of Service Station Development
- H. ABR Minutes
- I. *A Feasibility Test Report and Remedial Action Plan* (RAP) dated March 21, 2013 (available on the City's Website)
- J. *Revised Soils Management Plan*, dated August 14, 2013 (available on the City's Website)
- K. The Santa Barbara County Public Health Department, Environmental Health Service Division (EHS), Leaking Underground Fuel Tank (LUFT) Program approval letters dated June 7 and August 14, 2013
- L. CEQA Certificate of Determination



City of Santa Barbara California

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: October 24, 2013
AGENDA DATE: October 30, 2013
PROJECT ADDRESS: 101 S. La Cumbre Rd (formerly known as 100 S. La Cumbre Rd)
(MST2013-00318)
TO: Susan Reardon, Senior Planner, Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
Danny Kato, Senior Planner
Suzanne Riegler, Assistant Planner

I. PROJECT DESCRIPTION

The 25,765 square foot site is developed with a 1,737 square foot gas station (closed since 2005), a surface parking lot, and related structures, all of which are proposed to be demolished. The project site is actively undergoing soil remediation for ground water contamination caused by Leaking Underground Storage Tanks. The proposal includes the redevelopment of the site with a one-story, 4,737 square foot commercial building, a 25-space parking lot, soil excavation, installation of remediation equipment and vapor intrusion barriers, and site improvements. The improvements include an outdoor seating area, installation of new landscaping, construction of a trash enclosure, and elimination of driveway aprons along the La Cumbre Road and Lane frontages. The discretionary applications requested for the project are:

1. A Front Setback Modification to allow a building greater than 15 feet in height to be constructed within the required 20-foot front setback on La Cumbre Road (SBMC §28.45.008 and §28.92.110);
2. A Front Setback Modification to allow a trash enclosure and bicycle parking within the required 10-foot front setback on La Cumbre Lane (SBMC §28.45.008 and §28.92.110); and
3. A Development Plan for 3,000 square foot of additional commercial development (SBMC §28.85).

Date Application Accepted: 9/11/13

Date Action Required: 12/10/13

II. RECOMMENDATION

With the approval of the requested Front Setback Modifications and the Development Plan as proposed, the project would conform to the City's Zoning and Building Ordinances and policies of the General Plan. Therefore, Staff recommends that the Staff Hearing Officer

EXHIBIT A

approve the project, making the findings and subject to the conditions of approval outlined in Section VI of this report.

III. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant:	Cearnal Andrulaitis	Property Owner:	Avenue 26 Holdings LLC
Parcel Number:	051-022-027	Lot Area:	39,352 sq. ft.
General Plan:	Commercial	Zoning:	C-2/SD-2
Existing Use:	Gas Station (Closed)	Topography:	2% avg. slope

B. PROJECT STATISTICS

	Existing	Proposed
Non-Residential building	1,737 sq. ft.	+ 3,000 = 4,737 sq. ft.
Parking		19 spaces required 25 spaces provided

C. PROPOSED LOT AREA COVERAGE

Building: 5,018 sf 19.5% Hardscape: 16,881 sf 65.5% Landscape: 3,865 sf 15%

IV. DISCUSSION

The proposed project involves the demolition of the existing improvements for the former gas station, including a 1,737 square foot non-residential building and some of the remediation equipment, and the redevelopment of the parcel with a 4,737 square foot, non-residential building, a 25 space surface parking lot, trash enclosure, and associated site improvements. The applicant is proposing to provide six parking spaces in excess of the required parking, to allow additional flexibility of future tenant uses, such as a possibility of a small café or restaurant. The project was reviewed by Transportation staff, who requested public sidewalk improvements consistent with the City's Pedestrian Master Plan; therefore, public sidewalk improvements are being proposed along the La Cumbre Road frontage. Private pedestrian improvements are also proposed along the private road frontage at La Cumbre Lane. Additional public improvements are required to be constructed at the time of the redevelopment of this site, and must be noted on the plans prior to permit issuance (included as a condition of approval) The applicant must submit for a separate Public Works Permit for any construction that is located within the public right-of-way. Staff has added a condition of approval requiring that the public improvements are required to be constructed as a part of the redevelopment of the site and that said improvements shall be shown on the plans prior to a permit being issued.

A. FRONT SETBACK MODIFICATIONS

The project site is located on a corner lot at the northeast corner of the La Cumbre Road/La Cumbre Lane intersection. The proposed 21-foot tall, one-story building encroaches into both the primary front setback along La Cumbre Road and the

secondary front setback along La Cumbre Lane. Front Setback Modifications are request to allow the building and parking to encroach up to 17' - 6" into the required 20-foot front setbacks along both frontages. The project proposes to locate all enclosed floor area a minimum of ten-feet from the front property line along both frontages. A trellis and awning structures are proposed to be located in close proximity to the property line along both frontages.

An aerial and photograph (Exhibit C) demonstrates that the pattern of existing development along La Cumbre Road, La Cumbre Lane, and along the 3800 and 3900 Blocks of State Street. The aerial photography, as well as the photographs submitted by the applicant, demonstrates that many of the existing non-residential buildings are built with minimal setbacks, if any. The proposed building square footage will observe a greater setback from the street than most of the surrounding non-residential uses.

The proposed building is located towards the front of the lot, with the parking spaces at the rear of the businesses, consistent the Urban Design Guidelines and the Upper State Street Design Guidelines, as well as the pattern of development within in the sub-area defined by the Upper State Street Study. The trellis and awning structures provide shielding from direct sun on the windows, and enhance the streetscape by providing an identity to future business entrances, also consistent with the goals of the Upper State Street Study. In addition, the proposed awnings are consistent with the legislative intent of the SD-2 Zone, as the improvement does not increase the existing square footage, density of the development, or traffic. Staff supports the requested Front Setback Modification as designed, with the enclosed square footage observing a minimum setback of 10-feet from the front property lines, because the development is consistent with the legislative intent of the SD-2 Zone Setback, the Upper State Street Design Guidelines, the Urban Design Guidelines, and the pattern of development in the sub-area. In addition, the project will provide a "missing-link" of sidewalk provide pedestrian access from La Cumbre Road to shopping within La Cumbre Plaza

B. DESIGN REVIEW:

This project was reviewed by the Architectural Board of Review on three occasions: February 4, May 28, and July 8, 2013 (meeting minutes attached as Exhibit D). The City's Architectural Board of Review has found that, conceptually, the project is compatible with the surrounding neighborhood in size, bulk and scale, as discussed in the attached meeting minutes. The Board forwarded the project to the Staff Hearing Officer, and found that the proposed Front Setback Modification did not pose an adverse aesthetic impact or consistency issues with the Upper State Street or Urban Design Guidelines.

C. DEVELOPMENT PLAN APPROVAL

Santa Barbara Municipal Code § 28.85, which became effective on April 11, 2013, regulates the City's Nonresidential Growth Management Program. Pursuant to SBMC §28.85.020.N, the subject application was submitted prior to the effective date, and was allocated 3,000 square feet of additional development potential from the

previous allocation (Measure E). The project was reviewed by Staff for compliance with the standards for review listed in SBMC §28.85.040, and was found to be consistent with the City's Zoning Ordinance requirements and the goals and policies of the City's General Plan. In addition, the City Transportation Division Staff has found the project is consistent with policies of the City of Santa Barbara Traffic Management Strategy as expressed in the allowances specified in SBMC § 28.85.050.

D. ENVIRONMENTAL REVIEW:

Hazardous Materials: The Santa Barbara County Public Health Department, Environmental Health Service Division (EHS), Leaking Underground Fuel Tank (LUFT) Program has reviewed and approved the following documents prepared by Cardno ERI: A *Feasibility Test Report and Remedial Action Plan (RAP)* dated March 21, 2013 (Exhibit E) and a *Revised Soils Management Plan*, dated August 14, 2013 (Exhibit F), which outlines the procedures for handling potentially contaminated soils that may be encountered during the site redevelopment. The RAP describes that with the redevelopment of the site, the location of the new building will require the destruction of monitoring well (MW) 02, installation of a replacement well outside of the building footprint, installation of a new horizontal well for vapor extraction, and the installation of lateral piping from MW25 to remediation equipment, all of which would be completed prior to site redevelopment.

The *Feasibility Test Report and Remedial Action Plan (RAP)* and the *Revised Soils Management Plan* as approved by EHS includes several measures for addressing hazardous materials remediation. A copy of the EHS approval letters dated June 7 and August 14, 2013 are attached as Exhibit G. Some of the measures outlined in the aforementioned reports for the redevelopment of site include installation of a vapor barrier be incorporated as part of the building foundation, a remediation system to be installed and operated for one to two years, ongoing monitoring of soils samples during excavation, recycling of contaminated soils that exceed standards, soils testing for hydrocarbons and volatile organic compounds to performed by a State of California Laboratory, and that the final report summarizing the field procedures and signed by the State of California professional geologist is to be submitted to ExxonMobil and Santa Barbara County Environmental Health Services.

Traffic: Staff prepared a preliminary traffic analysis to determine whether a potential project specific impact is anticipated for a proposed project associated with an approximate 4,800 square foot commercial building (assuming use of the proposed Traffic Management Strategy). The project site is located in the Upper State Street Area of the City of Santa Barbara. "Commercial Services" traffic model rates were used from the City's traffic model. The proposed use would generate 40 a.m. peak hour trips (PHT) and 47 p.m. PHT. Upon distribution of these trips onto the areas street network, no project specific traffic impact was found.

CEQA Environmental Determination: The scope of work of the project is within the scope of the 2011 General Plan and the Program EIR analysis for the General Plan. The

project is consistent with the development density designated and analyzed by the Program EIR, and potential project-specific environmental effects are addressed with existing development standards and regulations. Based on City Staff analysis, no further environmental document is required for this project pursuant to the California Environmental Quality Act (Public Resources Code §21083.3 and Code of Regulations §15183- Projects Consistent with the General Plan) and the CEQA Certificate of Determination (Exhibit H). City Council environmental findings adopted for the 2011 General Plan remain applicable for this project. A decision-maker finding that the project qualifies for the §15183 CEQA determination is required.

E. STORM WATER MANAGEMENT PLAN (SWMP) COMPLIANCE

The project proposes to demolish and redevelop the existing site, including ongoing some of the remediation equipment. The project has been designed to allow for the relocation of the remediation equipment, which will remain in place for one to two years after the completion of the redevelopment of the project site. The project will require Tier 3 compliance with the City's Storm Water Management Plan to the maximum extent feasible. Santa Barbara County Public Health Department, Environmental Health Service Division (EHS), Leaking Underground Fuel Tank (LUFT) Program has raised concerns with increased water infiltration, as it may cause underground water to expand laterally, thus enlarging the existing plume of contamination in the northwest corner of the parcel. EHS Staff has advised City Staff that the project could potentially include best management practices including infiltration in the south east corner of the lot. Staff has recommended a condition of approval that the a site /landscaping plan demonstrating compliance with Tier 3 SWMP requirements to the maximum extent feasible be approved by both Santa Barbara City Creeks Division and the Santa Barbara County Public Health Department, Environmental Health Service Division (EHS) prior to Final approval by the Architectural Board of Review.

V. FINDINGS AND CONDITIONS

Staff recommends that the Staff Hearing Officer read into the record and make the following findings:

- A. The Staff Hearing Officer finds that the project qualifies for an exemption from further environmental review under CEQA Guidelines Section 15183, based on the City staff analysis and the CEQA certificate of determination on file for this project.
- B. The Staff Hearing Officer finds that the Front Setback Modifications are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure an appropriate improvement on the lot. The development is consistent with the legislative intent of the SD-2 Zone Setback, the Upper State Street Design Guidelines, the Urban Design Guidelines, and the pattern of development in the sub-area. In addition, the project will provide a "missing-link" of sidewalk provide pedestrian access from La Cumbre Road to shopping within La Cumbre Plaza.

- C. The Staff Hearing Officer makes the following Development Plan Approval findings:
1. With the approval of the requested Modifications, the proposed development complies with all provisions of the Zoning Ordinance;
 2. The proposed development is consistent with the principles of sound community planning;
 3. 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 22.68.045; and
 4. The proposed development is consistent with the policies of the City of Santa Barbara Traffic Management Strategy (as approved by City Resolution No. 13-010 dated as of March 12, 2013) as expressed in the allocation allowances specified in SBMC Section 28.85.050.

Staff recommends that the project approval be made subject to the following conditions:

- A. The following public improvements shall be required to be constructed and shall be shown on the plans prior to permit issuance:
1. The proposed driveway shall be constructed per the City standard detail for a commercial driveway. The driveway shall be a dust pan style and not an alley entrance style.
 2. A 15' radii curb shall be constructed at the intersection of La Cumbre Road and La Cumbre Lane.
 3. A dual directional pedestrian ramp shall be constructed at the intersection of La Cumbre Road and La Cumbre Lane.
 4. A Carrillo style decorative traffic signal pole with teardrop-style luminaire shall be installed adjacent to La Cumbre Road per City Standard Detail L-08. (same style as Calle Real/La Cumbre Rd signal)
 5. A decorative A-10 pole shall be installed adjacent to La Cumbre Lane per City Standard Detail L-08.
- B. A site /landscaping plan, demonstrating compliance with Tier 3 SWMP requirements to the maximum extent feasible, shall be approved by both Santa Barbara City Creeks Division and the Santa Barbara County Public Health Department, Environmental Health Service Division (EHS) prior to Final approval of the project by the Architectural Board of Review.
- C. Per SBMC § 22.04.020, during all ground disturbing activities the construction shall comply with all Santa Barbara County Air Pollution Control District's dust control measures identified as Construction Impact Mitigation.
- D. The project must comply with all Hazardous Materials measures that are outlined in the *Feasibility Test Report and Remedial Action Plan (RAP)* dated March 21, 2013 and the *Revised Soils Management Plan*, dated August 14, 2013 as approved and conditioned by the Santa Barbara County Public Health Department, Environmental Health Service

Division (EHS), Leaking Underground Fuel Tank (LUFT) Program approval letters dated June 7 and August 14, 2013. Hazardous Materials measures specified in the referenced reports include, but are not limited to: the installation of an engineered vapor barrier to be incorporated into the building's foundation, soils management, the demolition, relocation and reconstruction of monitoring wells, the installation and operation of remediation equipment and monitoring wells until the remediation case is closed.

Exhibits:

- A. Site Plan (under separate cover)
- B. Applicant's letter, dated September 5, 2013
- C. Aerial Photograph of Vicinity
- D. ABR Minutes
- E. *A Feasibility Test Report and Remedial Action Plan (RAP)* dated March 21, 2013
- F. *Revised Soils Management Plan*, dated August 14, 2013
- G. The Santa Barbara County Public Health Department, Environmental Health Service Division (EHS), Leaking Underground Fuel Tank (LUFT) Program approval letters dated June 7 and August 14, 2013
- H. CEQA Certificate of Determination

Contact/Case Planner: Suzanne Riegle, Assistant Planner
(SRiegle@SantaBarbaraCA.gov)
630 Garden Street, Santa Barbara, CA 93101
Phone: (805) 564-5470 x 2687



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 064-13
101 S. LA CUMBRE ROAD
MODIFICATIONS AND DEVELOPMENT PLAN
OCTOBER 30, 2013

APPLICATION OF CEARNAL ANDRULAITIS, LLP ARCHITECT FOR AVENUE 26 HOLDINGS, LLC, 101 S. LA CUMBRE ROAD (FORMERLY KNOWN AS 100 S. LA CUMBRE ROAD), APN 051-022-027, C-2 COMMERCIAL AND SD-2 SPECIAL DESIGN DISTRICT 2 ZONES, GENERAL PLAN DESIGNATION: COMMERCIAL/ MEDIUM HIGH RESIDENTIAL (15-27 DU/ACRE) (MST2013-00018)

The 25,765 square foot site is developed with a 1,737 square foot gas station (closed since 2005), a surface parking lot, and related structures, all of which are proposed to be demolished. The project site is actively undergoing soil remediation for ground water contamination caused by Leaking Underground Storage Tanks. The proposal includes the redevelopment of the site with a one-story, 4,737 square foot commercial building, a 27-space parking lot, soil excavation, installation of remediation equipment and vapor intrusion barriers, and site improvements. The improvements include an outdoor seating area, installation of new landscaping, construction of a trash enclosure, and elimination of driveway aprons along the La Cumbre Road and Lane frontages. The discretionary applications requested for the project are:

1. A Front Setback Modification to allow a building greater than 15 feet in height to be constructed within the required 20-foot front setback on La Cumbre Road (SBMC §28.45.008 and §28.92.110);
2. A Front Setback Modification to allow a trash enclosure within the required 10-foot front setback on La Cumbre Lane (SBMC §28.45.008 and §28.92.110); and
3. A Development Plan for 3,000 square foot of additional commercial development (SBMC §28.85).

The project activity is within the scope of the 2011 General Plan and the Program EIR analysis for the General Plan. No further environmental document is required for this project pursuant to the California Environmental Quality Act (Public Resources Code §21083.3 and Code of Regulations §15183). City Council environmental findings adopted for the 2011 General Plan remain applicable for this project.

WHEREAS, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, no one appeared to speak in favor of the application, and one person appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, October 24, 2013.
2. Site Plans
3. Correspondence received in opposition to the project:
 - a. Paula Westbury, Santa Barbara, CA.
 - b. Ken Levin, Novato, CA.

EXHIBIT B

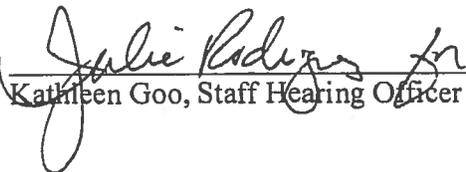
NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer:

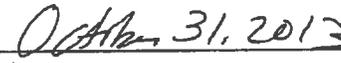
- I.** Approved the subject application making the following findings and determinations:
- A.** The Staff Hearing Officer finds that the project qualifies for an exemption from further environmental review under CEQA Guidelines Section 15183, based on the City staff analysis and the CEQA certificate of determination on file for this project.
 - B.** The Staff Hearing Officer finds that the Front Setback Modification for the building is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The development is consistent with the legislative intent of the SD-2 Zone Setback, the Upper State Street Design Guidelines, and the pattern of development in the sub-area. In addition, the project will provide a "missing-link" of sidewalk to provide pedestrian access from La Cumbre Road to shopping within La Cumbre Plaza.
 - C.** The Staff Hearing Officer finds that the Front Setback Modification for the trash enclosure is inconsistent with the purposes and intent of the Zoning Ordinance and is not necessary to secure an appropriate improvement on the lot. The location of the trash enclosure is inconsistent with the legislative intent of the SD-2 Zone Setback and inconsistent with the Upper State Street Design Guidelines.
 - D.** The Staff Hearing Officer makes the following Development Plan Approval findings:
 - 1. With the approval of the requested Modifications, the proposed development complies with all provisions of the Zoning Ordinance;
 - 2. The proposed development is consistent with the principles of sound community planning;
 - 3. 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 22.68.045; and
 - 4. The proposed development is consistent with the policies of the City of Santa Barbara Traffic Management Strategy (as approved by City Resolution No. 13-010 dated as of March 12, 2013) as expressed in the allocation allowances specified in SBMC Section 28.85.050.
- II.** Said approval is subject to the following conditions:
- A.** The following public improvements shall be required to be constructed and shall be shown on the plans prior to permit issuance:
 - 1) The proposed driveway shall be constructed per the City standard detail for a commercial driveway. The driveway shall be a dust pan style and not an alley entrance style.
 - 2) A 15' radii curb shall be constructed at the intersection of La Cumbre Road and La Cumbre Lane.
 - 3) A dual directional pedestrian ramp shall be constructed at the intersection of La Cumbre Road and La Cumbre Lane.

- 4) A Carrillo style decorative traffic signal pole with teardrop-style luminaire shall be installed adjacent to La Cumbre Road per City Standard Detail L-08. (same style as Calle Real/La Cumbre Rd signal)
 - 5) A decorative A-10 pole shall be installed adjacent to La Cumbre Lane per City Standard Detail L-08.
- B.** A site /landscaping plan, demonstrating compliance with Tier 3 SWMP requirements to the maximum extent feasible, shall be approved by both Santa Barbara City Creeks Division and the Santa Barbara County Public Health Department, Environmental Health Service Division (EHS) prior to Final approval of the project by the Architectural Board of Review.
- C.** Per SBMC § 22.04.020, during all ground disturbing activities the construction shall comply with all Santa Barbara County Air Pollution Control District's dust control measures identified as Construction Impact Mitigation.
- D.** The project must comply with all Hazardous Materials measures that are outlined in the *Feasibility Test Report and Remedial Action Plan* (RAP) dated March 21, 2013 and the *Revised Soils Management Plan*, dated August 14, 2013 as approved and conditioned by the Santa Barbara County Public Health Department, Environmental Health Service Division (EHS), Leaking Underground Fuel Tank (LUFT) Program approval letters dated June 7 and August 14, 2013. Hazardous Materials measures specified in the referenced reports include, but are not limited to: the installation of an engineered vapor barrier to be incorporated into the building's foundation, soils management, the demolition, relocation and reconstruction of monitoring wells, the installation and operation of remediation equipment and monitoring wells until the remediation case is closed.

This motion was passed and adopted on the 30th day of October, 2013 by the Staff Hearing Officer of the City of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Staff Hearing Officer at its meeting of the above date.


Kathleen Goo, Staff Hearing Officer Secretary


Date

PLEASE BE ADVISED:

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If the scope of work exceeds the extent described in the Modification request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
4. Subsequent to the outcome of any appeal action your next administrative step should be to apply for Architectural Board of Review (ABR) approval and then a building permit.
5. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
6. **NOTICE OF APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Performance Standard Permit or Modifications shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
 - a. A building permit for the construction authorized by the approval is issued within twenty four months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;
 - b. The approved use has been discontinued, abandoned or unused for a period of six months following the earlier of:
 - i. an Issuance of a Certificate of Occupancy for the use, or;
 - ii. one (1) year from granting the approval.

II. PROJECTS:

ACTUAL TIME: 9:03 A.M.

A. APPLICATION OF CEARNAL ANDRULAITIS, LLP ARCHITECT FOR AVENUE 26 HOLDINGS, LLC, 101 S. LA CUMBRE ROAD (FORMERLY KNOWN AS 100 S. LA CUMBRE ROAD), APN 051-022-027, C-2 COMMERCIAL AND SD-2 SPECIAL DESIGN DISTRICT 2 ZONES, GENERAL PLAN DESIGNATION: COMMERCIAL/ MEDIUM HIGH RESIDENTIAL (15-27 DU/ACRE) (MST2013-00018)

The 25,765 square foot site is developed with a 1,737 square foot gas station (closed since 2005), a surface parking lot, and related structures, all of which are proposed to be demolished. The project site is actively undergoing soil remediation for ground water contamination caused by Leaking Underground Storage Tanks. The proposal includes the redevelopment of the site with a one-story, 4,737 square foot commercial building, a 27-space parking lot, soil excavation, installation of remediation equipment and vapor intrusion barriers, and site improvements. The improvements include an outdoor seating area, installation of new landscaping, construction of a trash enclosure, and elimination of driveway aprons along the La Cumbre Road and Lane frontages. The discretionary applications requested for the project are:

1. A Front Setback Modification to allow a building greater than 15 feet in height to be constructed within the required 20-foot front setback on La Cumbre Road (SBMC §28.45.008 and §28.92.110);
2. A Front Setback Modification to allow a trash enclosure and bicycle parking within the required 10-foot front setback on La Cumbre Lane (SBMC §28.45.008 and §28.92.110); and
3. A Development Plan for 3,000 square foot of additional commercial development (SBMC §28.85).

The project activity is within the scope of the 2011 General Plan and the Program EIR analysis for the General Plan. No further environmental document is required for this project pursuant to the California Environmental Quality Act (Public Resources Code §21083.3 and Code of Regulations §15183). City Council environmental findings adopted for the 2011 General Plan remain applicable for this project.

Present: Rogelio Solis, Architect.

Ms. Reardon announced that she read the Staff Report for the proposed project and also visited the site and surrounding neighborhood.

Suzanne Riegle, Assistant Planner, gave the Staff presentation and recommendation.

Public comment opened at 9:21 a.m.

- 1) Ken Levin (owner of adjacent property-submitted letter), supports site redevelopment in general, but in opposition to the requested modifications; questioned the Staff Hearing Officers authority to review the project; questioned the necessity of the requested modifications and adherence to Municipal Code and Upper State Street Design Guideline requirements, and expressed concerns regarding the direct and indirect visibility impacts and possible reduction in property value to the adjacent property he owns and his tenant occupies.

Letters of concern from Ken Levin and Paula Westbury were received and acknowledged.

Public comment closed at 9:32 a.m.

ACTION: **Assigned Resolution No. 064-13**
Approved the Front Setback Modification for the building and Development Plan and denied the Front Setback Modification for the trash enclosure making the findings as outlined in the Staff Report dated October 24, 2013, and as revised at the hearing.

Said approval is subject to the conditions as outlined in the Staff Report dated October 24, 2013.

The ten calendar day appeal period to the Planning Commission was announced and is subject to suspension for review by the Planning Commission.

ACTUAL TIME: 9:55 A.M.

B. APPLICATION OF RODERICK BRITTON ARCHITECT FOR PETER AND CHRISTINE FELDMAN, 1250 DOVER LANE, APN: 019-220-013, E-1 ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL 3 DU/ACRE (MST2013-00383)

The 9,994 square foot site is currently developed with a 2,560 square foot two-story residence with an attached 378 square foot two-car garage. The proposed project involves the demolition and reconstruction of a 378 square foot, two-car garage using the existing foundation. The discretionary applications for the project are Front and Interior Setback Modifications to allow the non-conforming garage to be reconstructed in the same footprint with an increase in the roof pitch within the required 30-foot front and 10-foot interior setbacks (SBMC § 28.15.060., SBMC § 28.87.030.D., and SBMC § 28.92.110).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301 and 15305 (Existing Facilities and Minor Alteration to Land Use Limitations).

Present: Roderick Britton, Architect.

Kenneth Levin, Manager
KGS Santa Barbara, LLC
5 Santa Yorma Ct.
Novato, Ca 94945
415-493-0319
klevin1011@comcast.net

RECEIVED
NOV 11 2013

CITY OF SANTA BARBARA
PLANNING DIVISION

VIA HAND DELIVERY ON NOVEMBER 11, 2013

November 8, 2013

City of Santa Barbara
Planning Commission
630 Garden Street
Santa Barbara, CA 93101

Re: Appeal Of Staff Hearing Officer Decision In The Application Of Cearnal Andrulaitis, LLP Architect For Avenue 26 Holdings, LLC, 101 S. La Cumbre Road (Formerly Known As 100 S. La Cumbre Road), APN 051-022-027, C-2 Commercial And SD-2 Special Design District 2 Zones, General Plan Designation: Commercial/Medium High Residential (15-27 DU/Acre)(MST 2013-00018)

Dear Planning Commission:

I am writing in regards to the above-referenced proposed construction at 101 S. La Cumbre Road (the "Property"). I am the owner of the adjacent property, and therefore within 300 feet of the proposed construction. I do not oppose the redevelopment of the Property, and in fact welcome it. However, I oppose certain aspects of the proposed development (the "Project") and the process by which Cearnal Andrulaitis, LLP ("Applicant") obtained approval of the Project.

The approval of the Project appears to have violated numerous procedural and substantive provisions of the Santa Barbara Municipal Code ("SBMC") and Upper State Street Area Design Guidelines ("USSADG").¹ The bases of this appeal include, but are not limited to, the following: (1) the application was reviewed by a Staff Hearing Officer ("Hearing Officer"), but should have been reviewed by the Planning Commission; (2) the Project qualified for only 3,000 square feet of construction, but the Project is for 4,737 square feet; (3) in violation of the SBMC and USSADG, the Project will create negative visual impacts by blocking the public's

¹ A written notice of appeal and appropriate appeal fee must be filed with the City Clerk within ten days after a decision is voiced. SBMC § 1.30.050(A). On October 30, 2013, Hearing Officer Susan Reardon approved the Application. Ten days from October 30, 2013 is Sunday, November 10, 2013. See SBMC § 1.04.060 (time is computed by excluding the first day and including the last, unless the last day is a holiday in which case it is also excluded). Therefore, the deadline for filing this appeal is Monday, November 11, 2013. In accordance with the foregoing, I am sending this appeal to be hand-delivered to the City Clerk with the \$465 appeal fee on Monday, November 11, 2013.

EXHIBIT D

mountain views; (4) the requested setback modifications will create negative visual impacts for my property by blocking the public's view of my building; (5) the USSADG setback modification criteria are not met for this project; and (6) the CEQA piggybacking exemption is inappropriate because this project involves site-specific impacts. Each of these contentions is explained herein in further detail.

I. Discussion

The grounds for this appeal include but are not limited to the procedural and substantive issues explained below.

A. The Application Was Reviewed By The Hearing Officer, But Should Have Been Reviewed By The Planning Commission

This Project was reviewed by a Hearing Officer, and approved by a Hearing Officer on October 30, 2013. However, the Hearing Officer did not have authority to review and approve the Project. Instead, this Project falls squarely within the purview of the Planning Commission.

1. The Planning Commission Should Review The Project Because It Involves More Than 3000 Square Feet Of Construction

The SBMC provides development plan review procedures, which include specific rules about whether a development plan requires approval of the Hearing Officer or Planning Commission. The Hearing Officer can only approve nonresidential construction projects that involve 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 also requires approval of a City discretionary land use permit from the Hearing Officer. SBMC § 28.85.030(C)(2). A nonresidential construction project that involves the construction, addition, or conversion of more than three thousand (3,000) square feet of new nonresidential floor area requires the approval of the Planning Commission. SBMC § 28.85.030(C)(3).

The Staff Report for this Project states that “the 25,765 square foot lot is developed with a 1,737 square foot gas station,” which the Applicant intends to demolish. (Staff Report, § I.) The Staff Report further states that “the proposal includes redevelopment of the site with a one-story, 4,737 square foot commercial building . . .” (Staff Report, § I.) The 4,737 square footage of the proposed commercial building exceeds the 3,000 square foot limit for Hearing Officer review and approval. Consequently, the Hearing Officer did not have authority to approve the Project, and the project should be reviewed by the Planning Commission.

2. The Hearing Officer Erroneously Relied Upon Section 28.85.020(J) In Order To Review And Approve The Project

The Hearing Officer stated that she had authority to review and approve the Project because of the mistaken conclusion that the Applicant should be credited for the 1,737 square

feet of existing construction on the property. In other words, if the Applicant could be given credit for the 1,737 square feet of existing construction on the property, then the total amount of new construction would be 3,000 square feet instead of 4,737 square feet. However, the Hearing Officer erroneously relied upon the second sentence of Section 28.85.020(J) when crediting the Applicant for the 1,737 square feet of existing construction.

Section 28.85.020(J), which defines a “nonresidential construction project,” states:

[a] Nonresidential Construction Project is a project, or portion thereof, which consists of the construction of new nonresidential floor area . . . *The repair, replacement, or reconstruction of Existing Nonresidential Floor Area . . . is not considered new nonresidential floor area for the purpose of the nonresidential development limitation specified in Subsection 28.85.010.A . . .*

(emphasis added).

An “Existing Nonresidential Floor Area” is defined as “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 the City’s development plans].” § 28.85.020(C). The 1,737 square foot gas station has been in existence for several years. Therefore, it likely constitutes “Existing Nonresidential Floor Area.”

Critically however, the issue of whether the 1,737 square footage is “Existing Nonresidential Floor Area” is only relevant “for the purpose of the nonresidential development limitation specified in Subsection 28.85.010.A.” *See* § 28.85.020(J), underlined and italicized language above. Section 28.85.010(A), entitled “Nonresidential Development Limitation,” provides that from April 11, 2013 until December 31, 2033, the amount of new nonresidential floor area available for nonresidential construction projects within the City of Santa Barbara (“City”) is restricted to no more than 1,350,000 square feet, allocated 600,000 square feet to “community benefit”; 400,000 square feet to “small addition floor area”; and 350,000 to “vacant property.” Based upon its title and text, Section 28.85.010(A) pertains only to the overall limitations on nonresidential development within the City for the next twenty years. In other words, Section 28.85.010(A) is inapplicable to the determination of whether a Hearing Officer or the Planning Commission must review and approve the development.

In sum, this Project inarguably involves 4,737 square foot of construction. Therefore, the Project should be resubmitted for review by the Planning Commission in accordance with SBMC Section 28.85.030.²

B. The Project Qualified For Only 3,000 Square Feet Of Construction, But The Proposal Is For 4,737 Square Feet Of Construction

The Case Officer stated that at the time the application was received, the property qualified for a total of 3,000 square feet of nonresidential construction. However, the proposal is for 4,737 square feet of nonresidential construction. As explained above, the Hearing Officer cannot credit the Applicant for 1,737 square feet of construction by relying upon Section 28.85.020(J). A review of the SBMC and USSADG has not revealed any other basis for crediting the Applicant for 1,737 square feet of construction. Consequently, the approval of 4,737 square feet of nonresidential construction was erroneous.

C. In Contravention Of The SBMC and USSADG, The Project Will Create Negative Visual Impacts By Blocking Community Views Of The Mountains

The SBMC and USSADG include numerous mandatory provisions about the protection of mountain views within the City and the Upper State Street Area specifically. For example, the SBMC states that the Architectural Board of Review (“ABR”) “shall” consider protection of the public’s view of the Santa Ynez mountain range when reviewing and approving or disapproving a proposed development project. § 22.68.045(B)(5). Likewise, the USSADG state that “the Upper State Street Area is distinguished by scenic views of the Santa Ynez mountain range to the north, an important community asset.” USSADG, p. 3-7. Furthermore, the USSADG emphasizes that “[b]uildings should be appropriately sited and designed to explicitly frame existing views of the mountains or create new view corridors.” USSADG, p. 3-8. Guidelines 25, 26, and 28 require the protection of mountain views when siting new buildings and at corners that intersect with State Street, and creation of public viewing locations for scenic mountain views. USSADG, p. 3-9; *see also* USSADG, Guideline 4(c), p. 2-4 (stating that mountain views should be preserved when approving setback modifications); Urban Design Recommendations inset of p. 4-1; p. 5-5.

The Project will likely negatively impact the public’s mountain views because the proposal is for a 21-foot tall building. *See* Staff Report, § IV(A), p. 2. This issue was mentioned in the recent hearing. Unfortunately, it appears that the ABR was not informed of and did not consider the proposed height of the building in the context of potential impact on mountain views. Instead, the ABR apparently only considered the fact that the project is for a one-story commercial building and looked to setbacks (and not substantially to heights) of surrounding properties that were not located on a corner lot where preserving those views is especially

² Additionally, the Project should be reviewed by the Planning Commission because the Project likely requires an Environmental Impact Report or other environmental document. *See* SBMC § 28.85.030(C)(3)(d), and Section F, below.

important. *See* Staff Report, Exh. C, Design Review Activities Summary, p. 1 (stating that the proposal is for “a new, one-story, 4,737 square foot commercial building”). In fact, in several places, the ABR states “[t]he proposed modification does not pose any adverse visual impacts or conflicts because it is a one-story building.” *See* Staff Report, Exh. C, Design Review Activities Summary, p. 2. Based upon the foregoing, an accurate review and mitigation of the visual impacts involved in this Project is required.

D. The Setback Modifications Will Create Negative Visual Impacts For My Property By Blocking Views Of My Building

As previously stated, the ABR concluded that “[t]he proposed modification does not pose any adverse visual impacts or conflicts because it is a one-story building.” *See* Staff Report, Exh. C, Design Review Activities Summary, p. 2. I am concerned that construction of the building at its currently-proposed setback and height will create adverse visual conflicts for my property. Specifically, the requested modifications will harm my property's visibility from La Cumbre Road. This lack of visibility will likely adversely affect my tenant's ability to attract customers, my tenant's desire to remain in the building, any prospective tenant's willingness to rent the building, and, in turn, significantly decrease the value of my property. *See also* my letter, dated October 21, 2013, to the Hearing Officer.³ This issue was not discussed or analyzed by the Hearing Officer at the October 30, 2013 public hearing. However, the SBMC “provide[s] the economic and social advantages resulting from an orderly planned use of land resources” and the USSADG “provide additional direction for how property owners . . . can make improvements to their properties to collectively improve the visual character and circulation of the Upper State Street Area.” SBMC § 28.01.001 and USSADG, p. 1-1. These goals are not being met when development is approved without consideration and mitigation of adverse effects on adjacent neighbors. Accordingly, the effects of the Project on my property should be considered and mitigated.

E. The USSADG Setback Modification Criteria Are Not Met For This Project

Applicant requested and received a setback modification to allow a building in excess of 15 feet in height to be constructed within the required 20-foot front setback on La Cumbre Road. *See* Staff Report, § 1, p. 1. Granting this setback modifications conflicts with the USSADG, application of which is mandatory. *See, e.g.* § 22.68.045(B)(3)(enumerating the criteria that “shall” be considered by the Architectural Board of Review); USSADG, p. 1-2 (the Guidelines “shall” be applied to nonresidential construction in the SD-2 zone) and 5-4 (stating that the Municipal Code requires compliance with the required architectural guidelines and that certain criteria be considered by the Architectural Board of Review); USSDG, p. 5-5 (setback modification should only be approved if consistent with Guideline 4). Guideline 4 includes specific factors that must be considered when deciding whether to grant or deny a setback modification request. *See* USSADG, Guideline 4, p. 2-4. Most of those factors weigh *against* granting this setback modification request.

³ Said letter is incorporated herein by reference.

Guideline 4(a) states that approval of a setback modification may be justified where the setback is for a one-story structure or the first story of a multiple-story structure in the Eastern or Central sub-areas. The Applicant asked for and received application of the setback considerations for multiple-story structures based upon the specific height of the different sections of the proposed building. However, the multi-story building standards are inapplicable because the Project is for a one-story structure. Additionally, Guideline 4(a) specifically limits its application to structures in the Eastern or Central sub-areas, indicating that setback modifications in other sub-areas should be discouraged. This Property is *not* in the Eastern or Central sub-areas. Accordingly, under Guideline 4(a), this setback modification request should be discouraged.

Guideline 4(c) provides that a setback modification may be justified where mountain views are preserved, but, as stated above, this Project will likely hinder mountain views. Thus, the setback modification request is not justified under Guideline 4(c).

Guideline 4(e) affirms that setback modifications may be justified where the development is a minor addition or remodel and not an entire lot redevelopment or entire new building. However, this Project involves an entire lot redevelopment with 4,737 square feet of new commercial construction.⁴ Therefore, the setback modification request is not merited under Guideline 4(e).

Finally, according to Guidelines 4(h) and 4(i), a setback modification may be appropriate where the particular site circumstances and constraints contribute to the need for a front setback modification request, and the benefits for the community at large are provided in quantity and quality beyond customary requirements. To my knowledge, Applicant has not shown that these factors weigh in its favor. Consequently, the setback modification request is not appropriate under Guidelines 4(h) and 4(i).

The decision to grant Applicant's requested setback modification appears to be partially based upon the fact that some properties in the general area have setbacks significantly less than the proposed setback modification. This basis is insufficient under Guideline 4. The decision also appears to be based upon Applicant's request that the Project should be treated like a multi-story building where stepped setbacks can be considered *if in the Eastern or Central sub-areas*. However, as explained above, the Project is not in the Eastern or Central sub-areas.

On balance, the Guideline 4 factors indicate that this setback modification request should have been denied. Therefore, a reconsideration of Guideline 4 factors is warranted.

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//

⁴ As explained in Section A(2), *infra*, the 1,737 of Existing Nonresidential Construction only pertains to the overall commercial development limit set forth in Section 28.85.010.A and Section 28.85.020(J).

F. **The CEQA Piggybacking Exemption Is Inappropriate Because This Project Involves Site-Specific Impacts**

The existing construction on the Property consists of an abandoned gas station. To my knowledge, the plume associated with a gasoline release from the prior service station has not been considered since the last environmental review of this area by the City in connection with the General Plan. It is inconsistent with CEQA § 21083.3 and CDR § 15183 to piggyback the toxic impact of the Property to less specific and outdated information. The Staff Report states: "CEQA Environmental Determination: the scope of work of the project is within the scope of the 2011 General Plan and the Program EIR analysis for the General Plan." See Staff Report, § D, p. 4. The Staff Report further states that "City Council environmental findings adopted for the 2011 General Plan remain applicable for this project." See Staff Report, § D, p. 5. The Staff Report on this issue is very conclusionary, not providing any substantive basis for the finding that no further environmental review is required. Consequently, further analysis of this issue is required in order to determine whether a new or supplemental EIR or negative declaration should be prepared for this Project.

II. **Conclusion**

As set forth in this correspondence, there are numerous procedural and substantive problems with the approval of the Project in its current form. Although I am attempting to resolve the issues herein informally with the Applicant, I appreciate the opportunity to be heard on and contribute to the resolution of these matters through this correspondence and any upcoming hearings.

Respectfully,



Kenneth Levin, Manager
KGS Santa Barbara, LLC

cc: Monte L. Widders, Esq.



City of Santa Barbara

California

Exhibit E: The site plan for 101 S. La Cumbre Road has been distributed separately.

A copy of the plans is available for viewing at the Planning and Zoning Counter, 630 Garden Street, Santa Barbara, CA between the hours of 8:30 A.M and 4:30 P.M. Monday through Thursday, and every other Friday. Please check our website under City Calendar to verify closure dates.



City of Santa Barbara - MAPS
101 S La Cumbre Road



Legend

- City Limits
- Parks
- Assessor's Parcels - City
- Pacific Ocean
- Street Centerlines
- 2012 Aerial Imagery
- Red: Band_1
- Green: Band_2
- Blue: Band_3

1:2,046



Notes
 EXHIBIT F

MAP DISCLAIMER

This service has been provided to allow a visual display of City information. Every effort has been made to ensure the accuracy of the map and data. The City of Santa Barbara assumes no responsibility arising from the use of this information. THE MAPS AND ASSOCIATED DATA ARE PROVIDED WITHOUT A WARRANTY OF ANY KIND. This map was created using the City of Santa Barbara Mapping Analysis and Printing System application.

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NAD_1983_StatePlane_California_V_FIPS_0405_Feet
 Reported on 12/03/2013 09:54 AM
 © City of Santa Barbara

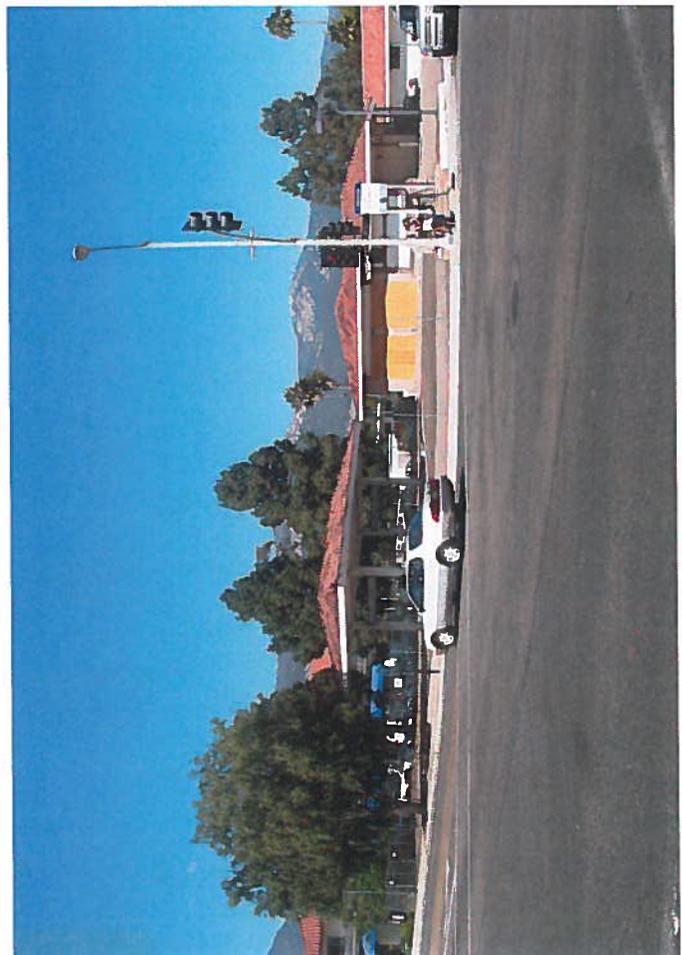
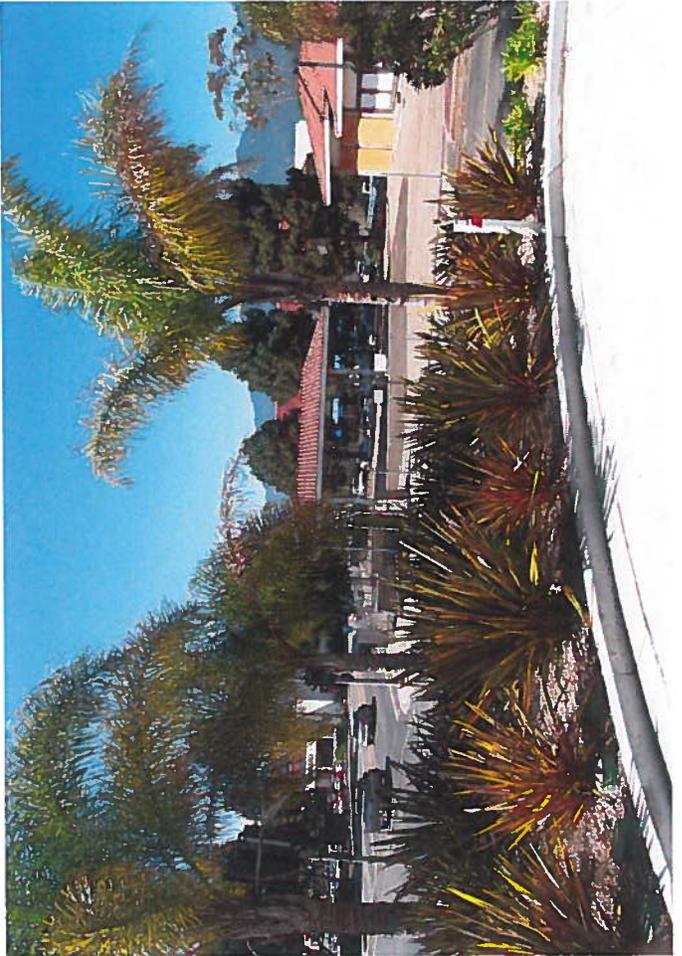


EXHIBIT G



DESIGN REVIEW ACTIVITIES SUMMARY

101 S LA CUMBRE RD (MST2013-00018)

C-DEMO/REBUILD

Revised proposal to construct a new, one-story, 4,737 square foot commercial building, and 27 space parking lot with new street trees and landscaping, located on a 25,764 net square foot lot. The existing 1,737 square foot gas station, surface parking lot, and related structures will be demolished. Staff Hearing Officer review is requested for 3,000 square feet of new commercial square footage, and for a Front Setback Modification to allow the building to encroach into the Upper State Street area front setback.

<u>Status:</u>	<u>DISP</u>	<u>Date 3</u>
ABR-Concept Review (Continued) (Project requires Development Plan findings.)	PEND	
ABR-Concept Review (New) - PH (Concept Review only; project requires environmental assessment and Planning Commission review.)	CONT	02/04/13

Actual time: 5:04 p.m.

Present: Brian Cernal and Jeff Hornbuckle, Architects.

Public comment opened at 5:08 p.m., and as no one wished to speak, public comment was closed.

Motion: Continued indefinitely to Full Board with comments:

- 1) The general architectural approach is acceptable although further enhancements may be needed.
- 2) Study lowering the proposed wall height and extent on the north elevation; pull it back at least flush with the building, and possibly exposing the building on that northerly side.
- 3) Study a water feature or other public enhancement element at the corner.
- 4) Provide landscaping opportunities along the building, at the street, and at the parking lot.
- 5) Study blending the paving treatment and enhancements in front of the building with those at the sidewalk, if approved by Public Works staff. The Board would consider a proposed concrete treatment or colored concrete enhancement.
- 6) Some Board members found additional details should be added to the building for more architectural character. The door and window treatments could be altered to give the building a more playful character.
- 7) Provide a site plan with all existing trees on the site, all trees proposed to be removed, and tree sizes.
- 8) Some Board members found that the height of the overall sun canopy could be raised to a height above the sidewalk.

Action: Gradin/Poole, 5/0/0. Motion carried. (Cung/Mosel absent).

ABR-Concept Review (Continued) (Second Concept Review. Comments only; project requires environmental review and Staff Hearing Officer review of a Front Setback Modification and new non-residential floor area. Project last reviewed on February 4, 2013.)	CONT	05/28/13
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Actual time: 4:27 p.m.

Present: Brian Cernal, Architect.

Public comment opened at 4:34 p.m.

- 1) Deborah Kovada; expressed concerns regarding the proposed single entrance to the parking lot and requested that a more user-friendly entry be studied; she also suggested that any proposed trash enclosure location be studied to avoid possible smelly garbage.

EXHIBIT H

A letter of expressed concerns from Paula Westbury regarding was acknowledged.

Public comment closed at 4:35 p.m.

Staff requested that the Board consider the adequacy of screening provided by the proposed parking lot perimeter planter dimensions, and the appropriateness of the contemporary architectural style with regard to the ABR Guidelines and Project Compatibility Analysis criteria.

Motion: Continued indefinitely to Staff Hearing Officer for return to Full Board with comments:

- 1) The proposed mass, bulk and scale is appropriate for the neighborhood.
- 2) The contemporary nature of the design ties into the other neighboring contemporary buildings nearby. Some Board members found that additional traditional details and materials should be added to the structures would make it more compatible to the neighborhood.
- 3) The way the building addresses the corner, and the site elements used at the corner, are general enhancements to the project.
- 4) The proposed modification does not pose any adverse visual impacts or conflicts because it is a one-story structure.
- 5) Study possible visual conflicts between the metal and the wood canopies.
- 6) Study adding additional playful elements and details to the architectural design.
- 7) Provide more fenestration or other elements to the parking lot side of the building to make it more user-friendly.
- 8) Provide additional landscaping buffers at the rear corners, adjacent to the north and east side elevations.
- 9) The project complies with the Architectural Board of Review Guidelines, is consistent with the City Charter, and applicable Municipal Code requirements; the project's site design and architecture is compatible with the ABR Guidelines. The Board looks forward to a review of the landscaping plan. There are no negative adverse impacts to adjacent City Landmarks or historic resources. The design responds appropriately to established scenic public vistas.
- 10) The project's design appears to provide an appropriate amount of open space and landscaping; however, a proposed landscape design needs to be submitted and reviewed before a final determination can be made.

Action: Gradin/Wittausch, 7/0/0. Motion carried.

ABR-Concept Review (Continued)

CONT

07/08/13

(Third Concept Review. Comments only; project requires environmental review and Staff Hearing Officer review for new non-residential floor area and a zoning modification. Project was last reviewed on May 28, 2013.)

Actual time: 5:51 p.m.

Present: Brian Cearnal, Architect.

Public comment opened at 6:00 p.m. As no one wished to speak, public comment was closed.

A letter of concern from Paula Westbury was acknowledged.

Motion: Continued indefinitely to the Staff Hearing Officer for return to Full Board with comments:

- 1) The Board finds the proposed project is in conformance with the Upper State Street Guidelines.
- 2) Some members find that additional landscaping in front would enhance the project.
- 3) The outdoor dining area at the front of the building is an enhancement and will energize the street corner. The Board carried forward all previous comments made at the May 28, 2013 meeting, as follows:
 - a) The proposed mass, bulk and scale are appropriate for the neighborhood.
 - b) The contemporary nature of the design ties into the other neighboring contemporary buildings nearby. Some Board members found that additional traditional details and materials should be added to the structures would make it more compatible to the neighborhood.
 - c) The way the building addresses the corner, and the site elements used at the corner, are general enhancements to the project.
 - d) The proposed modification does not pose any adverse visual impacts or conflicts because it is a one-story structure.
 - e) Study possible visual conflicts between the metal and the wood canopies.
 - f) Study adding additional playful elements and details to the architectural design.
 - g) Provide more fenestration or other elements to the parking lot side of the building to make it more user-friendly.
 - h) Provide additional landscaping buffers at the rear corners, adjacent to the north and east side elevations.
 - i) The project complies with the Architectural Board of Review Guidelines, is consistent with the City Charter, and applicable Municipal Code requirements; the project's site design and architecture is compatible with the ABR Guidelines. The Board looks forward to a review of the landscaping plan. There are no negative adverse impacts to adjacent City Landmarks or historic resources. The design responds appropriately to established scenic public vistas.
 - j) The project's design appears to provide an appropriate amount of open space and landscaping; however, a proposed landscape

design needs to be submitted and reviewed before a final determination can be made.
Action: Hopkins/Gradin, 6/0/0. Motion carried. (Cung absent).



City of Santa Barbara California

Exhibit I: A *Feasibility Test Report and Remedial Action Plan* (RAP) dated March 21, 2013 can be found at

[December 12 2013 Item III 101 S La Cumbre Rd Staff Report Exhibit I](#)



City of Santa Barbara California

Exhibit J: *Revised Soils Management Plan*, dated August 14, 2013 can be found at [December 12 2013 Item III 101 S La Cumbre Rd Staff Report Exhibit J.](#)



Fire Department

"Serving the community since 1926"

HEADQUARTERS

4410 Cathedral Oaks Road
Santa Barbara, CA 93110-1042
(805) 681-5500 FAX: (805) 681-5553

Michael W. Dyer
Fire Chief
County Fire Warden

Christian J. Hahn
Deputy Fire Chief

June 7, 2013

Mr. Nick Puig
ExxonMobil Environmental Services Company
981 West Arrow Highway, #473
San Dimas, CA 91773

Avenue 26 Holdings, LLC
Horowitz Family Trust
Larry & Laura Worchell Family Trust
4221 Wilshire Blvd, #430
Los Angeles, CA 90010

Dear Mr. Responsible Parties:

Subject: ExxonMobil Station #18-KFK
100 S. La Cumbre Road, Santa Barbara, California
LUFT Site #51622

The Santa Barbara County Fire Department, Fire Prevention Division (FPD) Leaking Underground Fuel Tank (LUFT) Program has reviewed the document prepared by your consultant, Cardno ERI (Cardno), titled *Feasibility Test Report and Remedial Action Plan (RAP)*, dated March 21, 2013. The *RAP* presents data collected from an Air Sparge/Soil Vapor Extraction (AS/SVE) pilot test conducted in May 2012. The data suggests that AS/SVE is a viable remediation option. Based upon these data, the *RAP* recommends the following:

- An AS/SVE system will be installing with five AS/SVE wells and two SVE wells. Four AS/SVE wells will be installed to augment the existing AS/SVE well. Existing wells MW21 and MW25 will be used for vapor extraction only.
- Based upon planned site redevelopment, well MW02 will be destroyed and a replacement well will be installed outside of the proposed building footprint.
- A horizontal well will be installed in the vicinity of the northern portion of the proposed building footprint to collect vapors from the AS/SVE system.
- The system will be operated until asymptotic vapor concentrations are reached and the site meets the Low Threat Closure Policy criteria. The AS/SVE system will be planned to remain operational for one to two years.

After careful review of the document and the site file, FPD approves the *RAP* with the following conditions:

- A 30-day public comment period is required prior to final approval. Based upon the scope and location of this project, FPD has determined that a newspaper advertisement in a local newspaper is an acceptable form of public notification. Please submit a draft version of the newspaper ad and fact sheet to FPD for approval by **June 28, 2013**. Please contact me if you need examples of the newspaper ad and/or fact sheet.
- Implementation of the *RAP* shall begin within 60 days of the end of the public comment period.

EXHIBIT K

Serving the cities of Buellton, Goleta and Solvang, and the Communities of Casmalia, Cuyama, Gaviota, Hope Ranch, Los Alamos, Los Olivos, Mission Canyon, Mission Hills, Orcutt, Santa Maria, Sisquoc, Vandenberg Village

100 S. La Cumbre Street Letter
Page 1 of 2
June 7, 2013

If you have any questions regarding the aforementioned, please do not hesitate to call me at (805) 686-8176. Written correspondence regarding this matter should be sent to FPD at 1430 Mission Drive, Solvang, CA 93463, or via facsimile to (805) 686-8183.

Sincerely,



Thomas M. Rejzek
Professional Geologist #6461
Certified Hydrogeologist #601
LUFT Program

pc: Mr. Andy Nelson, Cardno ERI
Geotracker Database

51622_06_13

Santa Barbara County
PUBLIC Health
DEPARTMENT



Environmental Health Services

225 Camino del Remedio • Santa Barbara, CA 93110
805/681-4900 • FAX 805/681-4901

Takashi M. Wada, MD, MPH Director/Health Officer
Anne M. Fearon Deputy Director
Suzanne Jacobson, CPA Chief Financial Officer
Susan Klein-Rothschild, MSW Deputy Director
Elizabeth Snyder, MHA Deputy Director
Peter Hasler, MD Medical Director

2125 S. Centerpointe Pkwy. #333 • Santa Maria, CA 93455-1340
805/346-8460 • FAX 805/346-8485

Lawrence D. Fay, Jr. Director of Environmental Health

August 29, 2013

Mr. Nick Puig
ExxonMobil Environmental Services Company
981 West Arrow Highway, #473
San Dimas, CA 91773

Avenue 26 Holdings, LLC
Horowitz Family Trust
Larry & Laura Worchell Family Trust
4221 Wilshire Blvd, #430
Los Angeles, CA 90010

Dear Mr. Responsible Parties:

Subject: ExxonMobil Station #18-KFK
100 S. La Cumbre Road, Santa Barbara, California
LUFT Site #51622

The Santa Barbara County Public Health Department, Environmental Health Service Division (EHS), Leaking Underground Fuel Tank (LUFT) Program has reviewed the document prepared by your consultant, Cardno ERI (Cardno), titled *Revised Soils Management Plan (Plan)*, dated August 14, 2013 and the City of Santa Barbara's *Development Application Review (Review)*, dated July 22, 2013. The *Plan* outlines the procedures for handling potentially contaminated soils that may be encountered during the site redevelopment. The *Review* requests that EHS provide a status update and outline any conditions that need to be satisfied prior to issuing the building permit. After careful review of these documents and the site file, EHS has the following comments:

- The *Plan* revises a previous soils management plan, which was dated December 7, 2008. This revised *Plan* incorporates conditions and modifications that were outlined in the July 24, 2008 approval letter. EHS approves the revised *Plan*. Please notify me at least 48 hours in advance of fieldwork.
- As outlined in previous letters, due to potential vapor intrusion from the residual contamination, it was agreed that a chemical vapor barrier needed to be installed under any new building at the site. An Air Sparge/Soil Vapor Extraction (AS/SVE) system (approved on June 7, 2013) will be used to treat the residual soil and groundwater impacts in the northwest portion of the site. The AS/SVE system is planned to remain operational for one to two years. In the interim, the chemical vapor barrier will reduce the vapor intrusion risk and is still required as a condition of development. The approved *Plan* will serve as a guideline for identifying and handling any potentially impacted soil. Provided that the approved remediation system is installed and operated, the vapor barrier is incorporated into the building, and the any impacted soils are managed per the *Plan*, EHS has no other outstanding requirements that need to be addressed prior to site redevelopment.
- This approval letter is valid until **August 29, 2014**.

100 S. La Cumbre Road Letter
Page 2 of 2
August 29, 2013

If you have any questions regarding the aforementioned, please do not hesitate to call me at (805) 346-8216. Written correspondence regarding this matter should be sent to EHS at 2125 S. Centerpointe Parkway, Suite 333, Santa Maria, CA 93455, or via facsimile to (805) 346-8485.

Sincerely,



Thomas M. Rejzek
Professional Geologist #6461
Certified Hydrogeologist #601
LUFT Program

cc: Mr. Andy Nelson, Cardno ERI
Tim Ison
Geotracker Database

51622 08_13



City of Santa Barbara
CEQA CERTIFICATE OF DETERMINATION

To: File: MST 2013-00018
Project Address (Name): 101 S. La Cumbre Rd. (also known as 100 S. La Cumbre Rd.)
From: Suzanne Riegle, Assistant Planner, 805-564-5470 x 2687, SRiegle@SantaBarbaraCA.gov
Subject: Certificate of Determination for Exemption from Environmental Review under CEQA Guidelines Section 15183

Project Location: City of Santa Barbara, County of Santa Barbara
General Plan Designation(s): Commercial/High Density Residential (28-36 DU/Acre)
Assessor's Parcel Number(s): 051-022-027 **Zone(s):** C-2
Project Applicant: Cearnal Andrulaitis

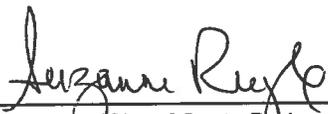
Project Description: The 25,765 square foot site is developed with a 1,737 square foot gas station (closed since 2005), a surface parking lot, and related structures, all of which are proposed to be demolished. The project site is actively undergoing soil remediation for ground water contamination caused by Leaking Underground Storage Tanks. The proposal includes the redevelopment of the site
(continued on reverse as needed)

Project Environmental Findings: The City of Santa Barbara evaluated the proposed project and made the following determinations:

1. The project is consistent with density established for the site in the City of Santa Barbara General Plan.
2. A Program Environmental Impact Report was certified for the 2011 General Plan, which identified environmental effects of future citywide development under the General Plan, including significant effects, mitigated effects, and insignificant effects.
3. Pursuant to CEQA and CEQA Guidelines (Public Resources Code Section 21083.3 and California Code of Regulations, Title 14, Division 6, Chapter 3, Section 15183), environmental review for this project shall be limited to examination of any significant project-specific environmental effects not analyzed in the prior Environmental Impact Report for the 2011 General Plan.
4. Project-specific impacts:
 - The project will not result in significant project-specific environmental effects.
 - Potentially significant project-specific environmental effects will be substantially mitigated by uniformly applied development standards, as described in *Preliminary Review* documentation. The project will not result in significant project-specific effects.
5. Environmental effects were previously analyzed in the Environmental Impact Report for the 2011 General Plan.
 - Relevant mitigation measures from the General Plan Program EIR have been made part of the project.
 - No mitigation measures from the General Plan Program EIR are relevant or have been made part of the project.
6. A mitigation monitoring and reporting plan [was was not] adopted for this project.
7. A Statement of Overriding Considerations was adopted by City Council for the 2011 General Plan (Resolution 11-079), finding that the significant environmental effects of citywide development under the 2011 General Plan were outweighed by the benefits of the Plan and therefore deemed acceptable. The Statement of Overriding Considerations remains applicable for the current project.
8. Findings were made pursuant to the provisions of CEQA.

Exempt Status: Exempt per Section 15183 of the California Environmental Quality Act (CEQA) Guidelines (Projects Consistent with Community Plan or Zoning) and CEQA Statute (Section 21083.3 of California Public Resources Code)

The Program Environmental Impact Report for the 2011 General Plan and the record of current project permit review process may be viewed by the public at the City Planning Division office at 630 Garden Street, Santa Barbara.


 Signature (City of Santa Barbara)

Assistant Planner
 Title

10/14/2013
 Date

CERTIFICATE OF DETERMINATION

101 S. LA CUMBRE RD. (ALSO KNOWN AS 100 S. LA CUMBRE RD.) (MST2013-00018)

PAGE 2

(continued) with a one-story, 4,737 square foot commercial building, a 25-space parking lot, soil excavation, installation of remediation equipment and vapor intrusion barriers, and site improvements. The improvements include an outdoor seating area, installation of new landscaping, construction of a trash enclosure, and elimination of driveway aprons along the La Cumbre Road and Lane frontages.

The discretionary applications requested for the project are:

1. A Front Setback Modification to allow a building greater than 15 feet in height to be constructed within the required 20-foot front setback on La Cumbre Road (SBMC §28.45.008 and §28.92.110);
2. A Front Setback Modification to allow a trash enclosure and bicycle parking within the required 10-foot front setback on La Cumbre Lane (SBMC §28.45.008 and §28.92.110); and
3. A Development Plan for 3,000 square foot of additional commercial development (SBMC §28.85).