JUNE 14, 2011
AGENDA

ORDER OF BUSINESS: Regular meetings of the Finance Committee and the Ordinance Committee begin at 12:30 p.m. The regular City Council meeting begins at 2:00 p.m. in the Council Chamber at City Hall.

REPORTS: Copies of the reports relating to agenda items are available for review in the City Clerk's Office, at the Central Library, and http://www.SantaBarbaraCA.gov. In accordance with state law requirements, this agenda generally contains only a brief general description of each item of business to be transacted or discussed at the meeting. Should you wish more detailed information regarding any particular agenda item, you are encouraged to obtain a copy of the Council Agenda Report (a "CAR") for that item from either the Clerk's Office, the Reference Desk at the City's Main Library, or online at the City's website (http://www.SantaBarbaraCA.gov). Materials related to an item on this agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office located at City Hall, 735 Anacapa Street, Santa Barbara, CA 93101, during normal business hours.

PUBLIC COMMENT: At the beginning of the 2:00 p.m. session of each regular City Council meeting, and at the beginning of each special City Council meeting, any member of the public may address the City Council concerning any item not on the Council's agenda. Any person wishing to make such address should first complete and deliver a "Request to Speak" form prior to the time that public comment is taken up by the City Council. Should City Council business continue into the evening session of a regular City Council meeting at 6:00 p.m., the City Council will allow any member of the public who did not address them during the 2:00 p.m. session to do so. The total amount of time for public comments will be 15 minutes, and no individual speaker may speak for more than 1 minute. The City Council, upon majority vote, may decline to hear a speaker on the grounds that the subject matter is beyond their jurisdiction.

REQUEST TO SPEAK: A member of the public may address the Finance or Ordinance Committee or City Council regarding any scheduled agenda item. Any person wishing to make such address should first complete and deliver a "Request to Speak" form prior to the time that the item is taken up by the Finance or Ordinance Committee or City Council.

CONSENT CALENDAR: The Consent Calendar is comprised of items that will not usually require discussion by the City Council. A Consent Calendar item is open for discussion by the City Council upon request of a Councilmember, City staff, or member of the public. Items on the Consent Calendar may be approved by a single motion. Should you wish to comment on an item listed on the Consent Agenda, after turning in your "Request to Speak" form, you should come forward to speak at the time the Council considers the Consent Calendar.

AMERICANS WITH DISABILITIES ACT: In compliance with the Americans with Disabilities Act, if you need special assistance to gain access to, comment at, or participate in this meeting, please contact the City Administrator's Office at 564-5305 or inquire at the City Clerk's Office on the day of the meeting. If possible, notification at least 48 hours prior to the meeting will enable the City to make reasonable arrangements in most cases.

TELEVISION COVERAGE: Each regular City Council meeting is broadcast live in English and Spanish on City TV Channel 18 and rebroadcast in English on Wednesdays and Thursdays at 7:00 p.m. and Saturdays at 9:00 a.m., and in Spanish on Sundays at 4:00 p.m. Each televised Council meeting is closed captioned for the hearing impaired. Check the City TV program guide at www.citytv18.com for rebroadcasts of Finance and Ordinance Committee meetings, and for any changes to the replay schedule.
ORDER OF BUSINESS

12:30 p.m. - Finance Committee Meeting, David Gebhard Public Meeting Room, 630 Garden Street
2:00 p.m. - City Council Meeting
4:00 p.m. - Interviews for City Advisory Groups (Estimated Time)

FINANCE COMMITTEE MEETING - 12:30 P.M. IN THE DAVID GEBHARD PUBLIC MEETING ROOM, 630 GARDEN STREET (120.03)

1. Subject: Proposed Loan Increase For The Housing Authority's Bradley Studios Project

   Recommendation: That the Finance Committee consider and recommend to the Redevelopment Agency Board approval of a $2,000,000 loan increase in Agency Housing Setaside funds to the Housing Authority of the City of Santa Barbara for the development of the Bradley Studios affordable housing project located at 512-518 Bath Street.

2. Subject: Ensemble Theatre Grant Request For Redevelopment Agency Funds

   Recommendation: That the Finance Committee consider the Ensemble Theatre’s grant request for $1,000,000 in Redevelopment Agency capital funds for the purchase and installation of equipment at the Victoria Theatre.
CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CEREMONIAL ITEMS

1. Subject: Letter Of Recognition To The Santa Barbara Airport For The Completion Of The Airline Terminal Project, June 2011 (120.08)

CHANGES TO THE AGENDA

PUBLIC COMMENT

CONSENT CALENDAR

2. Subject: Minutes

Recommendation: That Council waive the reading and approve the minutes of the regular meetings of April 12, and May 17, 2011, and the special meeting of May 23, 2011.

3. Subject: Increase Appropriations In The Streets Capital Fund For The Property Located At 319 West Haley Street (150.03)

Recommendation: That Council:
A. Approve an increase in appropriations in the Streets Fund in the amount of $420,000 to buy out Santa Barbara County Association of Governments' (SBCAG) interest in the real property located at 319 West Haley Street (Haley Street Property), of which $170,000 will be funded from unappropriated Streets Fund reserves, $250,000 will come from a transfer of appropriated funds in the Measure D Fund, and the balance of $50,000 will come from an allocation of existing appropriations in the Streets Fund for the Carrillo/Anacapa Intersection Improvement Project, for a total of $470,000 for the buyout;

(Cont'd)
CONSENT CALENDAR (CONT’D)

3. (Cont’d)
   B. Approve the transfer of appropriations in the amount of $250,000 from the Carrillo/Anacapa Intersection Improvement Project in the Measure D Fund to the Streets Fund to cover a portion of the cost to buy out SBCAG's interest in the Haley Street Property;
   C. Approve an increase in appropriations and estimated revenues in the Fiscal Year 2012 recommended budget by $36,968 in the Streets Fund, in recognition of lease income to be generated and received from the property at 319 West Haley Street, half of which was previously recognized as revenue in the General Fund;
   D. Reduce appropriated reserves and estimated revenues in the General Fund in Fiscal Year 2012 by $18,485 related to the shift of lease revenues from the General Fund to the Streets Fund; and
   E. Terminate City Agreement No. 15,909 with SBCAG, dated March 5, 1991.

4. Subject: Records Destruction For Community Development Department (160.06)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Relating to the Destruction of Records Held by the Community Development Department in the Housing and Redevelopment Division.

5. Subject: Youth Watershed Education Program Contract With Art From Scrap (570.06)

Recommendation: That Council authorize the Parks and Recreation Director to execute a 12-month professional services contract with Art From Scrap in the amount of $56,299.25 funded from Measure B revenues for the provision of youth and community watershed education programs in Fiscal Year 2012.

6. Subject: Acceptance Of Easement For Public Trail Uses At 1401 Jesusita Lane (330.03)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Accepting a Trail Easement for Public Trail Uses on a Portion of the Real Property Commonly Known as 1401 Jesusita Lane, Santa Barbara County Assessor's Parcel Number 055-240-022.
CONSENT CALENDAR (CONT’D)

7. **Subject:** Proposition 40 Grant Funds For The Los Baños Pool Automated Chemical Feed System Upgrade Project (570.07)

   Recommendation: That Council increase estimated revenues and appropriations in the Parks and Recreation Fiscal Year 2011 operating budget in the amount of $5,546.25 for a California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002 (Proposition 40) Per Capita grant.

8. **Subject:** Cachuma Conservation Release Board Budget Ratification (540.03)

   Recommendation: That Council ratify the Fiscal Year 2012 Cachuma Conservation Release Board (CCRB) budget in the amount of $461,140, with an estimated City of Santa Barbara share of $177,917.

9. **Subject:** Issuance Of Purchase Order To Approve Engel & Gray For Biosolids Composting (540.13)

   Recommendation: That Council find it in the City's best interest to waive the formal bid process as provided by Municipal Code Section 4.52.070 (k) and authorize the General Services Manager to issue a purchase order to Engel & Gray, Inc. (E&G), to provide the City with an in-county site for biosolids composting services for the purchase of a limited amount of finished compost at a cost of $46.63 per ton for Fiscal Year 2012 and the following four fiscal years, in accordance with approved budgets.

10. **Subject:** Introduction Of Ordinance For Rule Of The List For Dispatch And Parking Enforcement Vacancies (450.01)

    Recommendation: That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Section 3.16.200 of Santa Barbara Municipal Code Title 3 Pertaining to Certification of Eligibles from an Employment List for Certain Non-Sworn Police Department Vacancies.

11. **Subject:** General Municipal Election Of November 8, 2011 (110.03)

    Recommendation: That Council:
    A. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Calling for the Holding of a Vote-By-Mail General Municipal Election to be Held in the City on Tuesday, November 8, 2011, for the Election of Certain Officers as Required by the Provisions of the Charter;
    B. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Authorizing the Conduct of a Vote-By-Mail Election for the November 8, 2011, General Municipal Election;
CONSENT CALENDAR (CONT’D)

11. (Cont’d)

C. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Provisionally Requesting the Board of Supervisors of the County of Santa Barbara to Consolidate a General Municipal Election to be Held on November 8, 2011, with the Statewide Special Election to be Held on that Date Pursuant to Section 10403 of the Elections Code, in the event the Governor calls a Statewide Special Election allowing the City to proceed with a consolidated election; and

D. Cancel the November 8, 2011, City Council meeting due to the holding of the general municipal election.

NOTICES

12. The City Clerk has on Thursday, June 9, 2011, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.

13. Received a letter of resignation from Rental Housing Mediation Task Force Member Barbara Smith-Sherrill; the vacancy will be part of the next City Advisory Group recruitment. (580.03)

This concludes the Consent Calendar.

REPORT FROM THE FINANCE COMMITTEE

CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS

PUBLIC WORKS DEPARTMENT

14. Subject: Public Hearing Regarding Proposed City Utility Rate Increases (230.05)

Recommendation: That Council:
A. Hold a Public Hearing, as required by State law, regarding proposed utility rate increases for water, wastewater, and solid waste collection services for Fiscal Year 2012; and
B. Provide direction to staff regarding any changes to the proposed Fiscal Year 2012 utility rates.
15. **Subject: Adoption Of Long-Term Water Supply Plan And Urban Water Management Plan (540.08)**

   Recommendation: That Council:
   A. Hold a Public Hearing regarding adoption of the City's updated Long-Term Water Supply Plan (LTWSP) and the 2010 update of the City's Urban Water Management Plan (UWMP);
   B. Adopt the City's updated LTWSP as the policy basis for management of the City's water supply for the period through approximately 2030; and
   C. Adopt and authorize the Public Works Director to transmit the City's updated UWMP to the California Department of Water Resources, such adoption to include modifications as may be approved by the Public Works Director to ensure compliance with State UWMP requirements, provided that any such modifications are not inconsistent with the updated LTWSP.

16. **Subject: Ordinance Revising The City's Sign Ordinance Concerning The Regulation Of Signs On Gas Pumps (640.02)**

   Recommendation: That Council:
   A. Reconsider its adoption of revisions to the City's Sign Ordinance as adopted on June 7, 2011, at the request of Councilmember Bendy White; and
   B. Re-adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Sections 22.70.020 and 22.70.030 of the Santa Barbara Municipal Code Relating to Sign Regulations.

17. **Subject: Introduction Of Ordinance For 2011-2013 Treatment And Patrol (TAP) Memorandum Of Understanding (440.02)**

   Recommendation: That Council ratify the Memorandum of Understanding between the City and the Service Employees' International Union, Local 620, Airport and Harbor Patrol Officers' and Treatment Plants' Bargaining Units, for the period of January 1, 2011, through December 31 2013, by introduction and subsequent adoption of, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Adopting the 2011-2013 Memorandum of Understanding Between the City of Santa Barbara and the Patrol Officers' and Treatment Plants' Bargaining Units (TAP Units).
18. **Subject: Introduction Of Ordinance For Extension To Supervisors Memorandum Of Understanding (440.02)**

   Recommendation: That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Ordinance No. 5484, the 2009-2011 Memorandum of Understanding Between the City of Santa Barbara and the Santa Barbara City Supervisory Employees’ Bargaining Unit (Supervisors’ Unit) to Include a Supplemental Agreement.

19. **Subject: Introduction Of Ordinance For Management Salary Plans (440.03)**


20. **Subject: Interviews For City Advisory Groups (140.05)**

   Recommendation: That Council hold interviews of applicants to various City Advisory Groups.
   
   (Estimated Time: 4:00 p.m.; Continued from June 7, 2011, Item No. 24)


   Recommendation: That Council deny the appeal of the Law Office of Marc Chytilo, representing Hidden Oaks Homeowners Association, and the appeal of Weinberg, Rodger & Rosenfeld, representing the Service Employees International Union-United Healthcare Workers West ("UHW") and Friends of Valle Verde ("FVV"); certify the Environmental Impact Report; uphold the Planning Commission approval of the Lot Line Adjustment, the Conditional Use Permit Amendment and the Modifications; and direct Staff to return with an appropriate Resolution of Decision and Findings.
CLOSED SESSIONS

22. Subject: Conference With Labor Negotiator (440.05)

Recommendation: That Council hold a closed session, per Government Code Section 54957.6, to consider instructions to City negotiator Kristy Schmidt, Employee Relations Manager, regarding negotiations with General, Treatment and Patrol, and Supervisory bargaining units, and regarding discussions with unrepresented management about salaries and fringe benefits.

Scheduling: Duration, 30 minutes; anytime

Report: None anticipated

ADJOURNMENT
ITEMS TO BE CONSIDERED:

1. **Subject:** Proposed Loan Increase For The Housing Authority's Bradley Studios Project

   Recommendation: That the Finance Committee consider and recommend to the Redevelopment Agency Board approval of a $2,000,000 loan increase in Agency Housing Setaside funds to the Housing Authority of the City of Santa Barbara for the development of the Bradley Studios affordable housing project located at 512-518 Bath Street.

2. **Subject:** Ensemble Theatre Grant Request For Redevelopment Agency Funds

   Recommendation: That the Finance Committee consider the Ensemble Theatre's grant request for $1,000,000 in Redevelopment Agency capital funds for the purchase and installation of equipment at the Victoria Theatre.
CITY OF SANTA BARBARA
FINANCE COMMITTEE AGENDA REPORT

AGENDA DATE: June 14, 2011

TO: Finance Committee

FROM: Housing and Redevelopment Division, Community Development Department

SUBJECT: Proposed Loan Increase For The Housing Authority’s Bradley Studios Project

RECOMMENDATION:
That the Finance Committee consider and recommend to the Redevelopment Agency Board approval of a $2,000,000 loan increase in Agency Housing Setaside funds to the Housing Authority of the City of Santa Barbara for the development of the Bradley Studios affordable housing project located at 512-518 Bath Street.

DISCUSSION:
Requested Loan Increase
The City Housing Authority has requested that the Agency increase the $1.6 million development loan it approved last June by $2 million to help finance the construction of a 54-unit low income housing project (53 studio units plus one manager’s unit). The Bradley Studios project will be built on the site that the Housing Authority acquired and land-banked for this purpose in 2008 with a $4.8 million acquisition loan from the Agency. The loan increase is necessary in order for the Housing Authority to increase the likelihood of securing funds under the highly competitive Low Income Housing Tax Credit Program that is critical to the project’s financing.

Project Description
The Agency loaned the City Housing Authority $4.8 million to acquire and “land-bank” a site in 2008 located in the Agency’s project area at 512-518 Bath Street. At the rear of the site is a 10-unit apartment building (circa 1960) that encroaches into the 25-foot setback currently established for Mission Creek. The apartments will be demolished in order to create the new housing project and to provide a setback and restore habitat in accordance with the Lower Mission Creek Flood Control and Restoration Project.

The Housing Authority plans to construct seven structures of two and three stories totaling 27,688 square feet on the 1.06 acre site. There will be 53 studio apartments, a two-bedroom manager’s unit, plus a community center and recreation room. The structures are configured around a central courtyard which serves as common open...
space. From there, pathways lead to additional open space at the rear of the property adjacent to Mission Creek. The City’s Planning Commission determined that the craftsman style of the architecture and the height, bulk, scale and density of the project would all be compatible with the neighborhood and approved the design last July.

Bradley Studios will be an affordable rental housing project that serves a combination of low income downtown workers and special needs/homeless persons.

**Project Financing**

Critical to the project’s financing are tax credits. Competition for tax credit equity is significant. Tax credits are extremely valuable in that they provide large direct cash subsidies to the development of affordable housing projects. If awarded to Bradley Studios, tax credits would fund approximately 80% of the project’s hard construction costs, without adding any debt. There is no other comparable financing mechanism for the development of affordable housing.

Competition for tax credits has grown even more intense over the past years. The two applications recently submitted by the Housing Authority for Bradley Studios scored very well and would likely have been awarded in previous years. However, the applications did not succeed because they were not rated as highly as other competing applications in one particular category, “Local Subsidy.” Other applications showed a greater percentage of loans and grants from their local jurisdiction, and thus scored higher. Increasing the Agency’s contribution as requested would boost the score for Bradley Studios in the “Local Subsidy” category, and the Housing Authority believes this would likely result in the award of tax credits. Funding for the Agency’s existing $1.6 million development loan plus the requested $2 million development loan increase would all be contingent on the award of tax credits. The deadline for the next round of applications is July 6th.

The proposed $2 million funding increase would result in a per unit subsidy that is greater than what the City/Agency typically provides. To date, the Agency’s subsidy for the project is $6.4 million or $118,519 per unit; in adding the requested $2 million, it would grow to $8.4 million or $155,556 per unit. The City/Agency per unit subsidy for projects completed over the last five years ranges from $92,857 to $165,000 per unit and averages $118,769. While the resultant per unit subsidy for Bradley Studios would be greater than the usual subsidy, it appears to be a primary factor in successfully securing the additional financing for the project.

**BUDGET/FINANCIAL INFORMATION:**

The Agency has sufficient funds to accommodate the requested loan increase. The Agency currently has available roughly $4 million in uncommitted Housing Setaside funds. These funds can only be spent on the development of low and moderate income affordable housing under the State Redevelopment law.
May 18, 2011

Mr. Brian Bosse, Housing and Redevelopment Manager  
Housing & Redevelopment Division  
City of Santa Barbara  
630 Garden St.  
Santa Barbara, CA 93101

RE: FUNDING REQUEST FOR ADDITIONAL CITY/RDA SUBSIDY FOR THE DEVELOPMENT OF 512 BATH STREET AS A 54 UNIT AFFORDABLE RENTAL HOUSING COMPLEX—BRADLEY STUDIOS

Dear Brian:

As discussed during our recent meeting, the Housing Authority is seeking additional RDA funding (i.e. local public subsidy) for the Bradley Studios development in order to successfully garner an allocation of tax credits from the California Tax Credit Allocation Committee. The Low Income Housing Tax Credit (LIHTC) program coupled with local affordable housing dollars is essentially the only vehicle available today for the development of affordable rental housing in the U.S. The 9% LIHTC program, to which we submitted two previous applications for Bradley, would provide approximately 80% of the project’s construction costs. The remaining portion needs to be covered through other local public funding sources such as RDA Affordable Housing Set-Aside monies and/or federal HOME dollars that the City receives.

Last May, the Housing Authority requested, and subsequently received approval for a loan from the Redevelopment Agency in the amount of $1,600,000 as an additional funding source for the development of Bradley Studios. While we expected this loan to be a sufficient amount of local public subsidy, it turns out that other projects in California competing for an allocation of tax credits are showing greater amounts of local public funding such that they are being deemed more competitive and are beating out our Bradley project. With higher “local” public subsidies, these other projects are able to request a lesser amount of tax credits which garners them a higher score in California’s very competitive LIHTC awards process.

We have, thus, revised our development pro-forma for Bradley so that our third application for a reservation of tax credits, due by July 6, 2011, can have the competitive edge required for an award of 9% tax credits. To that end, the Housing Authority is requesting $2 million in addition to the funds previously committed by the City/RDA.
As you will recall, Bradley Studios is comprised 54 affordable housing units (53 studios and 1 two-bedroom manager’s apartment) and is intended to serve a combination of low-income downtown workers and special needs/homeless persons. If successful in obtaining a reservation of tax credits, construction would be begin at the end of 2011 or early 2012 and be completed and ready for occupancy within 13 months of commencement of construction.

In order to fully quantify City/RDA subsidy for this project (inclusive of land costs), one would add the initial land purchase loan of $4.8 million, the $1.6 million approved in 2010 for construction and this additional request for $2 million for a total of $8.4 million (or $155,5556 per unit) in local City/RDA subsidy.

We thank you in advance for your consideration of this request and would greatly appreciate if this matter could be placed before the City Council/RDA in the next 30 days. Please contact me or Rob Fredericks if you have any questions about this request or require additional information.

Sincerely,

HOUSING AUTHORITY OF THE
CITY OF SANTA BARBARA

ROBERT G. PEARSON
Executive Director / CEO

cc: Housing Authority Commission
    R. Fredericks
    S. Szymanski
    B. Peirson
    R. Maccianti
AGENDA DATE: June 14, 2011

TO: Finance Committee

FROM: Housing and Redevelopment Division, Community Development Department

SUBJECT: Ensemble Theatre Grant Request For Redevelopment Agency Funds

RECOMMENDATION:
That the Finance Committee consider the Ensemble Theatre’s grant request for $1,000,000 in Redevelopment Agency capital funds for the purchase and installation of equipment at the Victoria Theatre.

BACKGROUND:
On June 20, 2006, the Redevelopment Agency Board approved the Redevelopment Agency budget for Fiscal Year 2007. Included within the $4.5 million in grants made available for community grants was a proposed joint project between the Santa Barbara Trust for Historic Preservation (Trust) and the Ensemble Theatre Company (Ensemble) to improve the Alhecama Theatre and the Old City College site courtyard/plaza area immediately in front of the Alhecama Theatre. The Redevelopment Agency grant, as originally proposed, was to be administered by the Trust with $1.5 million in grant funding divided as follows: $1 million for the Ensemble to complete electrical, plumbing, stage, and dressing room improvements; and $500,000 for the Trust to complete improvements to the Alhecama Plaza area immediately adjacent to the Theatre.

In order to secure the proposed grant agreement amount of $1.5 million, the Agency requested that the Ensemble be under a long term lease (minimum of 10 years) with the Trust (who manages the State owned El Presidio campus) as the primary user of the Alhecama Theatre. The Trust and the Ensemble worked for many months to effectuate a long-term lease. In the end, Ensemble decided to pursue a more permanent home, including a long-term lease of the Victoria Theatre (which they now have secured). As an interim measure, and to allow much needed improvements to the Alhecama to occur, the Trust and Ensemble jointly requested that the original grant allocation of $1.5 million be modified such that an initial amount of $500,000 could be utilized by the Trust for Alhecama Theatre capital improvements. This request was considered and approved by
the Agency Board on July 14, 2009 and those improvements have been completed by the Trust. A Redevelopment Agency grant agreement, however, has not been executed for the remaining $1,000,000 portion of the appropriation intended for use by Ensemble.

**DISCUSSION:**

The intent of the original grant was to create a vibrant, long-term home for Ensemble at the Alhecama Theatre. However, in order to achieve their long term goals, enhance their artistic capabilities, increase access, and provide a more enriching experience for the public, Ensemble decided to remain on a month-to-month lease at the Alhecama Theatre while pursuing a long term lease in a different location that more adequately fits their needs. Ensemble has been working diligently towards finding a new long term lease and has recently entered into a 30-year lease at the Victoria Theatre.

Although the Victoria Theatre has been a functioning theatre for many years, it was originally designed for a variety of purposes and is in need of a substantial renovation in order to function as a performing arts venue. Ensemble will be renovating the physical structure to address seismic concerns and to re-configure the facility so that it can better function as a flexible performing arts venue. Improvements will include a more intimate interior configuration allowing optimal sight lines, sound proofing, acoustical treatments, complete renovation of the stage area, wing areas, a new lobby, new expanded restrooms, new expanded dressing rooms, etc. The construction cost is estimated at approximately $5 million. To date, the Ensemble Board has donated almost $1 million towards that cost and has raised a total of almost $2.5 million towards the construction effort. Ensemble intends to raise the entire $5 million needed for construction as well as an endowment fund.

The Ensemble no longer requires the Agency’s $1 million for the construction component as originally intended. Rather, Ensemble would like to use the proposed $1 million in Agency Grant funds to make various equipment upgrades to the Victoria Theatre as follows:

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<thead>
<tr>
<th>Capital Equipment</th>
<th>Cost</th>
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<tr>
<td>Seating</td>
<td>$102,200</td>
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<tr>
<td>Stage Draperies</td>
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<tr>
<td>Stage Rigging Equipment</td>
<td>$362,000</td>
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<tr>
<td>Audio-Visual Equipment</td>
<td>$190,600</td>
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<tr>
<td>Stage Lighting Fixtures and Equipment</td>
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<tr>
<td>Theatrical And Architectural Dimming and Controls</td>
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<td><strong>TOTAL</strong></td>
<td><strong>$1,000,000</strong></td>
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If approved, the Agency funds will not be disbursed until the Victoria Theatre construction has been deemed to be “Substantially Complete” by the City of Santa Barbara’s Building Official. This provides the Agency Board with the added security that
the project is near completion and adequate funds have been raised to complete the entire renovation project. As part of the proposed grant agreement Agency staff will require, among other standard grant requirements, the following:

- The Agency grant agreement with the Ensemble Theater will require the payment of prevailing wages unless the Ensemble can obtain a written determination issued by the Department of Industrial Relations finding that the use of Agency funds does not trigger the payment of prevailing wages.
- No disbursements shall be made until the renovation of the Victoria Theatre is deemed substantially complete by the City of Santa Barbara’s Building Official.
- The Agency will be granted a security interest in Ensemble’s lease.
- The Agency will be granted a recorded Uniform Commercial Code security interest in Ensemble’s equipment funded by the proposed grant.
- The Ensemble will provide proof of the appropriate insurance in accordance with City of Santa Barbara standards.
- That the Victoria Theatre serve as a community arts facility by regularly offering the Theatre to non-profit organizations at favorable rates which allow for the widest variety of non-profits to utilize the facility.

**BUDGET/FINANCIAL INFORMATION:**

Currently there is $1 million in RDA funds appropriated for the Ensemble Theatre. These funds have been earmarked for the Ensemble since the Agency Board approved the Agency budget for Fiscal Year 2007 on June 20, 2006.

**ATTACHMENT:** Request letter from Ensemble dated April 6, 2011

**PREPARED BY:** Brian J. Bosse Housing and Redevelopment Manager

**SUBMITTED BY:** Paul Casey, Assistant City Administrator

**APPROVED BY:** City Administrator’s Office
April 6, 2011

Jim Armstrong, Agency Executive Director  
Santa Barbara Redevelopment Agency  
City of Santa Barbara  
735 Anacapa Street, City Hall  
Santa Barbara CA 93101

Dear Mr. Armstrong:

Ensemble Theatre Company ("Ensemble") respectfully requests that the Santa Barbara Redevelopment Agency (the "RDA") initiate processing of a $1,000,000 grant to help fund purchase and installation of tenant-owned equipment and furnishings that Ensemble requires and that it will utilize at the Victoria Theater.

Although we have been discussing this proposal with the RDA for many years, on July 1, 2010, we and the Trust for Historic Preservation (the "Trust") formally proposed that $1,000,000 of the funds that the RDA had previously allocated to the Trust for improvements to Ensemble’s current facilities be reallocated to Ensemble for use in connection with the Victoria Theater. Ensemble is now the sole tenant of the Victoria Theatre pursuant to a 30-year lease, is completing its plans and fundraising, and would like to finalize the proposed reallocation of the RDA grant.

About Ensemble Theatre Company

Founded over 30 years ago in 1979, Ensemble Theatre Company is Santa Barbara’s leading professional, resident theatre company. For more than three decades, Ensemble has been a vital creative force in Santa Barbara and a major contributor to our area’s rich and diverse cultural scene. Working with professional artists from around the country, Ensemble is Santa Barbara’s largest and longest-running theatre company—the only Santa Barbara professional theatre that selects, designs, casts, directs, produces and presents its own productions.

Ensemble currently offers five full-length main-stage productions each season drawing over 15,400 patrons annually. We produce thought-provoking and entertaining productions from the wide breadth of global literature and experience, many never before seen in Santa Barbara. In addition, Ensemble’s young audience program, Storybook Theater, features more than 60 performances per year for pre-school through sixth grade children. For most children, Ensemble provides their first experience with live theatre. We also provide a weekday Student Matinee Series primarily targeted for high school and middle school groups. Tickets are heavily subsidized with a number of free tickets made available to those who cannot afford the reduced ticket price. Additionally, Ensemble partners with other institutions such as the Santa Barbara Public Library, UCSB and SBCC to provide stimulating educational opportunities for young and old alike.

P.O. Box 2307 Santa Barbara, CA 93120 • www.ensembletheatre.com • (805) 965-5400
Ensemble is unique in our community as the only local professional theatre company that creates its own productions, specifically chosen and created for Santa Barbara audience, rather than simply borrowing or importing the work of out-of-town theatre companies. Moreover, Ensemble is also the only local professional theatre to provide original programming for young audiences.

Over recent years, under new nationally-acclaimed artistic leadership, Ensemble has attracted accomplished performing artists from around the country and further raised the artistic level of its work.

We believe that Ensemble makes a profound contribution to the performing arts of the greater Santa Barbara community.

Project Overview

We know from years of experience, from audience and community surveys, and from our extensive research and planning, that our current leased facility severely limits our ability to serve the community. The facility, with just 140 seats, is too small, so that long theatrical runs are required. The physical space is cramped and uncomfortable, audience amenities are severely constrained, and its location outside of the performing arts district is a significant constraint. The physical limitations of the facility are also artistically limiting.

In order to enhance our artistic capabilities, increase access and visibility, and provide a more enriching and comfortable experience for larger audiences, Ensemble is relocating to the Victoria Theater, an existing 300-seat theatre in the thriving downtown arts district, just half a block from the Arlington and Granada Theatres.

Ensemble has entered into a 30-year lease for the Victoria Theater with the Victoria Community House Building Council, the group formally appointed by the building’s three owners to make all decisions about the property. That lease is final, and all legal issues completely and conclusively resolved. Ensemble is now the lessee of the Victoria Theater and will be for at least the next 30 years.

Although the Victoria Theater has been a functioning theatre for decades, it was originally designed for very different purposes, and has not ever had a complete renovation to optimize its ability to function as a performing arts venue. Ensemble will be renovating the physical structure to address seismic concerns and to configure the facility so that it can better function as a flexible performing arts venue with much improved audience amenities and access, a more intimate interior configuration allowing optimal sight lines for patrons, new soundproofing and acoustical treatments, and functional stage house and wing areas. These are all “landlord” shell improvements in the sense that they are the type of improvements a landlord typically makes before leasing, and that are an integral part of the building itself that remain with the building after termination of a tenancy.

After all of these “landlord” shell improvements have been completed and fully paid for, Ensemble will purchase and install its own tenant-owned equipment and furnishings, installing comfortable, intimate seating, advanced lighting, projection, and sound equipment, sophisticated rigging and line sets. These equipment and furnishings will belong to Ensemble, and are not part of the building itself.
With the installation of Ensemble's equipment and furnishings, the New Vic will be a warm, intimate, modern, flexible, 300-seat performing arts venue right in the heart of Santa Barbara's performing arts district. Not only will the Victoria Theater be a superb new home for Ensemble's five main-stage productions and youth programs each year, the refurbished theatre will serve crucial sectors of the entire community. As the only 300-seat theatre in downtown, it will be an exceptional venue for lectures, dance, ballet, chamber music, film and other performing arts.

After an extensive search, we have retained PMSM as our architects and we are currently in the process of finalizing the design. We selected PMSM because of its extensive work with other successful arts projects in Santa Barbara and its focus on projects that serve the community. In the near future we will be applying for the necessary preliminary approvals, will be completing construction drawings and requesting final permits, and continuing our initial fundraising necessary in order to commence construction. Our goal is to break ground within a year and to celebrate the Grand Opening of the New Vic in late 2012 or early 2013.

Long ago the City of Santa Barbara identified the critical need for a theatre of this size in the performing arts district, and it identified Ensemble as the most likely operator of such a facility. Ensemble's relocation to the Victoria will at last complete the City's long-range vision for its performing arts district, will add to the economic vitality of the downtown, will contribute significantly to the cultural richness of Santa Barbara, and will address the core goals of the RDA. As a unique, beautifully designed and modernized theatre, the Victoria will be a hub of cultural activity and attract patrons from greater Santa Barbara as well as outside the area. Before and after each performance, patrons will frequent the numerous restaurants and retail establishments that surround the theater.

We want to emphasize that the Board of Ensemble is undertaking this project for the twin goals of providing a home for its own work and to create a theatre that will serve the broader performing arts community. We have a strong commitment to other cultural arts in our community. The flexibility afforded by a larger, more centrally, better equipped facility, will allow us to make the theater available to other performing arts organizations for almost half the days of the year. In our planning we have met with numerous arts organizations and are designing the improvements so that the theater will flexibly serve the needs of a rich variety of performing arts uses. There is already great interest in the facility. Ensemble has been in discussions with UCSB's theatre department to provide them a venue for one student production per year, facilitating an important town-gown interrelationship. Ensemble has carefully analyzed the anticipated operations of the New Vic and will be able to offer the theater facility to nonprofit organizations at extremely favorable cost, allowing nonprofits of any size to utilize the theater. Ensemble, as operator of the New Vic will assume full responsibility for leasing and managing the New Vic for use by other organizations throughout the year, with coordination by Ensemble's facilities manager and with the oversight of a volunteer board committee.

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1 Ensemble's current business plan analysis—which is subject to change as we refine our plans and timetable—projects that we will initially be able to make the facility available for as little as $700/day. Although this figure may well change as the project progresses, we do not anticipate a significant increase.
Much study and analysis has gone into this project and we have prepared a detailed business plan that demonstrates that Ensemble can be very successful at this location. We are confident that completion of this project will position Ensemble as one of the major regional theatre companies between Los Angeles and San Francisco. Ensemble will become a destination theatre, drawing further regional and national attention to Santa Barbara. And Santa Barbara will finally have a modern, intimate, perfectly-sized 300-seat theatre to serve the broader performing arts community.

Use of Redevelopment Agency Funding for this Project

Many years ago the RDA set aside $1,500,000 as an anticipated grant to the Trust for the Trust to use to make improvements for the benefit of Ensemble to Ensemble’s current facility, the Alhecama Theater. The RDA approved expenditure of a portion of that grant for that purpose. It is our understanding that at least $1,000,000 of the original grant remains. In light of Ensemble’s relocation to the Victoria Theater, we are requesting that the remaining portion of those funds be reallocated to Ensemble for the uses and in accordance with the operating covenant described below.

As explained above, although the Victoria Theater has been a functioning theatre for decades, Ensemble will be undertaking significant “landlord” shell renovations that will better allow it to serve as a performing arts facility for the next 30 years. Ensemble will raise all the funds for that work from its own capital campaign and will not request or require any RDA or governmental funds for that work.

At the conclusion of the “landlord” shell renovations, the facility will be ready to be re-equipped with tenant improvements necessary to allow it to function as a modern, well-equipped performing arts facility. The equipment and furnishings, which will be owned by Ensemble, will include comfortable, intimate seating, advanced lighting, projection, and sound equipment, sophisticated rigging and set lines.

We will provide you updated, detailed cost estimates for the purchase and installation of the equipment and furnishings, but project that the cost will be in excess of $1,000,000. We request that the RDA fund the purchase and installation of the tenant-owned equipment and furnishings.

We propose that the RDA enter into a Grant Agreement with Ensemble that will include the requirement that Ensemble enter into a recorded operating covenant that includes at least the following elements:

1. The requirement that the RDA funds will be utilized only for acquisition and installation of tenant-owned equipment and furnishings;

2. The requirement that Ensemble make the New Vic available for rental by other performing arts organizations\(^2\) at times when the facility is not being used by Ensemble itself at competitive rates;

\(^2\) To avoid audience confusion and to avoid the problems that would be created for Ensemble by hosting theatrical productions by organizations whose artistic quality Ensemble
3. The requirement that the RDA be granted a security interest in Ensemble’s lease;¹

4. The requirement that the RDA be granted a recorded security interest in Ensemble’s equipment and furnishings funded by the RDA grant;

5. The requirement that no RDA funds will be disbursed until all the “landlord” shell improvements have been substantially completed and all costs associated therewith have been fully paid; and

6. The requirement that Ensemble demonstrate to the RDA’s reasonable satisfaction that it will have the requisite funds to complete the purchase and acquisition of its equipment and furnishings (to the extent not fully funded by the RDA grant), and that it will have adequate operating reserves to commence and continue economically sound operation of the New Vic.

We expect the Grant Agreement to require that Ensemble pay prevailing wage with respect to all labor required for the installation of the equipment and furnishings that are the object of the requested grant. Based on our analysis of the law applicable to the proposed Grant, we believe that payment of prevailing wage in connection with the grant funds for equipment and furnishings and the proposed operating covenant will satisfy all applicable requirements for work on the theater.

We understand that the RDA will want to ensure that Ensemble fully complies with all wage requirements pertaining to the earlier work on the theater if, in fact, the RDA grant affects that work. We would accept an additional condition to the Grant Agreement that prior to any grant disbursement Ensemble obtain an official ruling from the California Department of Industrial Relations regarding any wage requirements arising from the requested grant, and that Ensemble be required to fully comply with any such requirements.

**Project Status**

We are in the final stages of value engineering to ensure that the project’s costs remain within budget, and are finalizing the renovation designs. At the same time we are well underway on the “quiet phase” of a capital campaign that will establish an endowment, build significant working reserves, and provide interim support for Ensemble productions pending full funding of the endowment. Ensemble’s entire business plan, which includes the endowment component, is designed to help ensure that Ensemble will be successful at the New Vic, that it will still be able to provide tickets that remain affordable, that we can continue to support youth education and outreach programs, and that we will be able to

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¹ A conditional Assignment of Ensemble’s leasehold interest or a conditional option to assume Ensemble’s leasehold position, reflected in the chain of title by a recorded notice of security interest.
provide the New Vic at affordable rates to a rich variety of other performing arts organizations throughout the year.

It is very important to emphasize that we will not commence any renovations until we have secured approximately 70% of the entire non-endowment portion of the capital campaign—an amount that will assure us of the ability to complete the project and carry through to opening of the New Vic. In addition, we emphasize that we will not be requesting disbursement of the requested RDA grant for equipment and furnishings until the “landlord” shell improvements have been completed and fully paid. RDA funds will only be expended for the final equipment and furnishings acquisition and installation.

We have already made great progress on our capital campaign. We are proud that 100% of our board and senior staff have personally committed almost $1,000,000 to the campaign. In total we have already raised just under $2,500,000 from only 25 lead gifts and pledges, and a number of additional significant gifts are currently in process. This fall we plan to launch the community-wide phase of the campaign. The campaign is expected to continue through 2012.

**RDA Grant Agreement**

It would be extremely helpful and important to our project if we could enter into a contract with the Redevelopment Agency for the requested grant at this time, although actual disbursement will of course only occur on a reimbursement basis, and only after receipt of the Department of Industrial Relations ruling discussed above. A grant from the Redevelopment Agency will not only provide assurance of our ability to purchase and install the new equipment that will be essential, but will also inspire the entire community.

Ensemble Theatre Company is grateful for the opportunity to submit this grant request to the RDA. We look forward to meeting with you soon so we can provide you with the additional information you require to process our proposal. We look forward to presenting our request to the Redevelopment Agency in support of this important community project.

Please feel free to call with any questions you may have.

Sincerely,

Dwight Coffin,  
Board President

Jonathan Fox,  
Executive Artistic Director

Derek A. Westen,  
Campaign Chair

cc: Brian Bosse  
Sarah Knecht, Esq., Deputy City Attorney  
Ensemble Board of Directors  
Ensemble Campaign Cabinet
LETTER OF RECOGNITION
SANTA BARBARA AIRPORT

COMPLETION OF THE AIRLINE TERMINAL PROJECT
JUNE 2011

WHEREAS, the Santa Barbara Airport is committed to providing the region with safe, modern, convenient facilities to access the national air transportation system; and

WHEREAS, the Santa Barbara Airport is the busiest airport between San Jose and Los Angeles—used by more than 750,000 passengers annually and has over a half billion dollar economic impact on the region of Santa Barbara County; and

WHEREAS, in 1942 United Airlines commissioned Edwards and Phelan Architects to design its Santa Barbara passenger terminal which was again expanded in 1962 and 1976 to meet the growing passenger demand; and

WHEREAS, now over 750,000 passengers use the Santa Barbara Airline Terminal each year to access five non-stop destinations and over one-hundred one-stop destinations; and

WHEREAS, the design of the new airline terminal reflects City Council's direction to retain "the Santa Barbara Airport Experience", sustainable design, improve accessibility for all, accommodate public transit, and building massing; and

WHEREAS, "the Santa Barbara Airport Experience" will continue to thrive with the new airline terminal as it will be easy to navigate, includes modern technology, lovely gardens and outdoor spaces, and reflects the history and culture of the region.

NOW, THEREFORE, I, HELENE SCHNEIDER, by virtue of the authority vested in me as Mayor of the City of Santa Barbara, California, do hereby honor and commend the SANTA BARBARA AIRPORT for undertaking and successfully completing such an important project for the benefit of the flying public.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Santa Barbara, California to be affixed this 14th day of June, 2011.

Helene Schneider
Mayor
CALL TO ORDER

Mayor Helene Schneider called the meeting to order at 2:00 p.m. (The Finance Committee and the Ordinance Committee met at 12:30 p.m.)

PLEDGE OF ALLEGIANCE

Mayor Schneider.

ROLL CALL

Councilmembers present: Dale Francisco, Frank Hotchkiss, Grant House, Randy Rowse, Bendy White, Mayor Schneider.
Councilmembers absent: Michael Self.
Staff present: City Administrator James L. Armstrong, City Attorney Stephen P. Wiley, Deputy City Clerk Susan Tschech.

PUBLIC COMMENT

Speakers: Mike Jordan, Geof Bard, Ethel Thomas Resolitzsky, Michael Gray.

CONSENT CALENDAR (Item Nos. 1 - 14)

The titles of the resolutions related to Consent Calendar items were read.

Motion:
   Councilmembers White/Hotchkiss to approve the Consent Calendar as recommended.

Vote:
   Unanimous roll call vote (Absent: Councilmember Self).
1. Subject: Minutes

Recommendation: That Council waive the reading and approve the minutes of the special meetings of April 21, and May 2, 2011.

Action: Approved the recommendation.

2. Subject: Amendment Of Countywide Siting Element (630.01)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Adding the Proposed Los Flores Ranch Integrated Waste Management Facility to the Countywide Siting Element, a Regional Solid Waste Planning Document, as Prescribed by the California Public Resources Code.

Action: Approved the recommendation; Resolution No. 11-028 (May 17, 2011, report from the Finance Director; proposed resolution; affidavit of publication).

3. Subject: Acceptance Of Street Easements For Sidewalk Improvements (330.03)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Accepting Street Easements for the Installation and Use of Public Sidewalk Access Ramps and Related Improvements on Portions of the Real Properties Commonly Known as 1131 Coast Village Road, 30 West Calle Laureles, and 628 West Mission Street, Authorizing City Public Works Director to Execute Same, and Consenting to the Recordation by City Clerk of Said Street Easement Deeds in the Official Records, County of Santa Barbara.

Action: Approved the recommendation; Resolution No. 11-029; Deed Nos. 61-360 - 61-362 (May 17, 2011, report from the Public Works Director; proposed resolution).

4. Subject: Contract For Construction Of The Zone 6 Pavement Preparation Project (530.04)

Recommendation: That Council:
A. Award a contract with Granite Construction Company (Granite) in their low bid amount of $1,390,743 for construction of the Zone 6 Pavement Preparation Project (Project), Bid No. 3624;
B. Authorize the Public Works Director to execute a contract and approve expenditures up to $111,260 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment; and

(Cont’d)
4. (Cont’d)

C. Authorize the Public Works Director to execute a contract with Flowers and Associates (Flowers) in the amount of $109,412 for construction support services, and approve expenditures of up to $10,941 for extra services of Flowers that may result from necessary changes in the scope of work.

Action: Approved the recommendations; Contract Nos. 23,774 and 23,775 (May 17, 2011, report from the Public Works Director).

5. Subject: Contract For Construction Of The Zone 6 Slurry Seal Project (530.04)

Recommendation: That Council:
A. Award a contract with Pavement Coatings Co. (Pavement Coatings) in their low bid amount of $1,011,716 for construction of the Zone 6 Slurry Seal Project (Project), Bid No. 3625;
B. Authorize the Public Works Director to execute the contract and approve expenditures up to $80,937 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment; and
C. Authorize the Public Works Director to execute a contract with Flowers and Associates (Flowers) in the amount of $196,655 for construction support services, and approve expenditures of up to $19,665 for extra services of Flowers that may result from necessary changes in the scope of work.

Action: Approved the recommendations; Contract Nos. 23,776 and 23,777 (May 17, 2011, report from the Public Works Director).

6. Subject: Community Priority Designation For 602 Anacapa Street (640.09)

Recommendation: That Council find that the Antioch University development project at 602 Anacapa Street meets the definition of a Community Priority Project, and grant the project a Preliminary Community Priority Designation for an allocation of 2,671 square feet of nonresidential floor area.

Action: Approved the recommendation (May 17, 2011, report from the Assistant City Administrator/Community Development Director).

7. Subject: Response To The 2010-2011 Grand Jury Report - Improving Our Emergency Alert System In The 21st Century (150.04)

Recommendation: That Council review and approve a draft letter in response to the findings and recommendations of the 2010-2011 Santa Barbara County Civil Grand Jury report titled, Improving our Emergency Alert System in the 21st Century.

(Cont’d)
7. (Cont’d)

Action: Approved the recommendation (May 17, 2011, report from the Fire Chief).

8. Subject: Appeal Of Penalty For Late Tax Filing By Santa Barbara Inn (270.06)

Recommendation: That the City Council appoint the City Administrator as the appropriate City officer to hear the appeal of the imposition of a penalty for a late transient occupancy tax payment upon the Santa Barbara Inn pursuant to the authority of Santa Barbara Municipal Code Section 1.30.050(B).

Action: Approved the recommendation (May 17, 2011, report from the Finance Director).

9. Subject: Set A Date For Public Hearing Regarding Appeal Of Architectural Board Of Review Approval For 336 N. Milpas Street (640.07)

Recommendation: That Council:

A. Set the date of June 7, 2011, at 2:00 p.m. for hearing the appeal filed by Tony Fischer, Attorney for the Mary Z. Frangos Trust, of the Architectural Board of Review action on the application of property owner Fresh & Easy Neighborhood Market, located at 336 N. Milpas Street, Assessor’s Parcel No. 031-371-021, C-2 Commercial Zone, General Plan Designation: General Commerce. The project proposes the merger of three lots, the demolition of three existing nonresidential buildings totaling 12,919 square feet, and the construction of a new one-story, 11,680 square-foot commercial building and parking lot. The project was granted Preliminary Approval on October 9, 2006, and Final Approval on January 25, 2010. The decision under appeal is approval of a Review After Final for changes to the entry tower, ramp, doors, and roof parapet approved on April 4, 2011; and

B. Set the date of June 6, 2011, at 1:00 p.m. for a site visit to the property located at 336 N. Milpas Street.

10. **Subject:** Set A Date For Public Hearing Regarding Planning Commission Approval Of Valle Verde Retirement Community, 900 Calle De Los Amigos (640.07)

**Recommendation:** That Council:

A. Set the date of June 14, 2011, at 2:00 p.m. for hearing the appeal filed by Marc Chytilo, Attorney representing Hidden Oaks Homeowners Association, and Weinberg, Roger & Rosenfeld, representing Service Employees International Union-United Healthcare Workers West and Friends of Valle Verde, approval of an application for property located at 900 Calle de los Amigos, APN/Zone Districts: Valle Verde Campus - 049-040-054/E-3; 049-440-016/A-1; 049-040-050/A-1 and E-3; 049-040-053/E-3; Rutherford Parcel - 049-440-015/A-1; General Plan Designation: Residential 5 Units per Acre, 1 Unit per Acre. The proposed project involves the demolition of two independent living residential units and one single-family dwelling, and the construction of 40 new independent living residential units. Four out of eleven studio units would be demolished. Changes to the existing support facilities would include a two-story addition to the Administration building, with a four room bed and breakfast located on the second story. The existing bed and breakfast, which was converted from an independent residential unit, would be demolished. The Assisted Living facility would be remodeled and four beds would be added. The existing maintenance facility would be demolished and rebuilt, and include a hobby area for the residents. Several of the existing parking areas on the project site would be reconfigured for dedicated residential, visitor and employee parking, and would provide a total of 83 new parking spaces. A parking permit program would be implemented to track the residential and employee parking. The project would include the dedication of a 9.8-acre oak woodland area on the western portion of the project site. The discretionary applications required for this project are Modifications, a Conditional Use Permit Amendment, and a Lot Line Adjustment; and

B. Set the date of June 13, 2011, at 1:30 p.m. for a site visit to the property located at 900 Calle de los Amigos.

**Action:** Approved the recommendations (April 25, 2011, letters of appeal).

11. **Subject:** Set A Date For Public Hearing Regarding Appeal Of Parks And Recreation Commission Approval For 507 Brosian Way (570.08)

**Recommendation:** That Council:

A. Set the date of June 28, 2011, at 2:00 p.m. for hearing the appeal filed by Cy Lyon of the Parks and Recreation Commission’s approval of a request to remove two setback trees on the property located at 507 Brosian Way; and

(Cont’d)
11. (Cont’d)

B. Set the date of June 27, 2011, at 1:30 p.m. for a site visit to the property located at 507 Brosian Way.


12. Subject: Set A Date For Public Hearing Regarding Appeals Of Planning Commission And Single Family Design Board Approvals For 1233 Mission Ridge Road (640.07)

Recommendation: That Council:
A. Set the date of July 19, 2011, at 2:00 p.m. for hearing the appeals filed by Marc Chytio, Agent for Judy and David Denenholtz, of: 1) the Planning Commission’s denial of an appeal of an approval by the Staff Hearing Officer of a Performance Standard Permit; and 2) the Single Family Design Board’s Project Design Approval, of an application for property owned by Thomas and Barbara Sanborn and located at 1233 Mission Ridge Road, Assessor’s Parcel No. 019-231-007, E-1 One-Family Residence Zone, General Plan Designation: Residential, One Unit per Acre. The project proposes the demolition of an existing residence, accessory building and detached garage (totaling 2,847 square feet) on a 31,584 square-foot lot in the Hillside Design District, and the construction of a new single-family residence and an Additional Dwelling Unit. The proposed main house is a two-story single-family residence with garage, workshop, patio, second-story deck, pool and spa totaling 4,395 square feet. The proposed Accessory Dwelling Unit is a one-story, additional dwelling unit with garage and storage area totaling 1,504 square feet. The discretionary applications required for the project are a Performance Standard Permit and Project Design Approval; and
B. Set the date of July 18, 2011, at 1:30 p.m. for a site visit to the property located at 1233 Mission Ridge Road.

Action: Approved the recommendations (March 17, and May 5, 2011, letters of appeal).

NOTICES

13. The City Clerk has on Thursday, May 12, 2011, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.

14. Received a letter of resignation from Historic Landmarks Commissioner Susette Naylor; the vacancy will be part of the next City Advisory Groups recruitment.

This concluded the Consent Calendar.
REPORT FROM THE FINANCE COMMITTEE

Finance Committee Chair Dale Francisco reported that the Committee discussed, in connection with the Proposed Two-Year Financial Plan for Fiscal Years 2012 and 2013, policies regarding the levels and uses of City reserve funds. This issue will be placed on a future Council agenda for consideration and direction to the Committee.

REPORT FROM THE ORDINANCE COMMITTEE

Ordinance Committee Chair Grant House reported that the Committee met to consider an ordinance establishing local energy efficiency standards for new construction and additions to existing buildings. The Committee will work with Staff to hold a work session with interested parties, following which the Committee will discuss the issue further.

CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS

CITY ATTORNEY

15. Subject: Medical Marijuana Dispensary Ordinance - Amendment For Dispensaries Permitted Under The March 2008 Dispensary Ordinance (520.04)

   Recommendation: That the City Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending the Municipal Code to Establish Revised Regulations for Those Storefront Medical Marijuana Dispensaries Permitted Under City Ordinance No. 5449 as Adopted on March 25, 2008.

Documents:
- May 17, 2011, report from the City Attorney.
- Proposed Ordinance.

The title of the ordinance was read.

Speakers:
   Staff: City Attorney Stephen Wiley.

Motion:
   Councilmembers Rowse/White to approve the recommendation.

Vote:
   Unanimous voice vote (Absent: Councilmember Self).
16. Subject: Agreements With Martin & Chapman Company And Donna M. Grindey, CMC, For Election Services Related To The November 8, 2011, General Municipal Election (110.03)

Recommendation: That Council:
A. Authorize the Administrative Services Director to execute a $141,500 professional services agreement, in a form of agreement acceptable to the City Attorney, with Martin & Chapman Company for election services, and to approve expenditures of up to $21,225 for extra services that may result from necessary changes in the scope of work; and
B. Authorize the Administrative Services Director to execute a $40,000 professional services agreement, in a form of agreement acceptable to the City Attorney, with Donna M. Grindey, CMC, for election services, and to approve expenditures of up to $6,000 for extra services that may result from necessary changes in the scope of work.

Documents:
May 17, 2011, report from the Assistant City Administrator/Administrative Services Director.

Speakers:
Staff: City Clerk Services Manager Cynthia Rodriguez.

Motion:
Councilmembers Francisco/Rowse to approve the recommendations; Agreement Nos. 23,778 and 23,779.

Vote:
Unanimous voice vote (Absent: Councilmember Self).

17. Subject: Increase In Construction Change Order Authority For The Santa Barbara Airport Airline Terminal Improvement Project (560.04)

Recommendation: That Council:
A. Authorize an increase in the Public Works Director’s change order authority to approve expenditures for extra work for the Santa Barbara Airport Airline Terminal Improvement Project (Project), Contract No. 23,006, in the amount of $1,270,000, to cover changes in work as a result of Transportation Security Administration (TSA) and airline tenants’ requests, for a total project change order expenditure authority of $4,710,000; and

(Cont’d)
17. (Cont’d)

B. Approve a transfer of $248,000 from the Airport’s Bond Construction Account, representing accumulated interest earnings on invested bond proceeds during construction, to the Airport Capital Fund to provide the balance of appropriations needed to cover the total estimated costs of the Project, including the increased change order.

Documents:
- May 17, 2011, report from the Public Works Director.
- PowerPoint presentation prepared and made by Staff.

Speakers:
Staff: Airport Director Karen Ramsdell, City Administrator James Armstrong.

Motion:
Councilmembers House/Hotchkiss to approve the recommendations.

Vote:
Unanimous voice vote (Absent: Councilmember Self).

COUNCILMEMBER COMMITTEE ASSIGNMENT REPORTS

Information:
- Councilmember Francisco reported that the Cachuma Operation and Maintenance Board has interviewed candidates for the position of General Manager and will make a hiring decision within the next two weeks.
- Mayor Schneider mentioned that the Santa Barbara County Air Pollution Control District is also seeking a new director and will conduct interviews and make its hiring decision over the next six weeks.

RECESS

Mayor Schneider recessed the meeting at 2:40 p.m. in order for the Council to reconvene in closed session for Agenda Item Nos. 18 and 19; no reports are anticipated.

CLOSED SESSIONS

18. Subject: Conference with Legal Counsel - Pending Litigation (160.03)

Recommendation: That Council hold a closed session to consider pending litigation pursuant to subsection (a) of section 54956.9 of the Government Code and take appropriate action as needed. The pending litigation is Drew Josfan vs. Nylon Project, LLC, etc., et al., USDC Case No. CV 09-7904 AHM (PLAx).

Scheduling: Duration, 30 minutes; anytime
Report: None anticipated

(Cont’d)
18. (Cont’d)

Documents:
May 17, 2011, report from the City Attorney.

Time:
2:45 p.m. - 2:53 p.m.

No report made.

19. Subject: Conference With Labor Negotiator (440.05)

Recommendation: That Council hold a closed session, per Government Code Section 54957.6, to consider instructions to City negotiator Kristy Schmidt, Employee Relations Manager, regarding negotiations with General, Treatment and Patrol, and Supervisory bargaining units, and regarding discussions with unrepresented management about salaries and fringe benefits.

Scheduling: Duration, 30 minutes; anytime
Report: None anticipated

Documents:
May 17, 2011, report from the Assistant City Administrator/Administrative Services Director.

Time:
2:55 p.m. - 3:05 p.m.

No report made.

ADJOURNMENT

Mayor Schneider adjourned the meeting at 3:05 p.m.

SANTA BARBARA CITY COUNCIL               SANTA BARBARA
CITY CLERK’S OFFICE

ATTEST:

HELENE SCHNEIDER             SUSAN TSCHENCHE, CMC
MAYOR                       DEPUTY CITY CLERK

5/17/2011
Santa Barbara City Council Minutes  Page 10
CALL TO ORDER

Mayor Helene Schneider called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

Mayor Schneider.

ROLL CALL

Councilmembers present: Dale Francisco (6:08 p.m.), Frank Hotchkiss, Grant House (6:03 p.m.), Randy Rowse, Michael Self, Mayor Schneider.
Councilmembers absent: Bendy White.
Staff present: City Administrator James L. Armstrong, City Attorney Stephen P. Wiley, Deputy City Clerk Brenda Alcazar.

PUBLIC COMMENT

No one wished to speak.

NOTICES

The City Clerk has on Thursday, May 19, 2011, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.
CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS

FINANCE DEPARTMENT

Subject: Proposed Two-Year Financial Plan For Fiscal Years 2012 And 2013 (230.05)


Documents:
- May 23, 2011, report from the Finance Director.
- May 23, 2011, PowerPoint presentation prepared and made by Staff.

Public Comment Opened (Continued from May 16, 2011):
6:00 p.m.

Speakers:
Staff: Fire Chief Andy DiMizio, Administrative Services Manager Ron Liechti, Deputy Fire Chief Pat McElroy, Fire Marshal Joe Poire.

Discussion:
Fire Chief Andy DiMizio provided an overview of the Fire Department’s organization. Fire Department Staff presented the Department’s proposed budget for Fiscal Year 2012, including the General Fund and Wildland Fire Suppression Assessment Fund. Staff also discussed the Department’s programs and staff changes. The Fire Chief presented the Department’s key performance objectives and challenges. Staff responded to the Councilmembers’ questions.

By consensus, the hearing was continued to June 2, 2011, at 9:00 a.m.

ADJOURNMENT

Mayor Schneider adjourned the meeting at 7:22 p.m.

SANTA BARBARA CITY COUNCIL

SANTA BARBARA CITY CLERK'S OFFICE

ATTEST:

HELENE SCHNEIDER  BRENDA ALCAZAR, CMC
MAYOR  DEPUTY CITY CLERK

5/23/2011 Santa Barbara City Council Minutes Page 2
CALL TO ORDER

Mayor Helene Schneider called the meeting to order at 2:02 p.m. (The Finance Committee met at 12:30 p.m. The Ordinance Committee, which ordinarily meets at 12:30 p.m., did not meet on this date.)

PLEDGE OF ALLEGIANCE

Mayor Schneider.

ROLL CALL

Councilmembers present: Dale Francisco, Frank Hotchkiss, Grant House, Randy Rowse, Michael Self, Bendy White, Mayor Schneider.
Councilmembers absent: None.
Staff present: City Administrator James L. Armstrong, City Attorney Stephen P. Wiley, City Clerk Services Manager Cynthia M. Rodriguez.

CEREMONIAL ITEMS

1. Subject: Letter Of Recognition Declaring Paul J. Willis Poet Laureate For The City Of Santa Barbara (120.04)

   Action: Letter of Recognition presented to Poet Laureate Paul J. Willis.

2. Subject: Employee Recognition - Service Award Pins (410.01)

   Recommendation: That Council authorize the City Administrator to express the City's appreciation to employees who are eligible to receive service award pins for their years of service through April 30, 2011.

   Documents:
   April 12, 2011, report from the Assistant City Administrator/Administrative Services Director.

(Cont'd)
2. (Cont’d)

Speakers:
   Staff: Award Recipient Karen Ramsdell, City Administrator James Armstrong.

By consensus, the Council recognized the following employees:

5-Year Pin
Hillary Allen, Administrative Specialist, Finance
Thomas Churpek, Firefighter, Fire
Anthony Lamarca, Firefighter, Fire
Tia Rodriguez, Firefighter, Fire
Moses Romo, Firefighter, Fire
Craig Stuart, Firefighter, Fire
Aaron Vaughn, Firefighter, Fire
Sandra Tinsley, Library Assistant I, Library
George Gonzales, Grounds Maintenance Worker II, Parks and Recreation
Andrew Bermond, Associate Planner, Airport

10-Year Pin
Marcos Mendoza, Grounds Maintenance Worker II, Parks and Recreation

15-Year Pin
Carol Lupo, Executive Assistant, Fire
Cindy Leyva, Administrative Specialist, Parks and Recreation

20-Year Pin
Vidal Gonzalez, Streets Maintenance Worker II, Public Works
Hector Balboa, Streets Maintenance Worker II, Public Works
Jose Medina, Custodian, Public Works
Louis Gutierrez, Wastewater Collection System Lead Operator, Public Works
Kenneth Brown, Parks Supervisor, Parks and Recreation

30-Year Pin
Marko Mendoza, Animal Control Officer, Police

35-Year Pin
Karen Ramsdell, Airport Director, Airport

PUBLIC COMMENT

Speakers: Robert Livernois; Jeanne Kahre; Carl Hightower; Barbara Primeau; Paul Primeau; Gary Richard Arnold; Anthony J. Huder; Wanda Livernois; AIE, the person; Tony Vassallo; Christy Haynes, Youth Violence Prevention & Intervention Committee and Domestic Violence Solutions; Geof Bard, California Public Policy and Citizen Participation; Susan Love; Jacqueline Inda; Erica Cortez; Joe Sanchez; JP Nevvada; Miguel Molina; Patty Moreno.
CONSENT CALENDAR (Item Nos. 3 – 13)

The titles of the ordinance and resolutions related to the Consent Calendar were read.

Motion:
Councilmembers House/Francisco to approve the Consent Calendar as recommended.

Vote:
Unanimous roll call vote.

3. Subject: Minutes

Recommendation: That Council waive the reading and approve the minutes of the adjourned regular and regular meetings of March 15, the adjourned regular meeting of March 21, and the regular meetings of March 22, and March 29, 2011.

Action: Approved the recommendation.

4. Subject: Donation Of Firefighting Equipment To The Fire Department By The Santa Ynez Band Of Chumash Indians Foundation (330.05)

Recommendation: That Council accept the donation of rescue and safety equipment from the Santa Ynez Band of Chumash Indians Foundation to the City of Santa Barbara Fire Department, valued at approximately $50,000.

Documents:
April 12, 2011, report from the Fire Chief.

Speakers:
- Staff: Fire Chief Andrew DiMizio.
- Santa Ynez Band of Chumash Indians: Tribal Chairman Vincent Armenta.

Action: Approved the recommendation.

5. Subject: Adoption Of Sign Ordinance Revisions (640.02)

Recommendation: That Council adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Sections 22.70.020, 22.70.030, and 22.70.040 of the Santa Barbara Municipal Code Relating to Sign Regulations.

Action: Approved the recommendation; Ordinance No. 5549 (April 4, 2011, email communications from Nancy Ransohoff, Catherine Robson, Sue Sadler-Pare’, Anne MacDermott, Jeannette Webber, Arnie Cooper, Deanna and George Gregg, Arlene L. Warynick, Romani Reavley, Mariah Moon, Raylene and Jon Crawford, Cheryl Rogers, Susan Mellor, Mary Zeldis, Caroline Tesiorowski, Barbara S. Lindemann).
6. Subject: Records Destruction For Administrative Services Department (160.06)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Relating to the Destruction of Records Held by the Administrative Services Department in the City Clerk's Office and Human Resources Division.

Documents:
- April 12, 2011, report from the Assistant City Administrator/Administrative Services Director.
- Proposed Resolution.

Speakers:
Members of the Public: Kate Smith.

Action: Approved the recommendation; Resolution No. 11-019.

7. Subject: Records Destruction For Parks And Recreation Department (160.06)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Relating to the Destruction of Records Held by the Parks and Recreation Department in the Administration, Parks, and Recreation Divisions.

Action: Approved the recommendation; Resolution No. 11-020 (April 12, 2011, report from the Parks and Recreation Director; proposed resolution).

8. Subject: Records Destruction For Police Department (160.06)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Relating to the Destruction of Records Held by the Police Department in the Administrative Services, Patrol, and Chief's Staff Divisions.

Action: Approved the recommendation; Resolution No. 11-021 (April 12, 2011, report from the Chief of Police; proposed resolution).

9. Subject: Contract For Design For The Firestone Road Drainage Project (530.04)

Recommendation: That Council authorize the Public Works Director to execute a City Professional Services contract with Tartaglia Engineering (Tartaglia) in the amount of $46,430 for design services for the Firestone Road Drainage Project, and authorize the Public Works Director to approve expenditures of up to $4,600 for extra services of Tartaglia that may result from necessary changes in the scope of work.

Action: Approved the recommendation; Contract No. 23,753 (April 12, 2011, report from the Public Works Director).
10. Subject: Berthing Policy-Designated Commercial Fishing Slips (570.03)

   Recommendation: That Council adopt, by reading of title only, A Resolution of
   the Council of the City of Santa Barbara Establishing a Slip Occupancy Policy for
   Designated Commercial Fishing Slips in Santa Barbara Harbor and Repealing
   Resolution 07-041.

   Action: Approved the recommendation; Resolution No. 11-022 (April 12, 2011,
   report from the Waterfront Director; proposed resolution).

11. Subject: Adult Softball League Services Agreement With Major League Softball
   (570.06)

   Recommendation: That Council authorize the Parks and Recreation Director to
   execute a two-year agreement with Major League Softball, Inc. (MLS), to perform
   adult softball league services.

   Action: Approved the recommendation; Agreement No. 23,754 (April 12, 2011,
   report from the Parks and Recreation Director).

NOTICES

12. The City Clerk has on Thursday, April 7, 2011, posted this agenda in the Office of
   the City Clerk, on the City Hall Public Notice Board on the outside balcony of City
   Hall, and on the Internet.

13. Cancellation of the Redevelopment Agency Board meeting of April 12, 2011, due
   to lack of business.

   This concluded the Consent Calendar.

REPORT FROM THE FINANCE COMMITTEE

Finance Committee Chair Dale Francisco reported that the Committee met to discuss
the Employee Mortgage Loan Assistance Program. He stated that the Committee
recommended that the program be discontinued; this recommendation will be submitted
unto the full Council for consideration in the near future.

CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS

PUBLIC WORKS DEPARTMENT

14. Subject: Measure A Five-Year Local Program Of Projects For Fiscal Years
    2012-2016 (670.05)

   Recommendation: That Council adopt, by reading of title only, A Resolution of
   the Council of the City of Santa Barbara Adopting the Measure A Five-Year Local
   Program of Projects for Fiscal Years 2012 - 2016.

   (Cont’d)
14. (Cont’d)

Documents:
- April 12, 2011, report from the Public Works Director.
- Proposed Resolution.
- PowerPoint presentation prepared and made by Staff.
- April 12, 2011, letter from Paula Westbury.

The title of the resolution was read.

Speakers:
Staff: Principal Civil Engineer John Ewasiuk, Transportation Manager Browning Allen.

Motion:
Councilmembers House/Rowse to approve the recommendation; Resolution No. 11-023.

Vote:
Unanimous roll call vote.

15. Subject: State Route 225 Relinquishment Update (680.04)

Recommendation: That Council:
A. Receive an update on the State Route (SR) 225 Relinquishment; and
B. Provide direction to staff regarding the SR 225 Relinquishment.

Documents:
- April 12, 2011, report from the Public Works Director.
- PowerPoint presentation prepared and made by Staff.

Speakers:
- Staff: Public Works Director Christine Andersen.
- Members of the Public: E.J. Borah, representing Assemblymember Das Williams; Iya Falcone; Tom Ochsner; Natalie Ochsner; Derrick Eichelberger; Dennis Thompson; Wayne Tustin; John Kelley; Jeff King, Mesa Architects; David Van Hoy; Lesley Wiscomb; Alex Pujo; Michael Conaway; Je Goolsby.

Motion:
Councilmember House/Mayor Schneider to direct staff to:
1. Move forward with the State Route 225 relinquishment;
2. Focus on the liability concerns outlined by the City Attorney in staff’s report; and
3. Aggressively pursue other funding sources for and negotiations on the one-time costs upon relinquishment, while continuing to work with Caltrans staff and the City’s state legislator in obtaining a more reasonable financial structure.

Vote:
Majority voice vote (Noes: Councilmembers Hotchkiss, Self).
RECESS

5:08 p.m. - 5:24 p.m. City Administrator James Armstrong was absent when the meeting reconvened. Assistant City Administrator Paul Casey was in attendance for the remainder of the meeting.

PUBLIC HEARINGS

16. Subject: Appeal Of The Planning Commission Denial Of A Storefront Collective Dispensary Permit For 2915 De La Vina Street (640.07)

Recommendation: That Council deny the appeal and uphold the decision of the Planning Commission to deny a Storefront Dispensary Permit for the existing dispensary at 2915 De la Vina Street.

Documents:
- April 12, 2011, report from the Assistant City Administrator/Community Development Director.
- Affidavit of Publication.
- PowerPoint presentation prepared and made by Staff.
- April 7, 2011, letter from Attorney Gilbert Gaynor, representing the Appellant.
- April 8, 2011, additional declaration submitted by the Appellant.
- April 12, 2011, supplemental declaration submitted by the Appellant.
- April 12, 2011, letters submitted by H. Darion, Kathleen E. Peterson, and Paula Westbury.

Public Comment Opened:
5:25 p.m.

Speakers:
- Staff: Associate Planner Daniel Gullett, Police Captain Armando Martel, Senior Planner II Danny Kato, City Attorney Steve Wiley.
- Planning Commission: Commissioner Michael Jordan.
- Appellant: Attorney Gilbert Gaynor, Patrick Fourmy.
- Members of the Public: Emma-Jane Huerta, Iyengar Yoga Studio of Santa Barbara; Tony Vassallo; Jane Copelan; Allan Dougherty; Paul Nolan; Lee Carter; Haley Darla; Mona Mansfield-Erhardt; Paul Till.

Public Comment Closed:
6:58 p.m.

Motion:
Councilmembers Rowse/Self to deny the appeal and direct the City Attorney’s Office to return to Council in three weeks with a findings resolution.

Vote:
Majority voice vote (Noes: Councilmember House, Mayor Schneider).
CHANGES TO AGENDA

Assistant City Administrator Paul Casey stated that the following item was being removed from the agenda:

17. Subject: Conference With Labor Negotiator (440.05)

   Recommendation: That Council hold a closed session, per Government Code Section 54957.6, to consider instructions to City negotiator Kristy Schmidt, Employee Relations Manager, regarding negotiations with General, Treatment and Patrol, and Supervisory bargaining units and regarding discussions with unrepresented management about salaries and fringe benefits.
   Scheduling: Duration, 30 minutes; anytime
   Report: None anticipated

ADJOURNMENT

Mayor Schneider adjourned the meeting at 7:48 p.m.
AGENDA DATE:     June 14, 2011  
TO:              Mayor and Councilmembers  
FROM:            Transportation Division, Public Works Department  
SUBJECT:         Increase Appropriations In The Streets Capital Fund For The Property Located At 319 West Haley Street  

RECOMMENDATION: That Council:  
A. Approve an increase in appropriations in the Streets Fund in the amount of $420,000 to buy out Santa Barbara County Association of Governments’ (SBCAG) interest in the real property located at 319 West Haley Street (Haley Street Property), of which $170,000 will be funded from unappropriated Streets Fund reserves, $250,000 will come from a transfer of appropriated funds in the Measure D Fund, and the balance of $50,000 will come from an allocation of existing appropriations in the Streets Fund for the Carrillo/Anacapa Intersection Improvement Project, for a total of $470,000 for the buyout;  
B. Approve the transfer of appropriations in the amount of $250,000 from the Carrillo/Anacapa Intersection Improvement Project in the Measure D Fund to the Streets Fund to cover a portion of the cost to buy out SBCAG’s interest in the Haley Street Property;  
C. Approve an increase in appropriations and estimated revenues in the Fiscal Year 2012 recommended budget by $36,968 in the Streets Fund, in recognition of lease income to be generated and received from the property at 319 West Haley Street, half of which was previously recognized as revenue in the General Fund;  
D. Reduce appropriated reserves and estimated revenues in the General Fund in Fiscal Year 2012 by $18,485 related to the shift of lease revenues from the General Fund to the Streets Fund; and  
E. Terminate City Agreement No. 15,909 with SBCAG, dated March 5, 1991.  

DISCUSSION:  
On March 5, 1991, the City and SBCAG entered into a Cooperative Agreement for the purchase of real property located at 319 West Haley Street, to construct a new interchange at Castillo Street and Highway 101. That interchange project was dropped from the Measure D program. The land has been sitting vacant with the exception of a parking lot that is currently being leased to PathPoint. The City and SBCAG have been splitting the yearly rental income received from PathPoint in the amount of $36,968.
SBCAG requested that the City buy-out of their interest in the Haley Street property. The City worked with SBCAG to reach an agreed upon amount, and they reached an agreement on April 20, 2011, for the amount of $470,000. This payment will completely buy out SBCAG’s interest in the Haley Street property and terminate the March 5, 1991 Agreement. All future lease revenue will be retained by the City in the Streets Fund.

**BUDGET/FINANCIAL INFORMATION:**

Funding for this buy-out will come from a combination of funding sources, as follows:

- **Streets Fund Unappropriated Reserves:** The request is to appropriate $170,000 from Streets Fund reserve balances. Currently, the reserve balance is $544,624. This will leave a reserve balance of $374,624.

- **Measure D Fund:** The request is to transfer $250,000 that is currently appropriated to the Carrillo/Anacapa Intersection Improvement Project. This will leave a balance of $17,031 for this project.

- **Streets Fund:** The request is to allocate $50,000 that is currently appropriated to the Carrillo/Anacapa Intersection Improvement Project. This will leave a balance of $111,571 for this project.

The City received a Highway Safety Improvement Program Grant for the Carrillo/Anacapa Intersection Improvement Project, which will cover construction. The remaining City funds, after the payment to SBCAG, are sufficient to cover the City’s matching requirement under the grant to complete this Carrillo/Anacapa Intersection Improvement Project.

**PREPARED BY:** Browning Allen, Transportation Manager/kts

**SUBMITTED BY:** Christine F. Andersen, Public Works Director

**APPROVED BY:** City Administrator’s Office
AGENDA DATE:       June 14, 2011
TO:                Mayor and Councilmembers
FROM:              Housing and Redevelopment Division, Community Development Depart
SUBJECT:           Records Destruction For Community Development Department

RECOMMENDATION:

That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Relating to the Destruction of Records Held by the Community Development Department in the Housing and Redevelopment Division.

DISCUSSION:

The City Council adopted Resolution No. 09-098 on December 15, 2009, approving the City of Santa Barbara Records Management Policies and Procedures Manual. The Manual contains the records retention and disposition schedules for all City departments. The schedules are a comprehensive listing of records created or maintained by the City, the length of time each record should be retained, and the legal retention authority. If no legal retention authority is cited, the retention period is based on standard records management practice.

Pursuant to the Manual, the Community Development Director submitted a request for records destruction to the City Clerk Services Manager to obtain written consent from the City Attorney. The City Clerk Services Manager agreed that the list of records proposed for destruction conformed to the retention and disposition schedules. The City Attorney has consented in writing to the destruction of the proposed records.

The Community Development Director requests the City Council to approve the destruction of the Community Development Department records in the Housing and Redevelopment Division listed on Exhibit A of the resolution without retaining a copy.

SUSTAINABILITY IMPACT:

Under the City's sustainability program, one of the City's goals is to increase recycling efforts and divert waste from landfills. The Citywide Records Management Program outlines that records approved for destruction be recycled, reducing paper waste.
RESOLUTION NO. __________

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SANTA BARBARA RELATING TO THE DESTRUCTION OF
RECORDS HELD BY THE COMMUNITY DEVELOPMENT
DEPARTMENT IN THE HOUSING AND
REDEVELOPMENT DIVISION

WHEREAS, the City Council adopted Resolution No. 09-098 on December 15, 2009, approving the City of Santa Barbara Records Management Policies and Procedures Manual;

WHEREAS, the City of Santa Barbara Records Management Policies and Procedures Manual contains the records retention and disposition schedules for all City departments. The records retention and disposition schedules are a comprehensive listing of records created or maintained by the City, the length of time each record should be retained, and the legal retention authority. If no legal retention authority is cited, the retention period is based on standard records management practice;

WHEREAS, Government Code section 34090 provides that, with the approval of the City Council and the written consent of the City Attorney, the head of a City department may destroy certain city records, documents, instruments, books or papers under the Department Head’s charge, without making a copy, if the records are no longer needed;

WHEREAS, the Community Development Director submitted a request for the destruction of records held by the Community Development Department to the City Clerk Services Manager to obtain written consent from the City Attorney. A list of the records, documents, instruments, books or papers proposed for destruction is attached hereto as Exhibit A and shall hereafter be referred to collectively as the “Records”;

WHEREAS, the Records do not include any records affecting title to real property or liens upon real property, court records, records required to be kept by statute, records less than two years old, video or audio recordings that are evidence in any claim or pending litigation, or the minutes, ordinances or resolutions of the City Council or any City board or commission;

WHEREAS, the City Clerk Services Manager agrees that the proposed destruction conforms to the City’s retention and disposition schedules;

WHEREAS, the City Attorney consents to the destruction of the Records; and

WHEREAS, the City Council of the City of Santa Barbara finds and determines that the Records are no longer required and may be destroyed.
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA that the Community Development Director, or his designated representative, is authorized and directed to destroy the Records without retaining a copy.
COMMUNITY DEVELOPMENT DEPARTMENT
HOUSING AND REDEVELOPMENT DIVISION

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG)

Records Series Date(s)
Community Development Block Grant Files 2005

HUMAN SERVICES

Records Series Date(s)
Human Services Project Files 2003

RENTAL HOUSING MEDIATION TASK FORCE (RHMTF)

Records Series Date(s)
Rental Housing Mediation Task Force Records 2005

HOUSING REHABILITATION LOAN PROGRAM (HLRP)

Records Series Date(s)
Housing Rehabilitation Loan Program and Project Files 1982 - 2006

REDEVELOPMENT AGENCY

Records Series Date(s)
Contracts and Agreements 1995 - 1996
Leases 2006
AGENDA DATE:  June 14, 2011

TO:      Mayor and Councilmembers

FROM:    Creeks Division, Parks and Recreation Department

SUBJECT: Youth Watershed Education Program Contract With Art From Scrap

RECOMMENDATION:

That Council authorize the Parks and Recreation Director to execute a 12-month professional services contract with Art From Scrap in the amount of $56,299.25 funded from Measure B revenues for the provision of youth and community watershed education programs in Fiscal Year 2012.

DISCUSSION:

The Creeks Restoration and Water Quality Improvement Division (Creeks Division) recommends that the City contract with Art From Scrap to provide youth watershed education programs and support the continuation of community events and programming at the South Coast Watershed Resource Center. Youth education is a key component of the Creeks Division’s Public Education Plan and the City’s Storm Water Management Program (SWMP), along with ongoing efforts to reduce urban runoff pollution and improve ocean water quality at the beach. By providing clear and engaging activities for youth and the community regarding the importance of clean water and the causes of pollution, these programs help people to develop an appreciation of creek and ocean water quality and adopt appropriate behaviors to protect and improve it.

Art From Scrap is a non-profit organization with a primary focus on environmental education for youth. Since 2002, the Creeks Division has implemented an education program for elementary age children, as well as community outreach programming based out of the Watershed Resource Center. Art From Scrap was selected because of their previous experience and expertise in providing youth watershed education programs for both the Creeks Division and County Project Clean Water. The proposed contract with Art From Scrap would continue the existing and successful education partnership to meet the SWMP goal to reach 3,000 students annually.
Scope of Work
Under the proposed contract, Art From Scrap will provide four water quality education programs for schoolchildren within the City of Santa Barbara. These programs include: 1) a three-part Creek Kids series that is targeted to fourth through sixth grade students; 2) field trips to the Watershed Resource Center at Arroyo Burro Beach for kindergarten through sixth grade; 3) in-class creek lessons focusing on the watershed model; 4) assistance with watershed education field trips; and 5) hands-on water quality education activities at community and school events, including science nights. The Art From Scrap programs are correlated to state standards and are updated often to address teachers' suggestions as well as new pollutants of concern and water quality issues. Additionally, the proposed contract includes a partnership with Santa Barbara County to fund a part-time (five hours/week) staff person to manage and administer the Watershed Resource Center.

During Fiscal Year 2012, it is anticipated that Art From Scrap will conduct 160 presentations over a 12-month period, reaching at least 3,000 schoolchildren. Art From Scrap will also provide staffing and support to multiple community programs hosted at the Watershed Resource Center. New themes and special projects are developed each year to maintain an evolving program with fresh elements for teachers and students.

Regional Integration
In addition to providing youth watershed education programs within the City, Art From Scrap is under contract with the County of Santa Barbara to provide similar programs to schoolchildren in other areas in the County. The Creeks Division recommends that the City and County continue to work with Art From Scrap to provide similar and consistent watershed education programs.

BUDGET/FINANCIAL INFORMATION:

The total cost of the contract with Art From Scrap is $56,299.25. Funds for this contract are included in the proposed Creeks Division Fiscal Year 2012 Operating Budget.

SUSTAINABILITY IMPACT:

Reducing the impact of polluted urban runoff from developed areas is critical for the protection of water quality in the City. An important goal of the Creeks Division public outreach effort is to educate residents about specific behaviors and habits that can improve water quality. Providing educational activities for youth and the community helps participants develop an appreciation of local creek and ocean water quality and adopt appropriate behaviors to protect and improve it.
AGENDA DATE:       June 14, 2011
TO:               Mayor and Councilmembers
FROM:            Administration Division, Parks and Recreation Department
SUBJECT:         Acceptance Of Easement For Public Trail Uses At 1401 Jesusita Lane

RECOMMENDATION:

That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Accepting a Trail Easement for Public Trail Uses on a Portion of the Real Property Commonly Known as 1401 Jesusita Lane, Santa Barbara County Assessor's Parcel Number 055-240-022.

DISCUSSION:

A trail easement for a section of land along the western end of the property located at 1401 Jesusita Lane has been granted by the owner, Gallina Family Trust, for the relocation of a portion of the Jesusita Trail, a public trail. Jesusita Trail is one of the seven trails that comprise the Santa Barbara Front Country Trail system. With the annexation of San Roque Road from the County of Santa Barbara to the City in 1945, existing trail easements over private property were transferred to the City, including the public trail easement over the subdivided property now commonly known as 1401 Jesusita Lane.

Relocation of Jesusita Trail is required due to trail degradation from steep slopes and erosion. The Santa Barbara County Trails Council identified a new location for the trail, and approached the owner to request extension of the easement. The owner granted the extension of the easement without monetary consideration.

ATTACHMENT:       Map with Easement Location
PREPARED BY:      Jill Zachary, Assistant Parks and Recreation Director
SUBMITTED BY:     Nancy L Rapp, Parks and Recreation Director
APPROVED BY:      City Administrator's Office
BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA AS FOLLOWS:

SECTION 1: The City of Santa Barbara hereby accepts that certain easement for public trail and all related purposes described in the Irrevocable Offer of Public Trail Easement to the City of Santa Barbara, a municipal corporation, by Mrs. Sofia Gallina, Trustee, of the Gallina Family Trust, the owner of the real property commonly known as 1401 Jesusita Lane, and referred to as Santa Barbara County Assessor’s Parcel Number 055-240-022.

SECTION 2: The City of Santa Barbara hereby consents to the recordation by the City Clerk in the Official Records of said Irrevocable Offer of Public Trail Easement, along with an attached copy of this Resolution certified by the City Clerk.
AGENDA DATE: June 14, 2011

TO: Mayor and Councilmembers

FROM: Recreation Division, Parks and Recreation Department

SUBJECT: Proposition 40 Grant Funds For The Los Baños Pool Automated Chemical Feed System Upgrade Project

RECOMMENDATION:

That Council increase estimated revenues and appropriations in the Parks and Recreation Fiscal Year 2011 operating budget in the amount of $5,546.25 for a California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002 (Proposition 40) Per Capita grant.

DISCUSSION:

Los Baños swimming pool is the only publicly operated year-round swimming pool available to City of Santa Barbara residents and visitors. The Los Baños swimming pool serves over 94,000 participants a year.

The purpose of the Los Baños Pool Automated Chemical Feed System Upgrade Project is to replace the existing automated chemical feed system with a higher functioning controller unit. Staff proposes to purchase a new controller unit that will ensure that pool chemical levels stay at safe levels for participants and are in compliance with the State of California Health and Safety Code.

The Proposition 40 Per Capita Grant Program is intended to maintain a high quality of life for California’s growing population by providing a continuing investment in parks and recreational facilities. Specifically, it is for the acquisition and development of neighborhood, community, and regional parks and recreation lands and facilities in urban and rural areas. The Parks and Recreation Department has received notification from the State of California Department of Parks and Recreation that this project meets the criteria for Proposition 40 Per Capita funds.
BUDGET/FINANCIAL INFORMATION:

The total cost of the project, including installation, is $5,546.25. The full amount of this project will be funded with grant funds.

SUSTAINABILITY IMPACT:

The new controller will ensure ongoing compliance with pool chemical levels mandated by the State of California and has the functionality to seamlessly integrate with recently installed energy efficient swimming pool pumps. This fully automated unit will minimize fluctuations caused by weather and reduce energy and chemical costs.

PREPARED BY: Rich Hanna, Senior Recreation Supervisor

SUBMITTED BY: Nancy L. Rapp, Parks and Recreation Director

APPROVED BY: City Administrator's Office
AGENDA DATE: June 14, 2011

TO: Mayor and Councilmembers

FROM: Water Resources Division, Public Works Department

SUBJECT: Cachuma Conservation Release Board Budget Ratification

RECOMMENDATION:

That Council ratify the Fiscal Year 2012 Cachuma Conservation Release Board (CCRB) budget in the amount of $461,140, with an estimated City of Santa Barbara share of $177,917.

DISCUSSION:

The CCRB represents the Cachuma Project water rights of three of the four South Coast members: the City of Santa Barbara, the Goleta Water District, and the Montecito Water District. The fourth South Coast member, Carpinteria Valley Water District, recently withdrew from CCRB due to budgetary constraints. Councilmember Dale Francisco is the City’s appointed board member for CCRB.

With the recent transfer of fish project management to the Cachuma Operation and Maintenance Board, the two main responsibilities of CCRB are representing its members in the ongoing State Water Resources Control Board proceedings regarding Cachuma Project water rights and preparing for a reconsultation on the National Marine Fisheries Service Biological Opinion related to steelhead trout in the Lower Santa Ynez River. The budget includes funding for legal, biological, and technical consultation related to these two efforts, as well as administrative expenses and salary for the CCRB General Manager.

CCRB shares some project costs with Improvement District No. 1 of the Santa Ynez River Water Conservation District, as indicated by the 11.58% cost share shown on the attached budget itemization. On April 25, 2011, the CCRB approved a budget for Fiscal Year 2012 in the amount of $461,140, with a City share of $177,917. Under the CCRB Joint Powers Agreement, the Budget requires ratification by CCRB members.
BUDGET/FINANCIAL INFORMATION:

Funds are included in the recommended Fiscal Year 2012 Water Fund operating budget to pay the City’s share of the CCRB budget.

ATTACHMENT(S): Cachuma Conservation Release Board Approved FY 2012 Budget

PREPARED BY: Rebecca Bjork, Water Resources Manager/BF/jj

SUBMITTED BY: Christine F. Andersen, Public Works Director

APPROVED BY: City Administrator’s Office
### GENERAL & ADMINISTRATIVE

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**TOTAL GENERAL & ADMINISTRATIVE**

|                  | 0 | 237,640 | 237,640 |

### CONSULTANT ACTIVITIES

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<tr>
<th>Account Number</th>
<th>Account Name</th>
<th>Budget 21,249</th>
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**TOTAL CONSULTANT ACTIVITIES**

|                  | 25,881 | 197,619 | 223,500 |

**TOTAL**

|                  | 25,881 | 435,259 | 461,140 |

### CCRB COST ALLOCATION

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<tr>
<th>Member Unit</th>
<th>Percent (%)</th>
<th>Annual</th>
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<tr>
<td>Goleta Water District</td>
<td>46.03%</td>
<td>200,357</td>
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<tr>
<td>City of Santa Barbara</td>
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<tr>
<td>Montecito Water District</td>
<td>13.09%</td>
<td>56,984</td>
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**TOTAL**

|                  | 100.00%    | 435,259  |

### Quarterly Assessments

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<td>Montecito Water District</td>
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**TOTAL**

|                  | 108,815  |

**Note:**

This budget is solely reflective of CCRB's (GWD, City of SB and MWD) participation in the projected activities to support the Cachuma water rights hearing proceedings and BO reconsultation. It is anticipated that ID1 will pay 11.58% of the consultants costs as illustrated. CCRB will contract with Cardno-Entrix and HDR. ID#1 will contract with Stetson Engineers and Hanson Environmental.
Cachuma Conservation Release Board
General & Administrative Expenses

Final Budget
FY 2011 - 2012

04/25/11

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<thead>
<tr>
<th>Account Number</th>
<th>Account Name</th>
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<td>Salary</td>
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Total General and Administrative  237,640
## CONSULTANTS ACTIVITIES

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<td>Hanson Environmental</td>
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<td>Total Consultants Activities</td>
<td>223,500</td>
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</table>
AGENDA DATE: June 14, 2011

TO: Mayor and Councilmembers

FROM: Water Resources Division, Public Works Department

SUBJECT: Issuance Of Purchase Order To Approve Engel & Gray For Biosolids Composting

RECOMMENDATION:

That Council find it in the City’s best interest to waive the formal bid process as provided by Municipal Code Section 4.52.070 (k) and authorize the General Services Manager to issue a purchase order to Engel & Gray, Inc. (E&G) to provide the City with an in-county site for biosolids composting services for the purchase of a limited amount of finished compost at a cost of $46.63 per ton for Fiscal Year 2012 and the following four fiscal years, in accordance with approved budgets.

DISCUSSION:

The processes used for treatment of wastewater at the El Estero Wastewater Treatment Plant result in the generation of three products: treated water, recycled water, and biosolids. Biosolids are comprised of organic material removed during the treatment process which has been subsequently broken down and stabilized through a digestion process. The stabilized biosolids are black in color, have a musky, earthy odor, and make excellent feedstock for compost production.

Returning the nitrogen and organic material (humus) contained in biosolids to the soil helps to recycle these nutrients into the soil in a safe and sustainable manner. For the past five years, the City has contracted with two composting companies to manage its biosolids: E&G of Santa Maria and McCarthy Family Farms, which has operations in Kern and Kings Counties. E&G is the only composting facility in Santa Barbara County that has the necessary permits for biosolids composting and staff believes it is in the City’s best interest to keep an in-County option for management of the City’s biosolids. As part of a demonstration project funded by the Wastewater Fund, finished compost from E&G is purchased for use by the City’s Parks and Recreation Department for a top dressing on fields, parks, and the City golf course. Local use of compost provides the public with an opportunity to see the value of recycling this material, while also helping to green the City’s recreational facilities.
Staff has received an acceptable proposal from E&G to transport and compost City biosolids at a cost of $46.63 per ton. The compost produced by E&G is of very high quality and has no noticeable odor. Staff therefore recommends that a purchase order be issued to E&G to manage a portion of the City’s biosolids.

The City has recently received proposals for biosolids management for the remainder (and majority) of the City’s biosolids. Staff has worked to issue a purchase order contract for the successful low bid contractor to manage the majority of the City’s biosolids.

At their meeting of June 13, 2011, the Board of Water Commissioners was informed of staff’s recommendation to authorize re-issuance of purchase order contracts to E&G, whose present contract with the City expires on June 30, 2011.

BUDGET/FINANCIAL INFORMATION:

Biosolids management is an integral part of the Treatment Plant’s operating budget. Approximately $600,000 is budgeted annually for biosolids management. Approximately $100,000 of this will be paid to E&G, and the remainder is expected to be paid to the primary biosolids contractor. Funds to pay for biosolids management are included in the approved Wastewater Fund budget. There are sufficient funds in the Wastewater Fund budget for both purchase order contracts.

SUSTAINABILITY IMPACT:

Returning nutrients to the soils is essential to sustainable farming. Compost offsets or replaces the need for chemical fertilizers, while also adding humus to the soil. Recycling biosolids through composting keeps this material out of landfills, preserving landfill space.

PREPARED BY: Chris Toth, Wastewater System Manager/RR/jj
SUBMITTED BY: Christine F. Andersen, Public Works Director
APPROVED BY: City Administrator’s Office
AGENDA DATE:       June 14, 2011

TO:            Mayor and Councilmembers

FROM:     City Administrator’s Office

SUBJECT:  Introduction Of Ordinance For Rule Of The List For Dispatch And Parking Enforcement Vacancies

RECOMMENDATION:

That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Section 3.16.200 of Santa Barbara Municipal Code Title 3 Pertaining to Certification of Eligibles from an Employment List for Certain Non-Sworn Police Department Vacancies.

DISCUSSION:

Civil service rules in public employment were established in large part to ensure that only qualified employees are appointed to publicly funded positions, and to prevent nepotism and cronyism in the public service. The City’s civil service rules are contained in Santa Barbara Municipal Code (SBMC) Chapter 3.16.

Pursuant to SBMC Chapter 3.16, once a recruitment testing process for a vacancy is concluded by Human Resources, an employment list of qualified applicants for that classification is established. Human Resources may refer only the top scoring candidates from that list to the department for interviews for that classification. In most cases, the number of candidates that are referred equals the number of vacancies plus nine (the “Rule of Ten”), although variations on this rule apply to certain enumerated positions. A department must interview and evaluate all referred top-scoring applicants before it can request additional names from lower on the list and start that process all over again.

These candidate referral restrictions can delay the recruitment process, particularly for classifications that tend to have numerous vacancies simultaneously, or have high turnover, or where time consuming background investigations at the department level tend to disqualify a significant number of otherwise qualified applicants (such as those conducted by the Police Department). Delays in filling vacancies become particularly troublesome for safety sensitive operations. The “Rule of the List” may be more appropriate for these classifications.
Under the “Rule of the List” all applicants who have demonstrated that they meet the minimum qualifications for the job are referred to the department for consideration in score order. This allows the department to conduct simultaneous selection processes on a greater number of applicants, and to end up with a sufficient number of department-qualified applicants to choose from without having to start over again. The Rule of the List currently applies to entry-level Police Officer and Firefighter recruitments.

Police Department management has requested that the Rule of the List be extended to entry-level Public Safety Dispatch positions and to entry-level Parking Enforcement Officer positions. These demanding positions tend to experience high turnover, and referred candidates are frequently either disqualified through background checks or withdraw from the process when they understand the nature of the work. This leads to recruitment delays as lists are recertified. The Human Resources Manager supports this proposed change as it is consistent with the rationale for the Rule of the List. The Santa Barbara Police Officers Association (POA) has also given its support for the change.
ORDINANCE NO.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING SECTION 3.16.200 OF SANTA BARBARA MUNICIPAL CODE TITLE 3 PERTAINING TO CERTIFICATION OF ELIGIBLES FROM AN EMPLOYMENT LIST FOR CERTAIN NON-SWORN POLICE DEPARTMENT VACANCIES

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

SECTION ONE. Section 3.16.200 of Title 3 of the Santa Barbara Municipal Code is amended to read as follows:

3.16.200 Certification of Eligibles.

If it is not possible to fill a vacancy by reinstatement, the appointing power may fill such vacancy by re-employment, transfer, or demotion, or by certification from an appropriate employment list, provided that eligibles are available.

When the appointing power requests a vacancy be filled by appointment from a promotional employment list or from an open employment list, the Human Resources Manager shall certify to the appointing authority, in alphabetical order, the names (according to final score) of nine (9) more eligibles (including tie scores) than the number of vacancies.

In the case of Fire Inspector I, the Human Resources Manager shall certify from either a promotional employment list or from an open employment list, in alphabetical order, the names (according to final score) of nineteen (19) more eligibles (including tie scores) than the number of vacancies.

In the case of Firefighter, Police Officer, Public Safety Dispatcher I, Public Safety Dispatcher II, and Parking Enforcement Officer, the Human Resources Manager shall certify from either a promotional employment list or from an open employment list, the names of all eligibles in final score order.

For the positions of Fire Engineer, Fire Captain, Fire Inspector II and Fire Inspector III, the Human Resources Manager shall certify to the appointing authority, in alphabetical order, the names of four (4) more eligibles (including tie scores) than the number of vacancies.

Any eligible whose name is certified three (3) times to an appointing power, and has not been appointed, may be removed from the eligible list at the discretion of the Human Resources Manager. Whenever there are fewer than three (3) names of individuals willing to accept appointment on a promotion employment list or on an open employment list, the appointing power may make an appointment from among such eligibles or may request the Human Resources Manager to establish a new list. When so requested the Human Resources Manager shall hold a new examination and establish a new employment list.
Those persons whose names are placed on an eligible list by reasons of transfers, reinstatement, or by virtue of being on another eligible list which is at a higher salary range and for which the qualifications are substantially similar, shall be certified at the request of the appointing authority in addition to the names certified from the appropriate employment list, except vacancies in the Treatment and Patrol bargaining unit shall not be filled from eligibles placed on the certification list by virtue of being on another eligible list which is at a higher salary range and for which the qualifications are substantially similar. Such additional names shall have no rank or standing on the eligible list. (Ord. 5346, 2005; Ord. 5176, 2001; Ord. 5174, 2001; Ord. 5066, 1998; Ord. 4578, 1989; Ord. 4462, 1987; Ord. 3956 §3, 1978; Ord. 3525 §4, 1972.)
CITY OF SANTA BARBARA
COUNCIL AGENDA REPORT

AGENDA DATE:       June 14, 2011
TO:                Mayor and Councilmembers
FROM:              City Clerk's Office, Administrative Services Department
SUBJECT:           General Municipal Election Of November 8, 2011

RECOMMENDATION:    That Council:
A. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Calling for the Holding of a Vote-By-Mail General Municipal Election to be Held in the City on Tuesday, November 8, 2011, for the Election of Certain Officers as Required by the Provisions of the Charter;
B. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Authorizing the Conduct of a Vote-By-Mail Election for the November 8, 2011, General Municipal Election;
C. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Provisionally Requesting the Board of Supervisors of the County of Santa Barbara to Consolidate a General Municipal Election to be Held on November 8, 2011, with the Statewide Special Election to be Held on the Date Pursuant to Section 10403 of the Elections Code, in the event the Governor calls a Statewide Special Election allowing the City to proceed with a consolidated election; and
D. Cancel the November 8, 2011, City Council meeting due to the holding of the general municipal election.

DISCUSSION:

As required by the City Charter and the California Elections Code, the City Council is requested to adopt the appropriate resolutions as follows:
• Calling for the election;
• Authorizing the conduct of a vote-by-mail election; and
• Requesting the Board of Supervisors of the County of Santa Barbara to consolidate the general municipal election to be held on November 8, 2011, in the event the Governor calls a statewide special election.

The purpose of the election is to fill three Councilmember seats. The candidate filing period will be July 18 through August 12, 2011. However, the candidate filing period may be extended to August 17, 2011, for persons other than the incumbents should an incumbent who is eligible to file elect not to file. Under the applicable State Elections
Code provision, no incumbent may file during the extended candidate filing period. The terms of Councilmembers Dale Francisco, Randy Rowse and Michael Self will expire in January 2012, and these three offices will be filled at the November 2011 election.

The California Elections Code allows each candidate for a nonpartisan elective office in a city to prepare a statement which will be mailed to each registered voter as part of a voter information pamphlet. Per Resolution No. 09-055, candidates will be permitted to submit candidate’s statements containing up to 200 words; there will be no charge to the candidate for the printing of the statement.

Potential for Consolidated Election with County of Santa Barbara

As staff previously reported to Council, the Governor is proposing a Statewide Special Election to be held on November 8, 2011; however, a final determination has not been made as of the writing of this agenda report. Consequently, this report includes a recommendation to adopt a resolution provisionally requesting the County Board of Supervisors to consolidate the City’s general municipal election with the statewide special election if such a statewide election is called. If adopted, staff’s plan is to forward the resolution to County Elections, requesting County staff to refrain from processing the request unless the Governor calls a statewide election within the period of time allowed for this by the Elections Code and the State Constitution. If this is the case, the City’s general municipal election will be managed by the County and held as a traditional poll election at a cost of approximately $100,000. Per the Elections Code, the deadline for the Governor to call a statewide special election is the 88th day prior to election day, which is August 12, 2011.

Cancellation of Election Day Council Meeting

Since the Council Chambers will serve as the Central Counting Center, staff recommends canceling the City Council meeting of Tuesday, November 8, 2011.

BUDGET/FINANCIAL INFORMATION:

The Fiscal Year 2012 proposed budget for the City Clerk’s Office includes $300,000 to cover the estimated cost of the election.

PREPARED BY: Cynthia M. Rodriguez, CMC, City Clerk Services Manager
SUBMITTED BY: Marcelo A. López, Assistant City Administrator/Administrative Services Director
APPROVED BY: City Administrator's Office
RESOLUTION NO. ____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA CALLING FOR THE HOLDING OF A VOTE-BY-MAIL GENERAL MUNICIPAL ELECTION TO BE HELD IN THE CITY ON TUESDAY, NOVEMBER 8, 2011, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE CHARTER

WHEREAS, under the provisions of the Charter of the City of Santa Barbara, a General Municipal Election shall be held on November 8, 2011, for the election of three municipal officers.

NOW, THEREfore, THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to requirements of the Charter of the City of Santa Barbara, there is called and ordered to be held in the City of Santa Barbara on Tuesday, November 8, 2011, a General Municipal Election for the purpose of electing three Councilmembers for terms expiring in accordance with Section 500 of the City Charter.

SECTION 2. That the ballots to be used at the election shall be in form and content as required by law.

SECTION 3. That the City Clerk is authorized, instructed, and directed to procure and furnish any and all official ballots, notices, printed matter, and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 4. That pursuant to section 1306 of the Santa Barbara City Charter and state Elections Code section 4108, said election shall be conducted as a vote-by-mail ballot, and shall be conducted pursuant to the applicable requirements of Chapter 2 of Division 4 (Commencing with Section 4100) of the California Elections Code only insofar as required by law. In accordance with, Elections Code Section 4103, ballots cast in this election shall be returned to the office of the City Clerk no later than 8:00 o'clock p.m. on election day. Only those ballots received in the office of the City Clerk by 8 o'clock p.m. on election day shall be counted.

SECTION 5. That the drop-off centers for the election shall be open at eight o'clock a.m. on the Saturday preceding election day, November 5, 2011, and shall remain open continuously from that time until five o'clock p.m. of the same day when the centers shall be closed pursuant to Election Code Section 10242. Further, that the drop-off centers for the election shall be open at seven o'clock a.m. on election day, November 8, 2011 and shall remain open continuously from that time until 8 o'clock p.m. of the same day when the centers shall be closed pursuant to Election Code Section 10242, except as provided in Section 14401 of the California Elections Code.
SECTION 6. That pursuant to Elections Code Section 12310, a stipend for services for the persons named as election board members is fixed at the sum of $160 for each inspector and $120 for each Clerk for the election. In addition, the sum of $20 will be given to each inspector and the sum of $10 for each clerk to attend a training class; the sum of $10 will be given to each inspector to pick up the precinct supplies; and the sum of $10 will be given to each bilingual election board member.

SECTION 7. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by state law for holding municipal vote-by-mail elections.

SECTION 8. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election in time, form, and manner as required by law.
RESOLUTION NO.


WHEREAS, pursuant to Section 1306 of the City Charter of the City of Santa Barbara and Chapter 2 of Division 4 of the California Elections Code, the City Council hereby authorizes the conduct of a vote-by-mail election for the November 8, 2011, Santa Barbara general municipal election.

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

SECTION 1. Such vote-by-mail election shall be conducted in accordance with the applicable provisions of Chapter 2 of Division 4 (commencing with Section 4100) of the California Elections Code, except as otherwise provided in this Resolution.

SECTION 2. Elections Code Sections 3001 through 3008, 3013, 3015, 3021, 3022 and 3024 shall not be applicable to the City election conducted pursuant to this resolution. Also, Chapter 1 of Division 4 of the Elections Code (commencing with Section 4000) and Elections Code Sections 4104 through 4107 shall not be applicable to the City election conducted pursuant to this resolution.

SECTION 3. Elections Code Section 3019 shall apply with the added provision that the City Clerk may compare a copy of a voter's signature produced from the original ballot envelope to the voter's signature on the original affidavit, or may arrange with the County Registrar of Voters to compare such signature copies on the City's behalf, and if a ballot shall be rejected on the basis of such comparison an appropriate notation shall be marked on the original ballot envelope as required by Section 3019.

SECTION 4. In all other respects, the vote-by-mail general municipal election shall be conducted in conformance with all other applicable provisions of the City Charter and Elections Code.
RESOLUTION NO. ____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA PROVISIONALLY REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2011, WITH THE STATEWIDE SPECIAL ELECTION TO BE HELD ON THAT DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE

WHEREAS, the City Council of the City of Santa Barbara called a General Municipal Election to be held in the City of Santa Barbara on November 8, 2011, for the purpose of the election of three Councilmembers for terms expiring in accordance with Section 500 of the City Charter;

WHEREAS, it is desirable that the General Municipal Election be consolidated if the Governor calls a Statewide Special Election, in a manner allowed for by law, on November 8, 2011. If the Governor calls such an election, the City Council requests that the County Registrar of Voters of the County of Santa Barbara consolidate that statewide special election with the City’s regular general municipal election;

WHEREAS, it is further requested that within the City of Santa Barbara the precincts, polling places, and election officers of the two elections be the same, and that the County Registrar of Voters of the County of Santa Barbara canvass the returns of the General Municipal Election, and that the election be held in all respects as if there were only one election; and

WHEREAS, if the Governor does not call a statewide special election, the County may ignore the City’s resolution.

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

SECTION 1. That pursuant to requirements of Section 10403 of the California Elections Code, the Board of Supervisors of the County of Santa Barbara is hereby provisionally requested to consolidate the City of Santa Barbara General Municipal Election with the Special Statewide Election to be held on Tuesday, November 8, 2011, for the purpose of the election of three Councilmembers.

SECTION 2. That, should a consolidated election be held, the County Elections Division is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.
SECTION 3. That, should a consolidated election be held, the Board of Supervisors of the County of Santa Barbara is requested to issue instructions to the County Elections Division to take any and all steps necessary for the holding of the consolidated election.

SECTION 4. That the City of Santa Barbara recognizes that additional costs will be incurred by the County of Santa Barbara by reason of this consolidation and agrees to reimburse the County for these additional costs in the manner authorized by state Elections Code section 13000 and Government Code section 51350.

SECTION 5. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Elections Division of the County of Santa Barbara.
AGENDA DATE: June 14, 2011

TO: Mayor and Councilmembers

FROM: Water Resources Division, Public Works Department
       Administration Division, Finance Department

SUBJECT: Public Hearing Regarding Proposed City Utility Rate Increases

RECOMMENDATION: That Council:

A. Hold a Public Hearing, as required by State law, regarding proposed utility rate increases for water, wastewater, and solid waste collection services for Fiscal Year 2012; and

B. Provide direction to staff regarding any changes to the proposed Fiscal Year 2012 utility rates.

DISCUSSION:

As reviewed with Council during the development of the Fiscal Year 2012 recommended budget, staff is recommending increases in water, wastewater, and solid waste collection fees for Fiscal Year 2012. Proposition 218, approved by California voters in 1996, requires that property owners be notified of planned rate increases and that a Public Hearing be held prior to the adoption of rate increases. Rate increases can be adopted unless a majority of property owners submit a written protest. Accordingly, the attached Notice of Public Hearing was included with utility bills sent to City utility customers during March and April 2011. In addition, the notice about the proposed rate increases has been posted on the City’s website. As of June 8, 2011, eleven written protests had been received.

Water and Wastewater Rates

For water service, staff recommends an across-the-board increase of 3.5% for all monthly service charges and metered water usage. The increase will help support major Water Fund capital projects, including rehabilitation of the Ortega Groundwater Treatment Plant, construction of advanced treatment/ozone facilities at the Cater Water Treatment Plant, ongoing water main replacement, rehabilitation of the recycled water filtration system, and capital maintenance work on treatment and distribution facilities. Operating costs include significant increases in water treatment due to lingering water quality effects of the Zaca Fire. With the recommended rates, the average single-family
residential water customer, using 12 hundred cubic feet (HCF) of water per month, would see an increase of approximately $2 per month, from $63.23 to $65.42 per month.

For wastewater service, an across-the-board increase of 4% is proposed for monthly base charges and unit rates. Major capital projects in the Wastewater Fund include ongoing rehabilitation of treatment facilities, pursuant to the El Estero Wastewater Treatment Plant Strategic Plan, and ongoing rehabilitation and replacement of collection system pipes. A major component of this work is the project to upgrade the secondary treatment process to ensure compliance with regulatory standards. The increase for the maximum bill to a single-family residential customer would be a little over $1 per month, from $34.21 to $35.61.

The proposed rate increases for water and wastewater service are consistent with the Water Resources Division’s 10-year financial plan, developed to support the ongoing operation, maintenance, rehabilitation, and improvement of the water and wastewater systems. A principal goal of the plan is to perform required maintenance and replacement of capital facilities, as needed, to avoid the higher costs and other impacts associated with deferred maintenance, such as cost escalation, damage to other infrastructure from pipe ruptures, and extended customer outages.

As in prior years, fees for installation of new connections and other similar services are proposed to increase by 3%, so that revenue will keep pace with costs over the long term. A change in the procedure for limited relief from extraordinary water charges is proposed, such that relief would be allowable once in any five-year period for any customer at a given location. The current procedure allows only a one-time allowance per customer, per location, which creates an inequity for long time residents at the same address. Buy-in fees for water and sewer are recommended to remain at current levels for Fiscal Year 2012.

**Solid Waste Collection Fees**

Staff has proposed a rate increase of 6.09% for all commercial and residential customers. Of this total rate increase, 2.72% stems from contractually obligated increases to the amounts paid to the contracted haulers to cover increased collection and disposal costs. An additional 0.84% is needed to provide the funding for the estimated costs to maintain the state mandated gas extraction and collection system being installed at Elings Park. These mandated increases total 3.56%. The balance of 2.53% is to cover a structural deficit caused by several factors, including the shift of franchise fees from the Solid Waste Fund (effective the beginning of the current fiscal year), a reduction in revenues from the sale of commingled recyclables, and revenue declines in the business sector.

On June 6, 2011 staff presented alternative rate proposals as directed by Council to shift more of the rate impact attributable to revenue declines in the business sector from the residential sectors.
Based on direction received from Council, the actual rates that will take effect on July 1, 2011 for refuse services are as follows:

1. Single Family and Multi-Unit Residential Sectors - Overall rates will increase by 3.56% for the mandate portions, effective July 1, 2011.

2. Business Sector – Most businesses will be subject to a 3.56% increase effective July 1, 2011. Other businesses, particularly those with very high levels of diversion, will be subject to a 6.09% increase. No adjustments will be made to trash containers; any and all adjustments to rates will be applied only to recycling containers.

The rationale behind applying rate increases in the business sector to only recycling containers (greenwaste, comingled recyclables and food waste) stems from the desire and general concerns expressed by Council that the existing differential in rates between trash containers and diversion containers may be too great. Since the rate increases will only apply to diversion containers, this will help reduce the existing differential, although to a small degree.

Since the rate increases, as adjusted, that will go into effect July 1, 2011, are not adequate to address the structural deficit faced by the Solid Waste Fund, additional rate adjustments will be necessary and will be applied to the business sector for reasons discussed above. Since these rate increases will likely be in excess of the 6.09% rate increase noticed to ratepayers pursuant to Proposition 218, staff will re-notice the new additional rate increases needed, which are planned to go into effect October 1, 2011.

Water Commission Review

The Water Commission discussed Fiscal Year 2012 and Fiscal Year 2013 budget priorities at its meeting of February 14, 2011. On March 14, 2011, the Commission unanimously voted to recommend adoption of the proposed water and wastewater budgets for Fiscal Year 2012 as presented by staff, including proposed rate increases of the 3.5% for water and 4.0% for wastewater.

Finance Committee Review

On May 10, 2011, the Finance Committee received presentations from staff on proposed utility rate increases. The Committee voted (2-1-0) to recommend the proposed water and wastewater rate increases as included in the proposed Fiscal Year 2012 budget and the Notice of Public Hearing. With respect to Solid Waste proposed rate increases, the Finance Committee made no recommendation and referred the item back to Council for further discussion.
Council Agenda Report
Public Hearing Regarding Proposed City Utility Rate Increases
June 14, 2011
Page 4

Council Direction on Utility Rates

The Fiscal Year 2012 Fee Resolution is scheduled to be approved by Council on June 21, 2011, as a part of the adoption of the Fiscal Year 2012 budget. The new rates would become effective July 1, 2011. Staff requests direction from Council regarding the rate increases to be included in the Fiscal Year 2012 budget.

ATTACHMENT(S): Notice of Public Hearing – Proposed Increase To Utility Rates

PREPARED BY: Rebecca Bjork, Water Resources Manager BF/jj

SUBMITTED BY: Christine F. Andersen, Public Works Director
Robert Samario, Finance Director

APPROVED BY: City Administrator's Office
NOTICE OF PUBLIC HEARING
Proposed Increase to Utility Rates

Date: June 14, 2011
Time: 2:00 p.m.
Place: City Council Chambers, City Hall
735 Anacapa Street, Santa Barbara

NOTICE IS HEREBY GIVEN that the City Council of the City of Santa Barbara will consider a recommendation to adopt a resolution, at the above-indicated time and place, to increase water, wastewater (sewer), and solid waste collection rates charged by the City. Increases would be effective on utility bills dated July 1, 2011 or later. Sample billing comparisons for current and proposed rates are shown on the reverse. Small variations in the stated percentages may occur due to rounding.

Water Rates (Applicable only to customers billed by the City for water service)
The proposed water rate change is a three and one-half percent (3.5%) increase to usage charges and monthly service charges for all customer classes. The monthly bill for the average in-City single family residential customer (12 hundred cubic feet of water) would increase by $2.19. The proposed increase will fund operating costs and projects to replace and repair water mains, pumping stations, storage reservoirs, and the water treatment plant. These projects are needed to meet regulatory requirements and to keep the City’s infrastructure in good shape to provide reliable water service for household use and fire protection.

Wastewater Rates (Applicable only to customers billed by the City for sewer service)
The proposed wastewater rate change is a four percent (4%) increase to City's current charges for all customer classes. The maximum monthly charge for a single family residential customer would increase by $1.40 under the proposed rates. The proposed increase will fund operating costs, as well as replacement and repair of the City’s aging sewer system. This includes replacement of critical facilities at the wastewater treatment plant, including the 30-year old pumps that pump sewage through the treatment plant.

Trash & Recycling (Applicable only to customers billed by the City for trash/recycling collection)
The proposed rate increase is 6.09% of the City's current charges for all customer classes, including residential, multi-unit residential and commercial. Of the total adjustment, 2.72% accounts for an increase in the solid waste “tipping fee” charged by the Tajiguas Landfill and an increase in the amounts paid to the City’s contracted haulers tied to the increase in the Consumer Price Index. The City is contractually obligated to compensate its franchised waste haulers for these increases. The remaining 3.37% rate increase will cover losses in revenue stemming from the downturn in the recyclable commodities market and the cost to operate and maintain a landfill gas collection and control system at the Los Positas Landfill, which the City is legally obligated to operate pursuant to State Law.

This notice is intended only for customers billed by the City of Santa Barbara for water, wastewater, and/or solid waste collection services. For a complete list of all current and proposed rates, go to: www.SantaBarbaraCA.gov/UtilityBilling or call (805) 564-5460.

If you oppose any of the above increases, please deliver your protest in writing, including your name and service address, to the City Clerk of the City of Santa Barbara at 735 Anacapa Street, Santa Barbara, CA, 93101, prior to or during the City Council’s consideration of this item on June 14, 2011. (If you wish to submit your protest during the public hearing, please deliver it to City Staff in the Council Chamber.) Because multiple rates are being considered by City Council at the same hearing, please indicate the specific rate you are protesting.
## Typical Water and Wastewater Billing Comparisons – Current vs. Proposed Rates

<table>
<thead>
<tr>
<th>Customer Class</th>
<th>Example</th>
<th>Assumed Monthly Usage (hcf/mth)</th>
<th>Total Monthly Water &amp; Wastewater Charges*</th>
<th>Combined Increase for Water &amp; Sewer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Residential</td>
<td>Low User 5/8&quot; meter</td>
<td>6</td>
<td>Current Rates $59.36, Proposed Rates $61.57, Combined Increase $2.21</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Average User 5/8&quot; meter</td>
<td>12</td>
<td>Current Rates $97.44, Proposed Rates $101.03, Combined Increase $3.59</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Above Average User 1&quot; meter</td>
<td>40</td>
<td>Current Rates $258.33, Proposed Rates $267.53, Combined Increase $9.20</td>
<td></td>
</tr>
<tr>
<td>Multi-Family Residential Building</td>
<td>12 dwelling units 2&quot; meter</td>
<td>60</td>
<td>Current Rates $578.32, Proposed Rates $600.01, Combined Increase $21.69</td>
<td></td>
</tr>
<tr>
<td>Commercial</td>
<td>75% at Block 1 rate 25% at Block 2 rate 2&quot; meter</td>
<td>60</td>
<td>Current Rates $544.06, Proposed Rates $563.86, Combined Increase $19.80</td>
<td></td>
</tr>
<tr>
<td>Industrial/High Strength Commercial</td>
<td>75% at Block 1 rate 25% at Block 2 rate 2&quot; meter</td>
<td>100</td>
<td>Current Rates $893.06, Proposed Rates $925.76, Combined Increase $32.70</td>
<td></td>
</tr>
<tr>
<td>Irrigation-Commercial</td>
<td>75% at Block 1 rate 25% at Block 2 rate 2&quot; meter – no sewer</td>
<td>60</td>
<td>Current Rates $396.46, Proposed Rates $410.26, Combined Increase $13.80</td>
<td></td>
</tr>
<tr>
<td>Recycled Water</td>
<td>2&quot; meter – no sewer</td>
<td>250</td>
<td>Current Rates $561.06, Proposed Rates $579.51, Combined Increase $18.45</td>
<td></td>
</tr>
<tr>
<td>Irrigation-Residential</td>
<td>1 acre of irrigated area 75% at Block 1 rate 25% at Block 2 rate 1&quot; meter – no sewer</td>
<td>40</td>
<td>Current Rates $229.40, Proposed Rates $237.38, Combined Increase $7.98</td>
<td></td>
</tr>
<tr>
<td>Irrigation-Recreation</td>
<td></td>
<td></td>
<td>Current Rates $385.70, Proposed Rates $399.08, Combined Increase $13.38</td>
<td></td>
</tr>
<tr>
<td>Irrigation-Agriculture</td>
<td></td>
<td></td>
<td>Current Rates $197.30, Proposed Rates $204.14, Combined Increase $6.84</td>
<td></td>
</tr>
<tr>
<td>Out-of-City Customers</td>
<td>Currently charged at 130% of rates for corresponding in-City classes; no change is proposed in this percentage.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Not including 6% utility tax on water, as applicable

## Typical Trash, Recycling, & Greenwaste Billing Comparisons  
**Current vs. Proposed Rates**

(All collection frequencies 1 time per week)

<table>
<thead>
<tr>
<th>Service Level</th>
<th>Current Rates*</th>
<th>Proposed Rates*</th>
<th>$ Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic Residential Service (32-gal trash, 32-gal greenwaste, up to 96-gal recycle)</td>
<td>$26.83</td>
<td>$28.46</td>
<td>$+1.63</td>
</tr>
<tr>
<td>Minimum Multi-Unit Residential (3 cans or less) (3-32 gal trash/ + up to 96-gal greenwaste, up to 96-gal recycle)</td>
<td>$34.30</td>
<td>$36.39</td>
<td>$+2.09</td>
</tr>
<tr>
<td>Multi-Unit Residential (4 cans) (4-32 gal trash/week+ up to 96-gal greenwaste, up to 96-gal recycle)</td>
<td>$37.36</td>
<td>$39.64</td>
<td>$+2.28</td>
</tr>
<tr>
<td>Sample Small Business Cart/Can Service (96-gal trash/week, up to 96-gal greenwaste, up to 96-gal recycle)</td>
<td>$58.80</td>
<td>$62.38</td>
<td>$+3.58</td>
</tr>
<tr>
<td>Sample Business Dumpster Service (4yd trash/week, 4yd recycle/week)</td>
<td>$329.61</td>
<td>$349.67</td>
<td>$+20.06</td>
</tr>
</tbody>
</table>

* Not including 6% utility tax on trash/recycling collection, as applicable

For more information, including a complete list of all current and proposed rates:  
CORRESPONDENCE
March 31, 2011

City Clerk
City of Santa Barbara
735 Anacapa St.
Santa Barbara, CA 93101

As the owner of a small residence on the west side of town I am protesting the proposed water, wastewater, and trash/recycling rate increases. Unemployment is high here in Santa Barbara, gas prices are increasing daily, health care costs are up, yet income has not kept pace with these rising costs. Senior citizens have not had an increase in social security cost-of-living adjustment in 2 years. These proposed increases in city services are an added burden on the already strained resources of the average citizen and should be denied.

Thomas M. Wooding
1731 Pampas Ave.
Santa Barbara, CA 93101
City Clerk of the City of Santa Barbara
735 Anacapa Street
Santa Barbara, CA 93101

April 15, 2011

Kathryn Eden “Kate” Smith
3770 Pescadero Drive
Santa Barbara, CA 93105

RE: PROTEST OF PROPOSED UTILITY RATE INCREASES (6-14-2011 Hearing)

Dear City Council:

I am writing to object to the proposed increases across the board for utilities in the city.

I note that the Trash rates are going up in part because the fees paid to the City’s haulers are tied to the increase in the CPI. I am a fixed income person and my income has not increased with the CPI since 2008.

I have tried in every way to reduce my water, trash, and sewer use to the lowest level possible. I run my sprinklers manually very early in the morning to get the best result for the least amount of water and have had my system audited by the City for its efficiency. I could use a trash can ½ the size of the smallest afforded me by the City, though my green can is usually over full (and one can only have a green can as large as one’s trash can). I recycle everything I can. I live alone and frugally. Despite my efforts, the City’s utility bill is much higher than gas or electric and continues to be my largest outlay each month after pro-rated property taxes.

The increases you are suggesting are mammoth for these difficult times: 3.5% in water, 4% for sewer and 6.09% for trash. Look, you need to budget, that is, set aside money and save for upcoming infrastructure costs. If you are operating at a loss, again, look at expenditures and trim them. I can’t raise my income to deal with your rising fees, rising gasoline, rising food prices. In fact, my income continues to decline due to low interest rates on what savings I do have.

The point is, I do have savings in case my roof blows off or my heater explodes. I look to what costs may come up and then save for them. Every financial planner in the world recommends this. Raising fees to deal with an inability to budget effectively is an immature way to deal with many of the issues you list to justify these increases: “fund operating costs and projects to replace and repair water mains, pumping stations, storage reservoirs, and the water treatment plant” “operating costs as well as replacement and repair of the city’s aging sewer system” “cover losses in revenue stemming from the downturn in recyclable commodities.” The bucks for these items should not be passed on. They stop with you. Make Due!

I know that this letter represents the opinion of hundreds of residents that did not have the opportunity to write. Please. Review and revise.

Respectfully submitted,

Kate Smith
be in line with the CIP.

Mike Thompson
320 Canon Drive
Santa Barbara, CA 93105

Ps: I have been trying to conserve water, but it only results in you raising the rates each year. When do homeowners get a break??

City of Santa Barbara, 4-17-11

I am strongly opposed to the proposed increases in utility rates. You increased the rates last year and incrementally before that. The average homeowner cannot afford these constant increases to our utility rates. We are not receiving increases in our personal income to keep up with these rate increases. I strongly protest these proposed increases in utility rates. This year only a 1% increase in each of the 3 utilities should be allowed. This would ↑
Dear City Council,

I am writing to you to protest the proposed rate increases in both the “water and waste water” rates and the “trash, recycling, & greenwaste” rates. The rate increases have been disproportionate in growth when compared to my other utility bills; the rate is climbing too fast.

Thank you for taking the time to consider this matter.

Santa Barbara City Resident
Douglas Furse
3914 Maricopa Dr.
Santa Barbara, CA 93110

[signature]
The proposed increases to our utility rates
are a real hardship to people who are living
on a small income or to all who have taken
a cut in pay.

The trash companies give
good service, but do they
need to become richer?

own plan
tax cuts you've raised their rates. Of course, they can, they have no competition. Please reconsider your weapons for making more money.

Thank you for your kind attention.

Sincerely, Issie C. Reed
9 & R. Casso  
33 St. Francis Way  
S.P. CA  
93105-  

City Hall  
735 Anacapa St.  
San. Barbara CA  
93179-
4/27/2011

I oppose ALL RATE INCREASES.

Diane Harter
6417 Por La Mar
#E
Santa Barbara
CA 93103

RECEIVED
MAY 02 2011

CITY CLERK'S OFFICE
201 Rametto Road
Santa Barbara, Ca 93108
April 19, 2011

City Clerk of the City of Santa Barbara
735 Anacapa Street
Santa Barbara, CA 93101

Subject: Opposition of utility rate increases at above address

Dear City Council Members:

I am writing to notify you that I oppose the “Proposed Increase to Utility Rates” as described in the recent letter of notice for my residence at the above address. My objections are as follows:

- **Water Rates:** The proposed 3.5% increase is above the present inflation rate and is unjustified, particularly in light of the downturn in the economy. Utility rates should not be increasing faster than the rate at which citizens incomes are increasing.

- **Wastewater Rates:** The proposed 4.0% increase is above the present inflation rate and is unjustified, particularly in light of the downturn in the economy. Utility rates should not be increasing faster than the rate at which citizens incomes are increasing.

- **Trash & Recycling Rates:** The proposed 6.09% increase is above the present inflation rate and is unjustified, particularly in light of the downturn in the economy. Utility rates should not be increasing faster than the rate at which citizens incomes are increasing.

It appears to me that the above utilities are attempting to offset losses resulting from the depressed economy by charging higher rates to the residents, rather than by cutting expenses as the rest of us have had to do to make ends meet. I urge the City Council to approve rates increases on all of the utilities by not more than the present rate of inflation as defined by the CPU.

Sincerely,

[Signature]

Vincent Mrstik
May 3, 2011

To: City of Santa Barbara

Regarding: Protest increasing water rates

We received public notice for City proposed water/sewer rate increase and we are replying that we, as so many others can not afford increasing rates as you have indicated.

SB water/sewer rates are already very expensive and to increase rates further is unbearable. Water is essential, and frankly all people should be allowed water at no cost because water sustains life.

As a life sustaining natural resource for water rates to increase will cause more people into dire situations teetering on the edge. Also seems as if the City had increased water/sewer rates not long ago.

We are voicing our vote that you please do NOT increase already high Santa Barbara water/sewer rates. If you must increase rates then possibly request government subsidy.....or reduce staff. It is impossible to humanly survive without water consumption and limiting supply due to increasing costs encourages adverse health.

Thank you for this opportunity to be heard and counted as NO vote on increasing City water/sewer rates.

Sincerely,

Gail and Erik Elbek
221 Quinto Street
#B
Santa Barbara, CA 93105
805-967-6845
May 02, 2011

City Clerk/City Council of Santa Barbara
735 Anacapa Street
Santa Barbara, CA  93101

Dear Council Members:

I am writing to you and asking that you truly re-consider raising the rates for trash pick up and city sewer service.

If I am not mistaken, you raised the rates last year. I am 81 years old and I don’t even get a raise in Social Security. I am asking you to truly look at your budget, your outlay, and your trash collectors. I was on the bus the other day and heard a young woman talking to her friend, in front of me. I heard her laugh and tell her friend that her husband was able to get a lot of overtime as a trash collector. She laughed and said they knew how to do it.

One thing most of us have learned over the years is this: The right hand does not always know what the left hand is doing. I just heard on the news that Los Angeles has been made aware, by an investigative reporter, that their employees have totally abused the company car to the point where one woman has been fired. They have been taking these cars to lunch, their children to school, their husbands to work, etc. All of this on the County because they supply the car and the gas. I have found that the younger employees were not as wedded to the truth as those of us who grew up in a different time. For one thing, we were deathly afraid of losing our jobs and we did not have a union behind us fighting for us. I also feel we were raised to be more honest.

If employees feel no one is paying attention by questioning over time, they will feel free to push the button because all of them can use more money in their pay check. Overtime is much higher an hour so the outlay for this is much higher than just hiring an additional worker. In the case of trash pick-up, I only see 3 or 2 people on the truck so it would be hard to add another employee.

I truly suggest you check to see that the money you do get is being used honestly, correctly, and with very good judgment. Please do not raise this until you do a good job of seeing if you are doing the best job and the most prudent. Make sure you check that all overtime is legit. Someone needs to watch the store in this day and age.

Sincerely,

[Signature]

Orbita L. Zirkle
May 24, 2011

The Honorable Mayor Helene Schneider  
City of Santa Barbara  
P. O. Box 1990  
Santa Barbara, CA  93102  

RE: Utility Rate Increases (Water, Sewer, Trash)

Dear Mayor and Members of Council:

Upon receipt of the City’s Notice of Public Hearing of the Proposed Increase to Utility Rates that will be held on June 14, 2011 in Council Chambers, I carefully reviewed the Notice with considerable skepticism. Having just paid my most recent bill to the City for the above services, and recalling that the bill was consistently running higher every month without any significant changes to warrant the increases, my reaction to the Notice could not be termed positive.

In adding the proposed percentage increases, I noted with some alarm that the total amount of increase to the Santa Barbara rate payers is a considerable 13.59% increase. After venting over what I term to be an outrageous one-time increase (there’s nothing standing in the way for another rate increase next year), I decided to dig a little further, in particular into the water rate increase.

In speaking with your Water Department Manager, I verified that “yes” my recall was correct in that for the past five (5) years there had been a water rate increase along with a sewer rate increase. The excuse that Federal and State laws can change, that inevitably require passing on the additional expense to the rate payers, does not condone a 7.50% increase. Your City Council has not in my opinion, kept “good faith” with your rate payers. You have known for five (5) years that additional rules and regulations were going to require additional expenses by both your water and sewer facilities.

Since the City is the water and sewer provider, the provision of these services is essential for the well being of the general public. Therefore, the provision of these services should rank as either being equal to public safety, or a very close second. The rate payers and the City have no other immediate options to obtain these services from a different provider.

As to the trash and recycling rate increases, I have several questions. Why is the City the billing vendor for the entities that it has negotiated contracts with? Will it continually be a foregone conclusion that at every contract negotiation another hefty rate increase will be included? Why has your Council just recently approved the hiring of a Recycling Specialist at $100,000 plus benefits?

Your Council needs to recast all three of these utilities in a different light. It would seem that in the past, you’re and former Councils have been rather cavalier in their consideration of how your water and sewer rates truly affect your rate payers. With many homeowners now facing bills of over $100 per month (including trash), and numerous of these owners and occupants on fixed incomes, these utility rates are on their way to being truly unaffordable.

Your Notice states that the proposed trash rate increases are a result of the City’s contractual obligations to the contracted hauler. Since the City led the negotiations, then it’s time
Utility Rate Increases

that the City rethinks its contracts and enter renegotiations. The rate increase proposed is absurd. Whoever negotiated your trash contracts, resulted in “cost, plus contracts”, whereby the rate payers bear all of the risk, and the trash hauler passes through all fees and costs! Also, the City needs to stop being the billing vendor for your trash haulers and their bill needs to be totally divorced from your water and sewer bills.

Council, the provision of clean and fresh water to your constituents is not an option or choice. It is a primary service provided by your Council. The provision of sewer services is not an option or a choice, and is also a primary service. You must now think in totally different terms as to the funding and delivery of these essential services. You must now start budgeting for the continuing escalation in new rules and regulations, or, you must begin to politically engage the activists who are never satisfied until we arrive at a zero-sum result, which is still never good enough!

I stand in absolute opposition to these proposed rate hikes!

Respectfully,

Janice L. Evans
Past President, R.I.T.A. (Research Issues and Take Action)
Past President, Santa Barbara County Taxpayers Association
Phone/Fax: 805-966-0720
E-mail: janicevans@verizon.net
To: City Council of Santa Barbara  
735 Anacapa St. 

Re: Opposed to Proposed increase in utility rates on June 14, 2011

City council members,

I like to hereby give my opposition to proposed rate increase. Some of us in the city are living on bare minimum, paycheck to paycheck. I have worked for Santa Barbara City college for 10 years and not even I got my annual Consumer price index adjustment but have actually getting less and less in last three years. The price of Gas have increased more than 300%, my share of Healthcare premium has gone up 200%, food prices are going up everyday and banks are raising fees and interests, and my college kids tuition is skyrocketing. I have been cutting on everything that I could like my cable tv, have lowered my thermostat, scooting to work and thinking about cutting my phone line also. Plus my wife cannot find a job for last year.

I cannot afford any more increase in anything, because I am living on bare minimum now. I cannot see in this dire economy that people are struggling, how you are asking for more money, plus put a cap on increase for people that use more sewer, so the riches of Santa Barbara would pay maximum of $1.4 in increase for their mansion and I have to pay same for my 1100 S/f house? I suppose a $1.4 increase would be nothing for Exxon CEO that makes in one day more than I make in a year or 365 days, but for me is very high.

Here is my proposal:

If you must make the extra money, charge people that use more, put a baseline for necessity like 6 (hcf/mnt) for single family with no increase whatsoever, and charge your increase on anything above that. Then some of us don’t have to pay more for their neighbors watering their 10 acres of landscape and are never home. Lets be more realistic for most of the people in Santa Barbara a 5-10 dollars increase mean cutting in other expenditure, like supporting other small businesses, which in turn would have a bigger effect in our city economy.

Thank you for listening,

Behzad Masooman  
507 Conejo Rd.  
Santa Barbara, Ca 93103  
805-252-2728
City of Santa Barbara,

This letter is in response to the Notice of Public Hearing in regard to the Proposed Increase to Utility Rates. I felt the need to express my views on the topic.

I moved into Santa Barbara and purchased a house just this year. Within 6 months my bills will be increasing. And to add to that displeasure is the fact that the percentage rates the city wants to increase my bills will be more than the cost of living increase that I received this year.

I was one of the fortunate people this year. I retained my employment, and I actually received a 2% increase over last year's wages. Not all citizens are that lucky in today's economy.

To reiterate, it seems a bit wrong, in these bad financial times, for the bills of Santa Barbarians to be increased more than the cost of living increases that most of us are receiving... 2% raise versus 3.5%, 4%, and 6.09% service fees (water, wastewater, trash/recycling).

I'm of the opinion that my thoughts on such matters (governmental) really don't matter. I've learned, time and time again, that government will do what it will, regardless. But at least I'll be able to tell myself that I didn't just stand idly by.

Thank You for allowing me the opportunity to express myself,

Peter Brummel
929 West Islay Street
Santa Barbara, CA 93101
CITY OF SANTA BARBARA
COUNCIL AGENDA REPORT

AGENDA DATE: June 14, 2011

TO: Mayor and Councilmembers

FROM: Water Resources Division, Public Works Department

SUBJECT: Adoption Of Long Term Water Supply Plan And Urban Water Management Plan

RECOMMENDATION: That Council:

A. Hold a Public Hearing regarding adoption of the City’s updated Long-Term Water Supply Plan (LTWSP) and the 2010 update of the City’s Urban Water Management Plan (UWMP);
B. Adopt the City’s updated LTWSP as the policy basis for management of the City’s water supply for the period through approximately 2030; and
C. Adopt and authorize the Public Works Director to transmit the City’s updated UWMP to the California Department of Water Resources, such adoption to include modifications as may be approved by the Public Works Director to ensure compliance with State UWMP requirements, provided that any such modifications are not inconsistent with the updated LTWSP.

DISCUSSION:

Over the past two years, staff and the Water Commission have conducted an extensive assessment of the City’s water supply in conjunction with the City’s Plan Santa Barbara process to update the General Plan. This analysis has been used to support the Plan Santa Barbara process, and also as the basis for updating the City’s 1994 Long Term Water Supply Program, and the State mandated update of the City’s UWMP. The updated LTWSP is written as a policy document to inform and guide management of the City’s water supply through 2030. The updated UWMP fulfills California Water Code requirements mandating certain reporting obligations and, most recently, specific water conservation targets. Key issues addressed in the plans are summarized below and discussed in depth in the LTWSP.

Water Supply and Demand Projections: From a water supply perspective, a conservative current demand estimate of 14,000 acre-feet per year (AFY) of total potable and recycled water production was used, based on the range of demands over the past five years. A 10% safety margin was added to this for unanticipated supply
shortfalls or demand increases. The result is a water supply target of 15,400 AFY. While the supply perspective is appropriately conservative on the high side, the demand perspective aims to determine our best estimate of actual future customer demand. This has important implications for revenue management and compliance with mandated water conservation targets enacted into law by the Water Conservation Act of 2009. A sophisticated demand management model was used to analyze the City’s customer base, the ongoing effects of plumbing codes and appliance standards, and savings from a cost effective package of water conservation measures that essentially matches the current City Water Conservation Program. The model projects that the City is on target to meet the State water conservation targets, while minimizing the need to develop additional water supplies. Staff expects increased conservation over the next twenty years to offset demand from new development.

**Drought Planning and the Role of Desalination:** Supply planning is modified to manage water supplies in anticipation of a six-year drought, rather than the historical five-year period. This recognizes the potential for longer duration droughts as a result of climate change and aims to reduce costs by deferring the need to reactivate the desalination facility until the sixth year of a critical drought period, rather than the fifth year under prior planning assumptions. Banked water, primarily resulting from available State Water in excess of planned deliveries, and water purchases are identified as potential means of deferring desalination reactivation. In a declared drought, demand reductions of up to 15% will be required to cost effectively manage the infrequent critical drought period through extraordinary conservation measures on the part of our customers.

**Sedimentation Management at Reservoirs:** The ongoing effect of sedimentation at local reservoirs is recognized. An updated sedimentation management study at Gibraltar Reservoir is planned, along with implementation of the “pass through” provisions of the 1989 Upper Santa Ynez River Operations agreement. The City will promote development of a long term strategy to minimize sedimentation at Lake Cachuma in conjunction with Cachuma Project Member Units, as well as State and Federal agencies.

**Groundwater Management:** The important role of groundwater is recognized as an annual contribution to supply, for use in offsetting depleted surface supplies during drought, and as an emergency supply source in the event of sudden loss of deliveries from the Santa Ynez River. Modeling will be used to minimize seawater intrusion, assess potential new well locations, and investigate recharge opportunities. Development of a groundwater management plan is an identified goal.

**Recycled Water:** The plan anticipates expanding the use of recycled water by connecting additional sites. New demand of 300 AFY is targeted, for a total of 1,100 AFY. A contingency plan to eliminate use of potable water for blending is to be developed for implementation based on economic, regulatory, or water supply requirements, with a goal of being able to deliver recycled water without blending by the end of the planning period.
Water Supply Reliability: In addition to extensive planning for drought, an updated emergency water supply plan will be developed to address catastrophic interruption of City water supplies due to earthquakes, South Coast Conduit failure, or other disasters.

The City Council and the Water Commission held a joint work session on April 7, 2011, to hear a detailed presentation on the proposed LTWSP update. At that time, staff received the following feedback:

- A six-year drought period for planning purposes is appropriate.
- Water banking and purchased water should be pursued where feasible to help defer the use of desalination until year six of a drought.
- A 10% safety margin is prudent, given water supply uncertainties in California.
- Expansion of recycled water connections should continue where cost effective, and to the extent capacity is available.
- Elimination of blending of potable water with recycled water is a good goal, subject to identifying cost effective means of doing so.
- Sedimentation management at Gibraltar Reservoir, including vegetation management through controlled burns, is worth investigating even with implementation of “pass through” of the City’s Gibraltar water to Lake Cachuma. A multi-agency effort to manage sedimentation at Lake Cachuma should include recognition of the benefit of allowing sediment to continue down the river to nourish beaches.
- A policy about maintaining reliability of the water delivery infrastructure should be included in the plan.
- An ongoing conservation program will be needed to maintain reductions achieved to date and to achieve further reductions.
- Extraordinary conservation measures of up to 15% during an occasional severe drought are reasonable, remembering that citizens will respond effectively during a drought period to help meet the goal.

Since the joint work session, staff has worked to edit the LTWSP to reflect the above discussion, draft the UWMP update to meet State requirements, and maintain consistency between the two documents. The draft plans have been posted on the City’s Internet site and key community organizations have been notified to give the opportunity to provide comments for consideration prior to preparation of the final drafts.

The City Environmental Analyst has determined that the adoption of the proposed 2011 LTWSP and the updated 2010 UWMP qualify for a Statutory Exemption from environmental review under the California Environmental Quality Act (CEQA), as established by the State Legislature and specified in the California Water Code (Urban Water Management Planning Act, Section 10652), and the CEQA Guidelines (Section 15282(v)). It is also noted that the Program Environmental Impact Report certified in September 2010 for the Plan Santa Barbara General Plan update recently provided a thorough evaluation of updated water supply information, projections, and policies included in the proposed water plan updates, and identified no significant environmental impacts associated with them.
**Note:** The draft 2011 Long Term Water Supply Plan and the draft 2010 Urban Water Management Plan update have been provided to Mayor and Council under separate cover, and are available for review at the City Clerk’s Office. Copies are also available at the Water Resources Division, Public Works Department, 630 Garden Street, and can also be viewed online at: [www.SantaBarbaraCA.gov](http://www.SantaBarbaraCA.gov)

**PREPARED BY:** Rebecca Bjork, Water Resources Manager/BF/jj

**SUBMITTED BY:** Christine F. Andersen, Public Works Director

**APPROVED BY:** City Administrator’s Office
ORDINANCE NO. _______

AN ORDINANCE OF THE COUNCIL OF
THE CITY OF SANTA BARBARA
AMENDING SECTIONS 22.70.020 AND
22.70.030 OF THE SANTA BARBARA
MUNICIPAL CODE RELATING TO SIGN
REGULATIONS.

WHEREAS, the Community Development Department seeks to clarify the rules related to sign permit review in order to improve its ability to enforce the regulations in an efficient and consistent manner.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Sections 22.70.020 and 22.70.030 of Chapter 22.70 “Sign Regulations” of Title 22 are amended to read as follows:

22.70.020 Definitions.

As used in this Chapter, the following terms and phrases shall have the indicated meanings:

A. ACCESSORY SIGN. A separate unit displaying information related to the principal business conducted on the premises, which is not attached to or supported by any other sign, and not made a part thereof.

B. ARCHITECTURAL FEATURE. Any window frame, recessed area, door, detail or other feature that is part of any building, or is a specific element of a recognized style of architecture.

C. AWNING SIGN. Any sign or graphic attached to, painted on or applied to an awning or awning canopy.

D. BACK-LIT SIGN. Any internally illuminated sign with opaque, reverse pan channel, halo-lit letters and elements with concealed light sources in which the light projects away from the viewer.

E. BALLOON. A lighter than air or inflated object no larger than eighteen (18) inches in any dimension.

F. BANNER. A bunting or other flexible sign characteristically supported at two or more points and hung on a building or otherwise suspended down or along its face, or across any public street of the City. The banner may or may not include copy or other graphic symbols.

G. BENCH SIGN. Any sign painted on or otherwise attached to a bench or other seat placed in an exterior area.

H. BILLBOARD. A freestanding sign which exceeds the size limitations of a ground or wall sign. A billboard may be on-premises or off-premises.
I. CIVIC EVENT SIGN. A sign, other than a commercial sign, posted to advertise or provide direction to a civic event sponsored by a public agency, the City, a school, church, civic-fraternal organization or similar non-commercial organization.

J. COMMERCIAL, OFFICE OR INDUSTRIAL COMPLEX. A group of contiguous businesses which employs a homogeneous design theme as a common perimeter treatment.

K. COMMERCIAL SIGN. Any sign which is intended to attract attention to a commercial activity, business, commodity, service, entertainment or attraction sold or offered, and which is to be viewed from public streets or public parking areas.

L. DIGITAL DISPLAY. A sign that displays still images, scrolling images, or moving images, including video or animation, through a series of grid lights, including cathode ray, light emitting diode display, liquid crystal display, plasma screen, fiber optic, or other electronic media or technology, where the display can be changed through electronic means. The definition of digital display does not include time and temperature signs or electronic signs placed in the right-of-way that function as traffic control devices.

M. EAVE. That portion of the roofline extending beyond the building wall, a canopy attachment on the wall having the simulated appearance of an eave, or the lowest horizontal line on any roof.

N. ELECTION SIGN. A non-commercial sign pertaining to an election for public office or to a ballot measure to be placed before the voters in a federal, state or local election.

O. ERECT. To build, construct, attach, hang, place, suspend, affix, fabricate (which shall also include painting of wall signs and window signs or other graphics), or project light in a manner that creates a projected light sign.

P. FACADE. The front of a building or structure facing a street.

Q. FLAG. A piece of fabric of distinctive design (customarily rectangular) that is used as a symbol of a nation, state, city, agency, corporation or person or as a signaling device and is usually displayed hanging free from a staff or halyard to which it is attached by one edge.

R. FRONTAGE. The width of any face of a building.
   1. Dominant building frontage. The principal frontage of the building where its main entrance is located or which faces the street upon which its address is located.
   2. Subordinate building frontage. Any frontage other than the dominant frontage.

S. GROUND SIGN. Any sign advertising goods manufactured, produced or sold or services rendered on the premises upon which the sign is placed, or identifying in any fashion the premises or any owner or occupant, and which is supported by one (1) or more uprights or braces on the ground, the overall total height of which does not exceed (i) six (6) feet above grade measured at the edge of the public right-of-way, or (ii) six feet above the base of the sign structure when the grade at the public right-of-way is at least three and one-half feet lower than the grade at the base of the sign, whichever is higher. In no case shall an artificial grade be established for the sole purpose of placing a sign at more than six (6) feet above the grade at the edge of the public right-of-way.

T. HANGING SIGN. A sign attached to and located below any eave, roof, canopy, awning, or wall bracket.

U. ILLUMINATED SIGN. A physical sign that is illuminated internally or from an
exterior light source. An illuminated sign is distinguished from a projected light sign by the fact that a projected light sign uses light to create the sign rather than using light to illuminate a sign of physical material.

V. INFLATABLE SIGNS. A lighter than air or inflated object tethered or otherwise attached to the ground, structure or other object. This definition includes, but is not limited to, inflated representations of blimps, products, cartoon characters, animals and the like. Balloons are a distinct subset of inflatable signs.

W. KIOSK. A small, freestanding structure permanently affixed to the ground, requiring a building permit, which may have one or more surfaces used to display temporary advertising signs.

X. LETTER HEIGHT. The height of a letter from its bottom to its top, including any shadow line.

Y. LIGHTING STANDARD. A device for providing artificial light on the sign surface.

Z. LOGO SIGN WITH COURTESY PANELS. Prefabricated signs bearing a brand name, registered trademark or logo with space for the name of a local business or occupant or other items of information to be applied thereto or erected thereon.

AA. MARQUEE. A permanent roof structure attached to and entirely supported by a wall of a building, having no connection or relationship with the roof of the building to which it is attached.

BB. MARQUEE SIGN. Any sign attached to a marquee.

CC. MOBILE SIGN. A sign on a boat or on a vehicle, other than on a public transit vehicle designed to carry at least 19 passengers, advertising a good, service, or entity other than that for which the boat or vehicle is principally used.

DD. MURAL. A painting or picture applied to and made part of a wall or window which may be pictorial or abstract, and is characteristically visually set off or separated from the background color or architectural environment.

EE. NON-COMMERCIAL SIGN. Any sign which is intended to convey a non-commercial message of social, political, educational, religious or charitable commentary.

FF. OFF-PREMISES SIGN. A commercial sign not located on the premises of the business or entity indicated or advertised by said sign, or a commercial sign advertising a commodity, service or entertainment offered at a location other than the location of the sign.

GG. PARAPET. A low wall used to protect the edge of a roof from view, also called a parapet wall.

HH. PARAPET OR PERGOLA SIGN. Any sign or other graphic attached to a parapet, ramada, pergola, or other similar structure.

II. PENNANT. A small triangular or rectangular flag or multiples thereof, individually supported or attached to each other by means of a string, rope, or other material and meant to be stretched across or fastened to buildings, or between poles and/or structures.

JJ. PERGOLA. A structure usually consisting of parallel colonnades supporting an open roof of girders and cross-rafters, also known as an arbor, trellis or ramada.

KK. POLE SIGN. Any sign, other than a ground sign, supported by one (1) or more uprights or braces on the ground, the height of which is greater than a ground sign, and which is not part of any building or structure other than a structure erected solely for the
purposes of supporting a sign.

LL. PORTABLE SIGN. Any sign, other than a mobile sign, designated or constructed in such a manner that it can be moved or relocated without involving any structural or support changes.

MM. PROJECTED LIGHT SIGN. A projection of light onto a physical surface in a manner designed to communicate a message by creating a variable intensity of light on the physical surface in the form of letters, shapes, or symbols.

NN. PROJECTING SIGN. Any sign which projects from and is supported by a wall of a building with the display surface of the sign perpendicular to the building wall.

OO. ROOF. The cover of any building, including the eaves and similar projections. False roofs on store fronts, coverings on or over oriel s, bay windows, canopies and horizontally projecting surfaces other than marquees shall be considered roofs.

PP. ROOF SIGN. Any sign any part of which is on or over any portion of any roof or eave of a building or structure and any sign which extends above a parapet of a building or structure.

QQ. SIGN. Any form of visual communication including any physical object, projection of light, digital display, or open flame (with or without lettering, a symbol, logo) used to announce, declare, demonstrate, display, or otherwise present a message to or attract the attention of the public. A sign may include a commercial or noncommercial sign. A sign includes all parts, portions, units and materials used in constructing the sign, together with the illumination, frame, background, structure, support and anchorage thereof. A mural is not a sign.

RR. TEMPORARY. A period of time not exceeding thirty (30) consecutive days, unless otherwise specified.

SS. VENDING MACHINE. A machine or other mechanical device or container that dispenses a product or service through a self-service method of payment, but not including an automatic bank teller machine incorporated within a wall or a façade of a building; a news rack; a machine dispensing fuel, compressed air, or water at an automobile service station; or a public telephone.

TT. WALL SIGN. Any sign affixed directly to or painted on or otherwise inscribed on an exterior wall or solid fence, the principal face of which is parallel to said wall or fence and which projects from that surface no more than twelve (12) inches at all points.

UU. WINDOW SIGN. A sign that is attached to, affixed to, leaning against, or otherwise placed within six (6) feet of a window in a manner so as to present a message to or attract the attention of the public on adjoining streets, walkways, malls or parking lots available for public use.

22.70.030 Sign Regulations.

A. PERMIT REQUIRED. It is unlawful for any person to erect, repair, alter, relocate or maintain any sign within the City, or to direct or authorize another person to do so, except pursuant to a sign permit obtained as provided in this Chapter unless the sign is specifically exempted from permit requirements by the provisions of this Chapter. No permit shall be required for repainting, cleaning, or other normal maintenance and repair of a sign unless the structure, design, color, or character is altered.

B. EXEMPT SIGNS. The following signs shall be allowed without a sign permit
and shall not be included in the determination of type, number, or area of signs allowed on a building or parcel:

1. Any official federal, state, or local government sign and notice issued by any court, person, or officer in performance of a public duty, or any sign erected or placed on park or beach property owned or controlled by the City and which (i) pertains to an event not exceeding five (5) days in duration and (ii) has been approved by the agency with authority over such property.

2. Any temporary sign warning of construction, excavation, or similar hazards so long as the hazard exists.

3. One temporary construction sign, provided the sign (i) does not exceed six (6) square feet in one- and two-family residence zones and does not exceed twenty-four (24) square feet in all other zones, (ii) is used only to indicate the name of the construction project and the names and locations (city or community and state name only) of the contractors, architects, engineers, landscape designers, project or leasing agent, and financing company, (iii) is displayed during construction only, (iv) does not exceed the height limitations of a ground sign, and (v) meets all other applicable restrictions of this Chapter.

4. Any temporary sign relating to Fiesta, Solstice, or any official City holiday except banners, blinking lights, or signs and any related lighting that require a building, electrical, or other permit. Any such decorations or displays and any related lighting must be removed within ten (10) days following the event for which they were erected.

5. A sign consisting of a display of no more than twelve (12) balloons for any single business or residence, displayed at a height which is not above the roof ridge line of the main building or fifteen (15) feet, whichever is lower.

6. A non-commercial sign not exceeding six (6) square feet total for each lot in residential zones and twenty-four (24) square feet total for each lot in non-residential zones. Such a sign shall be erected only with the permission of property owner or tenant. An election sign shall not be displayed for more than ninety (90) days prior to the election or for more than ten (10) days following the election for which it is erected.

7. A temporary real estate sign which indicates that the property is for sale, rent, or lease. Only one such sign is allowed on each street frontage of the property. A temporary real estate sign may be displayed only for such time as the lot or any portion of the lot is actively offered for sale, rent, or lease. Such a sign may be single-faced or double-faced and is limited to a maximum area on each face of four (4) square feet or less on property in residential zones and twelve (12) square feet or less on property in non-residential zones. Signs allowed pursuant to this exemption shall not exceed the height limitations of a ground sign (six feet (6')).

8. Any temporary sign located on a kiosk.

9. Any "No Trespassing" sign, prohibiting or restricting access to property, provided it is (i) not more than one (1) square foot in size, (ii) placed at each corner and each entrance to the property and (iii) at intervals of not less than fifty (50) feet or in compliance with the requirements of law.

10. One identification sign of no more than one (1) square foot for a residence.

11. Any parking lot or other private traffic directional sign not to exceed two (2) square feet in area having black letters on a white or building color background, and limited to guidance of pedestrian or vehicular traffic within the premises. There shall be
erected no more than three (3) such signs in each parking lot or more than one (1) sign per entrance.

12. Any informational commercial signs provided the sign (i) is in a non-residential zone, (ii) has an aggregate area (when combined with all other similar signs on the parcel) of not more than one-and-one-half (1½) square feet at each public entrance nor more than five (5) square feet total, (iii) indicates address, hours and days of operation, whether a business is open or closed, credit information, and emergency address and telephone numbers. Lettering shall not exceed two (2) inches in height except for street numbers. Neon or light-emitting diode (LED) signs with the text “open” may be erected under this exemption subject to the following conditions: (i) no more than one (1) such sign may be erected per business, ii) the letter height of any such sign shall not exceed six (6) inches and the overall height of the sign shall not exceed twelve (12) inches, and (iii) such signs are not allowed in El Pueblo Viejo, unless the sign is located inside the building and at least ten (10) feet back from any window or other opening in the façade of the building.

13. Any street name and address stamped or painted on a sidewalk or curb.

14. Any civic event sign, except a banner. Such a sign shall be removed within twenty-four (24) hours after the time of the event, shall not exceed twenty-four (24) square feet in size and may be erected for a period not to exceed five (5) days out of any thirty (30) day period. Only one (1) such sign shall be erected per lot.

15. Temporary open house signs. Open house signs erected pursuant to this exemption shall contain only the address of the property where the open house is being held and the name of the real estate agent and/or real estate agency or party holding the open house. Open house signs may be single-faced or double-faced. Open house signs shall be erected and removed on the day the open house is held. Open house signs shall not be fastened or attached in any way to a building façade or architectural element.

a. On-Site Open House Signs. Pursuant to this exemption, one (1) on-site open house sign may be erected on each street frontage of the property that is for sale. Each face of an on-site open house sign shall have an area of three (3) square feet or less and the height of the on-site open house sign, including the supporting structure, shall not exceed four (4) feet.

b. Off-Site Open House Signs. In addition to the on-site open house sign(s) allowed pursuant to this exemption, a maximum of five (5) off-site open house signs may be erected. Each face of an off-site open house sign shall have an area of three (3) square feet or less and the height of the off-site open house sign, including the supporting structure, shall not exceed three (3) feet. Off-site open house signs shall not be erected on private property without the permission of the property owner. In addition to complying with the requirements listed above applicable to off-site open house signs, off-site open house signs may be erected within the public right of way if such signs comply with all of the following standards:

i. Signs shall not be erected in a manner which obstructs the pedestrian path of travel or which constitutes a hazard to pedestrians or vehicular traffic;

ii. Signs shall not be placed on vehicles;

iii. Signs shall not be placed in street medians; and

iv. Decorative attachments (i.e., balloons, streamers, etc.) shall not be attached to any sign.
16. Any sign on a telephone booth or news rack, provided the sign (i) identifies only the product contained therein or displays operating instructions, and (ii) the lettering does not exceed two inches in height.

17. Flags flown on a temporary basis for purposes of honoring national or civic holidays which do not exceed eight (8) feet long in largest dimension. No more than two (2) flags may be flown pursuant to this exemption on a single parcel.

18. The official flag of a government, governmental agency, public institution, religion, corporation, business, or other similar entity. Only one (1) flag pole with a maximum height of twenty-five (25) feet and with a maximum dimension on the flag of eight (8) feet and which is not attached to the building shall be exempt. No more than two (2) flags may be flown pursuant to this exemption on a single parcel. Corporate or business flags displaying the emblem, name, logo, or other information of a business shall be included in the calculation of the maximum allowable sign area for the business.

19. Signs, except banners, announcing the opening of a new business which, in the aggregate, do not exceed ten (10) square feet in area or twenty-five percent (25%) of the window area, whichever is greater. Such signs shall be erected no more than thirty (30) days prior to the scheduled opening of the business and shall be removed no later than thirty (30) days after the opening of the business, but in no case shall such a sign be erected for more than forty-five (45) days within this period. The business owner or manager shall provide proof of opening date upon request.

20. Temporary window signs, except banners, not exceeding four (4) square feet or fifteen percent (15%) of the window area of each facade, whichever is greater. For windows which are more than twenty-five (25) feet from the public right-of-way, such signs shall not exceed twenty-five percent (25%) of such window area. No temporary window signs on a building or parcel shall be displayed for more than thirty (30) consecutive days nor more than a total of sixty (60) days per calendar year. Signs erected pursuant to this exemption shall not be illuminated. Unless specifically exempt pursuant to this subsection B, any illuminated sign erected within ten (10) feet of a window, door, or other opening in the facade of a building in a manner so as to present a message to or attract the attention of the public on adjoining streets, walkways, malls, or parking lots available for public use shall require a permit.

21. Signs specifically required by federal, state, or City law, of the minimum size required.

22. Signs on the air operation side of the Santa Barbara Municipal Airport which are designed and oriented to provide information to aircraft.

23. A sign, such as a menu, which (i) shows prices of goods or services not on window display to the public, (ii) does not exceed twenty-four (24) inches by eighteen (18) inches, (iii) has letters and numbers not exceeding three-quarters (3/4) of an inch in height, and (iv) is located on a wall or in a window.

24. Signs on public transit vehicles designed to transport at least 19 passengers. No more than one sign may be displayed on each side of these vehicles, except as approved by the Sign Committee.

25. Temporary "Garage Sale" or other similar signs located only on the premises upon which the sale is occurring.

26. Digital displays on gasoline pumps, provided the digital displays conform to all of the following standards:
a. Each digital display shall not measure more than twenty-six (26) inches on the diagonal;
b. Each digital display is integrated into the face of the gasoline pump and is not a stand-alone display;
c. No more than one digital display is erected on each face of a gasoline pump.
d. The luminance of each digital display shall not exceed 1500 nits;
e. Any audio associated with a digital display shall not exceed 65 dB, measured at the nearest property line, between the hours of 7:00 a.m. and 10:00 p.m., and 55 dB, measured at the nearest property line, between the hours of 10:00 p.m. and 7:00 a.m.; and
f. No digital display shall be installed within twenty-five (25) feet of any property zoned exclusively for residential use.

27. Digital displays on automated teller machines (ATMs); provided, (i) the digital display only displays the name of financial institution that operates the ATM and the instructions for operating the ATM and (ii) the lettering does not exceed two inches in height.

C. PROHIBITED SIGNS. In addition to any sign not conforming to the provisions of this Chapter, the following signs are prohibited:

1. Any sign which, by color, shape, working, or location, resembles or conflicts with any traffic control sign or device.
2. Signs attached or placed adjacent to any utility pole, traffic sign post, traffic signal, historical marker, or any other official traffic control device.
3. Any sign, except as may be required by other code or ordinance, placed or maintained so as to interfere with free ingress or egress from any door, window, or fire escape.
4. Signs erected on public or private property without the permission of the property owner.
5. Signs visible from the public street or parking lot attached to or placed on merchandise or materials stored or displayed outdoors except for parking lot sales of less than four (4) days in duration.
6. Signs that rotate, move, glare, flash, change, reflect, blink, or appear to do any of the foregoing, except time and temperature devices and digital displays otherwise exempted by this Chapter.
7. Off-premises signs, including billboards, except off-site open house signs erected in compliance with the standards specified in Section 22.70.030.B.15 and digital displays erected in compliance with the standards specified in Section 22.70.030.B.26.
8. Any sign displaying obscene, indecent, or immoral matter as defined under California Penal Code.
9. Signs on awnings or canopies except on the valance.
10. Signs that create a hazard by obstructing clear views of pedestrian and vehicular traffic.
11. Portable signs.
12. Mobile signs.
13. Any sign (generally known as a "snipe sign,") tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or the exterior of a building or
other structure, where the information appearing thereon is not applicable to the present use of the premises upon which such sign is located. Whenever a sign is found so placed, the same shall constitute prima facie evidence that the person benefited by the sign placed or authorized the placement of the sign.

15. Banners, including any banner inside a building that is attached to, leaning against, or otherwise placed within ten (10) feet of a window, door, or other opening in the façade of the building in a manner so as to present a message to or attract the attention of the public on adjoining streets, walkways, malls or parking lots available for public use.

16. Roof signs and any other graphics which extend, wholly or in part, above the eave line of the structure to which it is attached.
17. Any parapet or pergola sign placed above or partially above the parapet or pergola.
18. Logo signs with courtesy panels.
19. Pennants.
20. Signs which cover or interrupt architectural features.
21. Signs containing changeable copy, except theater marquee signs, business directories, church and museum signs, gas price signs and restaurant interior menu boards.
22. Historical markers placed on the structure, tree or other historical monument itself, except as approved by the Historic Landmarks Commission.
23. Pole signs.
24. Exposed cabinet/raceways behind channel letters.
25. Inflatable signs, except for balloon displays exempted by this Chapter.
26. Unless otherwise exempted by this Chapter, digital displays, including any digital display inside a building that is attached to, leaning against, or otherwise placed within ten (10) feet of a window, door, or other opening in the façade of the building in a manner so as to present a message to or attract the attention of the public on adjoining streets, walkways, malls or parking lots available for public use.

D. GENERAL REQUIREMENTS.
1. No sign, other than a sign installed by a public agency, shall be allowed to be erected, installed, placed or maintained in or on any public property, including sidewalks and parkways, except off-site open house signs erected in compliance with the standards specified in Section 22.70.030.B.15.
2. Churches, schools, and other public or semi-public facilities may have one (1) on-site sign not exceeding eighteen (18) square feet in any area, provided that, except for the name of the premises, the lettering shall not exceed three (3) inches in height, and such signs in residential zones shall not be internally illuminated.
3. Any sign which is supported by more than one means and therefore cannot be clearly defined as a ground, marquee, wall, roof, projecting or other sign shall be administratively assigned to the sign category most logically applicable and be subject to the corresponding standards.
4. Accessory signs will be considered only if they are designed in conjunction with or made an integral part of the signing existing on the subject building or project. Said signs shall not exceed twenty-five (25%) percent of the building’s total signage.
5. A temporary window sign in excess of four (4) square feet, or fifteen percent (15%) of the window area of each facade, whichever is greater, requires a permit, unless the sign is otherwise exempt from the permit requirements of this chapter. For a window which is more than twenty-five (25) feet from the public right-of-way, such a sign shall not exceed twenty-five percent (25%) of the window area. Such signs shall not be displayed for more than thirty (30) consecutive days nor for more than a total of sixty (60) days per calendar year. Unless specifically exempted in subsection B above, all illuminated signs erected within ten (10) feet of a window, door, or other opening in the façade of a building in a manner so as to present a message to or attract the attention of the public on adjoining streets, walkways, malls, or parking lots available for public use shall require a permit.

6. Only one (1) face of a double-faced sign with parallel opposing faces, and bearing identical copy or language translation, shall be used in computing the area of a sign. Signing and illumination shall be on two opposing faces only.

7. In order to calculate the size of a sign, the following provisions apply:
   a. If the sign is enclosed by a box or outline, the area of the sign includes that portion of the sign comprised of said box or outline.
   b. If the sign consists of individual letters attached directly to the building or wall, the size is calculated by drawing a rectangle around each line of copy.
   c. If the sign is a ground sign, the base or support structure shall be included in calculating the height of the sign.

8. If a building consists of two (2) or more above-ground stories, no sign shall be allowed more than five feet six inches (5'6") above the second floor line or in conformance with Subsection D.11 below, where applicable.

9. Prior to issuance of a sign permit, a ground sign shall be approved by the traffic engineer to ensure that placement of the sign would not adversely affect traffic or pedestrian safety.

10. A non-temporary window sign shall be not larger than twenty-five percent (25%) of the window area of the facade on which it is displayed.

11. A wall sign may be attached flat against or pinned away from the wall. A wall sign placed in the space between windows on the same story shall not exceed more than two-thirds (2/3) of the height of the window, or major architectural details related thereto. A wall sign placed between windows on adjacent stories shall not exceed two-thirds (2/3) the height of the space between said windows.

12. A projecting or hanging sign must clear the nearest sidewalk by a minimum of seven (7) feet and may project no more than four (4) feet into the public right-of-way. Such a sign for a business in the second story of a building is allowed only if the business has a separate street or public parking lot entrance and may be placed at the entrance only.

13. A device displaying time or temperature is permitted in all zones except residential zones and designated historic districts, subject to the provisions herein regulating various types of signs. Such devices are limited to one (1) per block. Only a logo is allowed to appear on the same structure as such a device.

14. A kiosk is permitted in all non-residential zones, subject to approval by the Sign Committee and (i) the Historic Landmarks Commission if within El Pueblo Viejo Landmark District or another landmark district, or (ii) the Architectural Board of Review
in other parts of the City.

15. A relocated sign shall be considered to be a new sign, unless the relocation is required by a public agency as a result of a public improvement, in which case approval shall be obtained only for the new location and base of the sign.

16. Except as otherwise stated in this Chapter, letter height shall be limited to a maximum of twelve (12) inches, except where it can be found that said letter size is inconsistent with building size, architecture and setback from the public right-of-way.

17. A ground sign which exceeds six (6) square feet in area shall not be located within seventy-five (75) feet of any other ground sign.

18. All signs on parcels immediately adjacent to El Pueblo Viejo Landmark District are subject to El Pueblo Viejo regulations.
AGENDA DATE:  June 14, 2011

TO:  Mayor and Councilmembers

FROM:  City Administrator’s Office

SUBJECT:  Introduction Of Ordinance For 2011-2013 Treatment And Patrol (TAP) Memorandum Of Understanding

RECOMMENDATION:

That Council Ratify the Memorandum of Understanding between the City and the Service Employees’ International Union, Local 620, Airport and Harbor Patrol Officers’ and Treatment Plants’ Bargaining Units, for the period of January 1, 2011 through December 31 2013, by introduction and subsequent adoption of, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Adopting the 2011-2013 Memorandum of Understanding Between the City of Santa Barbara and the Patrol Officers' and Treatment Plants' Bargaining Units (TAP Units).

DISCUSSION:

Negotiators have reached a new three-year labor agreement with the Treatment and Patrol (TAP) bargaining units in accordance with parameters set by Council. These are two of the four City bargaining units represented by the Service Employees International Union (SEIU), Local 620. The agreement includes concessions that will achieve overall labor cost savings of $740,859 over the three-year term. At the end of three years, a salary increase will increase costs by $290,101. The agreement is expected to have been ratified by the bargaining unit membership prior to Council consideration of this action.

The Treatment and Patrol Unit has 110 budgeted positions, almost all of which are charged to Enterprise operations (Water Fund, Airport Fund, and Waterfront Fund). Therefore, concessions achieved through this agreement will do little to relieve the General Fund. However, salary savings in these Enterprise funds will help to control costs for users and rate payers during this difficult economic period.

Negotiations were initially delayed due to turnover in the bargaining unit leadership, so this agreement is retroactive to January 1, 2011.
PERS Contribution

Most employees in this bargaining unit are part of the PERS Miscellaneous Plan and have paid into the PERS pension plan for a number of years. However, sworn Harbor Patrol employees are included under the PERS Police Safety Plan and did not previously make a contribution. Under the new agreement, employees will begin making a 3% contribution toward their pension benefits, similar to that recently negotiated with the Police Officers Association.

Re-opener on Retirement Reform

Under this Agreement, the City and the Union will begin meeting immediately to explore the options and implications of various types of retirement reform, which will include but not be limited to implementing a different retirement formula for new hires (commonly referred to as a “Two Tier” retirement). Then, in January 2013, the parties will re-open formal negotiations on Two Tier retirement. This should coincide in timing with negotiations with the Police and Fire unions, whose agreements expire in June 2013. The implementation of Two Tier retirement under this re-opener will not become effective for new miscellaneous employees (non-sworn) earlier than a Two Tier retirement is applicable to new sworn employees.

Furlough and Relinquishment of Paid Time Off

All employees will take an unpaid furlough (time off without pay) in both Fiscal Year 2012 and Fiscal Year 2013, and some will also relinquish paid leave time. Three groups of employees will take furlough in differing amounts as follows:

- **Group 1:** Some operations do not have constant staffing requirements and can more readily absorb furlough. Employees in these operations will take a 75 hour furlough in both Fiscal Years 2012 and 2013.

- **Group 2:** Other operations, such as the water and wastewater treatment plants, operate at constant staffing. Furlough alone cannot be easily implemented without creating overtime costs. In these operations, employees will both relinquish 32 hours of their paid time off and will take a 42 hour unpaid furlough each year. The net effect will be only 10 hours of additional time away from work, which the departments can absorb without increasing overtime costs.

- **Group 3:** Harbor Patrol employees will relinquish only 5 hours of paid time off and take only 5 hours of furlough each year in recognition of their increased PERS contribution.

City staff and the union will meet informally in spring of 2012 to discuss whether those employees in Group 2 can take more furlough in Fiscal Year 2013 in lieu of relinquishing paid leave. However, this will depend on staffing levels and any change would need to be mutually agreeable.
Vacation Cash-Out Suspended

The annual vacation cash–out benefit will again be suspended for the duration of this agreement. The previous agreement to suspend this had expired.

Salary Increase

At the very end of the agreement, on December 28, 2013, employees will receive a 3% across-the-board salary increase. However, as with increases that were agreed to with the Police and Fire bargaining units, by declaring either a fiscal emergency or a financial windfall by Resolution, Council may reopen negotiations to reconsider the amount of this increase.

In light of the economic climate in the past few years, the City and the Union mutually agreed not to conduct a salary survey in 2010 that was provided for under that MOU. Instead, this salary survey will be conducted at the end of the new MOU.

Miscellaneous

The agreement also includes miscellaneous agreements regarding work schedule, and standby and call-back language.

BUDGET/FINANCIAL INFORMATION:

This agreement will achieve overall short-term labor budget cost savings of $740,859 over the three year term. Fiscal Year 2012 savings will be $332,104. At the end of the agreement, labor costs will increase by $290,101.

In addition, the relinquishment of paid leave time, which is not included in the above cost savings, will provide productivity savings that will allow the City to absorb the furlough with little impact on productivity in constant staffing operations.

PREPARED BY: Kristine Schmidt, Employee Relations Manager

SUBMITTED BY: Marcelo Lopez, Assistant City Administrator

APPROVED BY: City Administrator's Office
ORDINANCE NO.


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

SECTION 1. The Memorandum of Understanding between the City of Santa Barbara and the Service Employees' International Union, Local 620, Airport and Harbor Patrol Officers' and Treatment Plants' Bargaining Units, effective as of June 14, 2011 and covering the term of January 1, 2011 through December 31, 2013, and attached hereto and incorporated herein by reference as Exhibit "A" dated as of June 14, 2011 and (hereinafter the “M.O.U.”), is hereby approved.

SECTION 2. During the term of the M.O.U., the City Administrator is hereby authorized to implement the terms of the M.O.U. without further action by the City Council, unless such further Council action is required by state or federal law. This authorization shall include, but not be limited to, the authority to implement employee salary increases and changes to the salary schedule(s) which were adopted with the annual budget approved by the City Council during the term of the M.O.U..
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF SANTA BARBARA
AND
SERVICE EMPLOYEES' INTERNATIONAL UNION, LOCAL 620, CTW, CLC,
AIRPORT AND HARBOR PATROL OFFICERS' AND
TREATMENT PLANTS' BARGAINING UNITS

THIS AGREEMENT IS ENTERED INTO AS OF JUNE 14, 2011 BETWEEN THE CITY OF SANTA BARBARA, HEREINAFTER REFERRED TO AS THE "CITY", AND THE SERVICE EMPLOYEES' INTERNATIONAL UNION, LOCAL 620, CTW, CLC, HEREINAFTER REFERRED TO AS "UNION."

Pursuant to Section 3.12 of the Municipal Code of the City of Santa Barbara and Section 3500 et seq. of the Government Code, the duly authorized representatives of the City and the Union, having met and conferred in good faith concerning the issue of wages, hours, and terms and conditions of employment, as herein set forth, declare their agreement to the provisions of this Memorandum of Understanding.

FOR THE CITY:

Kristine Schmidt
Employee Relations Manager

Rebecca Bjork
Water Resources Manager

Mick Kronman
Harbor Operations Manager

Tracy Lincoln,
Airport Operations Manager

Graciela Reynoso
Human Resources Analyst

FOR THE UNION:

Bruce Corsaw
Executive Director, SEIU Local 620

Rob Fair
Sr. Wastewater Collection System Operator

Jason Guy
Control Systems Operator Specialist

Rick Hubbard
Harbor Patrol Officer

John Krohta
Airport Patrol Officer II

Gene Meehan
Airport Operations Assistant

Matt Ward
Water Distribution Operator Technician II

Thomas Welche,
Wastewater Treatment Plant Chief Operator

Cynthia Goena
SEIU Field Representative
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1. **BENEFITS DURING LEAVE WITHOUT PAY**

No sick leave, vacation, or holidays shall accrue to any employee during any full biweekly pay period in which the employee is on unauthorized or authorized leave without pay. Employees on leave without pay shall also be responsible for full payment (employer and employee portion) of insurance premiums except as otherwise provided in this MOU.

2. **BENEFITS- PART-TIME EMPLOYEES**

a. Employees filling positions authorized by City Council in the City’s official list of authorized positions at 20 hours or more per week on a less than full-time basis shall receive benefits (holiday, vacation, and sick leave) as follows:
   
i. Cafeteria plan contribution, medical contribution, dental contribution, vision contribution, and holiday equal to the percent of time regularly scheduled versus a regular work week rounded up to the nearest ten percent (10%).
   
ii. Vacation, and sick leave equal to the percent of time worked versus a regular work week rounded up to the nearest ten percent (10%).

b. Employees who were already filling positions authorized by City Council in the official 2004-2005 Position and Salary Control Resolution at more than 20 hours per week on a less-than-full-time basis on September 24, 2004 will continue to receive full-time health benefits (cafeteria plan contribution, medical contribution, dental contribution, vision contribution).

3. **BEREAVEMENT LEAVE**

The City’s bereavement leave policy shall provide up to five (5) days leave with pay for immediate family members. Immediate family is defined as mother, father, brother, sister, spouse, child, grandparents by blood or marriage, grandchildren by blood or marriage, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, person standing in loco parentis (in place of the parent), and step family members. In addition to the immediate family members listed herein, an employee shall be eligible for up to five (5) days bereavement leave with pay for his/her domestic partner and the domestic partner’s immediate family, as defined above. In order to receive this benefit, domestic partners must be registered with the City Clerk’s office or the Secretary of State.

The parties agree that co-worker funeral attendance will be acceptable to the City upon Department Head approval consistent with maintenance of operations.

The intent of bereavement leave is to provide employees with adequate time to be with their immediate family during a period of anguish, whether it be at the time of death, preparation of funeral arrangements and/or to attend a funeral.

Though bereavement leave pay is not applicable, the City shall encourage departments to make reasonable efforts to allow employees to use accrued vacation, compensatory, time or personal leave to attend the funeral of an aunt, uncle or cousin.

4. **BILINGUAL SKILLS**

The City and the Union agree to encourage employees to voluntarily develop bilingual skills in instances where the public contact nature of their jobs would make such skills valuable.

Any employee who is requested by the City and whose duty assignments require frequent and regular use
of bilingual language skills in Spanish and in English with members of the public shall be designated by the Department Head in writing and said designation shall be approved by the Human Resources Manager, who shall test and certify the employees for language proficiency.

Departments will be limited to two (2) employees as being designated for use of bilingual skills in each major division or department. "Major Division" shall be determined by the Department Head.

As used in this section, the phrase "regular and frequent" means at least several times in each working day. Designation of the bilingual language skill is restricted to the actual needs of the position. An employee’s ability to read, write or speak Spanish occasionally or, incidental use of language skills in Spanish, or the use of bilingual skills other than for the purpose of meeting the requirements of the job shall not warrant a bilingual designation.

The City shall provide an updated list of designated employees at the Union's written request no more than once every six (6) months. In addition, the City shall provide a list of designated employees to the Union within 30 days of ratification of this MOU.

All employees designated for use of bilingual skills by their Department Head shall receive $64.00 per pay period.

5. **BULLETIN BOARDS**

The City agrees to furnish space for Union-purchased bulletin boards of a reasonable size for posting of Union material. The specific locations of the bulletin boards shall be approved by the City and shall include but not be limited to the following work stations:

- Harbor Patrol Office
- Airport Administration Building
- Parks Division
- Water Treatment Plant
- Wastewater Treatment Plant

Other work stations may be added upon approval of the City.

6. **CAFETERIA PLAN**

a. A flexible benefits plan known as a “125 Cafeteria Plan” and the “pre-tax advantage” provisions related to an employee's medical, dental, vision, psychological and supplemental life insurance premium contributions and flexible spending accounts within the meaning of Section 125 (d) of the Internal Revenue Code shall be provided to employees. Each employee shall be eligible to allocate a discretionary amount of $313.74 per month for the term of this Agreement.

b. If medical, dental, and vision insurance plan selections exceed the cafeteria plan allocation, the City will pay the difference of these respective insurance premiums up to the amounts in the Medical Insurance, Dental Insurance and Vision Insurance sections of the Health Insurances article of this MOU; said excess premium payments cannot be applied to any other element of the cafeteria plan.

7. **CHILD CARE**

The City will provide a pre-tax salary reduction plan for dependent care needs in accordance with Section 129 of the Internal Revenue Code.
8. **COMMERCIAL DRIVER’S LICENSE**

When an employee is promoted to a position where a commercial driver’s license is required, the City will allow the employee up to 6 months following initial appointment to obtain the commercial driver’s license, unless the employee had a commercial driver’s license prior to promotion.

9. **DISABILITY RETIREMENT**

a. An employee found physically or mentally incompetent to perform his/her regular duties shall be provided with the opportunity for transfer, promotion or demotion to a position for which he/she possesses the physical or mental competence, if possible, or other action pursuant to State law and/or City Charter.

b. An employee later found not to be disabled shall be reinstated with back pay and benefits to the date such pay and benefits ceased.

c. In no case shall an industrially injured employee be entitled to use sick leave benefits to postpone the effective date of retirement.

d. An employee eligible to retire for non-industrial disability shall be entitled to use sick leave benefits to extend the date the employee is first eligible to receive retirement benefits for up to a maximum of ninety (90) days.

10. **DISCIPLINARY ACTION**

The City, at its option, may require an employee to forfeit vacation or holiday time in lieu of taking other disciplinary action pursuant to Charter Section 1007 and enabling ordinances.

11. **DOMESTIC PARTNERSHIP BENEFITS**

The City shall allow same sex and opposite sex domestic partners dependent coverage under medical, dental, and vision plans. In order to receive this benefit, domestic partners must be registered with the City Clerk’s office or the Secretary of State. The affected employees shall be responsible for all tax consequences of this benefit.

12. **DRESS CODES**

It is agreed that employees recognize and will comply with standards of dress consistent with the positive representation of the City government through its employees. No dress codes other than the above standard are to be established in the various departments other than those which are related to uniform requirements and safety policies established by the City.

13. **DRUG AND ALCOHOL TESTING POLICIES**

Only employees with commercial driver’s licenses in “safety sensitive” positions are subject to the City of Santa Barbara Drug and Alcohol Testing Policy Pursuant to Department of Transportation Regulations (which includes random and reasonable suspicion drug and alcohol testing).

Employees not subject to the City Of Santa Barbara Drug And Alcohol Testing Policy Pursuant To Department Of Transportation Regulations are subject to pre-employment drug testing and post-accident
drug and alcohol testing pursuant to the City of Santa Barbara Drug and Alcohol Testing Policy, attached hereto as Appendix D.

14. **EQUAL EMPLOYMENT OPPORTUNITY**

a. The City and the Union agree that the provisions of this Agreement shall be applied equally to all employees covered herein without favor or discrimination because of race, creed, color, sex/gender, age, national origin, political or religious affiliations, Union membership, sexual orientation, marital status, disability or pregnancy.

b. The City and the Union agree to commit themselves to the goal of equal employment opportunity in all City services. Further, the Union agrees to encourage their members to assist in the implementation of the equal employment opportunity program.

15. **FLEXIBLE STAFFING**

The City may choose to flexibly staff classifications within any class series containing an entry and journey level position. Flexible staffing gives the City the ability to hire employees at the entry level or the journey level depending upon applicant qualifications and City staffing needs.

An official list of the flexibly staffed classifications shall be maintained by Human Resources. Classifications designated as flexibly staffed would not require an examination nor the establishment of an eligible list for an incumbent to promote from the entry level to the journey level classification. The City retains the exclusive right to determine if and when an employee may advance from the entry to the journey level.

Flexible staffing does not preclude the City from identifying certain positions that would be permanently assigned to the entry level for as long as their duties and responsibilities remain within the entry level classification.

16. **FURLOUGH**

During Fiscal Years 2011-2012 and 2012-2013, each employee will be subject to an unpaid furlough. The furlough will be accomplished under the furlough plan attached to this Agreement as Exhibit G. Furlough and personal leave reductions will be in the following amounts (prorated for part-time employees):
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<td>Harbor Patrol</td>
<td>All classifications</td>
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</table>

The City and the Union will meet informally (not meet and confer) at the request of either party in March 2012 to discuss whether changes can be made to allow for more furlough and less relinquishment of personal leave as provided under Article 36(b), for those employees with the 42 hour furlough. Any change will be subject to mutual agreement.

17. GRIEVANCES/DISPUTES

a. Grievances shall be defined as an alleged violation of this Agreement or dispute regarding interpretations, application, or enforcement of this Agreement or the City Charter, City ordinances, resolutions, and written policies related to personnel policies and working conditions. Grievances shall not include disagreements, disputes, or activities regarding or pertaining to examinations for employment or promotion, disciplinary action, performance evaluations, probationary terminations and items subject to meet and confer.

No act or activity which may be grievable may be considered for resolution unless a grievance is filed in accordance with the procedure contained herein within twenty (20) working days of the date the grievable activity occurred or the date the employee could reasonably have known such activity occurred.

b. The Union agrees that whenever investigation or processing of a grievance is to be transacted during working hours, only the amount of time necessary to bring about a prompt disposition of the matter will be utilized. At the City's discretion, time spent by City employees on the investigation and processing of grievances will be recorded on a form provided by management.

Union Stewards will be permitted reasonable time off with pay for the investigation and processing of grievances after first obtaining permission from his/her Department Head. Such permission will be granted promptly unless such absence would cause an undue interruption of work.
Upon entering a work location, the Union Steward shall inform the appropriate Department Head and supervisor of the nature of his/her business. An employee pursuing a grievance shall be granted permission to leave the job unless such absence would cause an undue interruption of work. If the employee can not be made available, the Union Steward will be immediately informed when the employee will be made available.

c. The parties agree that all grievances will be processed in accordance with the following procedure.

**Step One**
Any employee who has a grievance shall first try to get it settled through discussion with his/her immediate supervisor without undue delay. Every effort shall be made to find an acceptable solution at the lowest possible level of supervision.

**Step Two**
If after such discussion the employee does not believe the grievance has been satisfactorily resolved, he or she may file a formal appeal in writing to his/her Department Head within ten (10) working days after the informal decision of his/her immediate supervisor.

The Department Head receiving the formal appeal shall render his/her written decision and comment to the employee within ten (10) working days after receiving the appeal.

**Step Three**
If, within ten (10) working days after receipt of the written decision of the Department Head the employee is still dissatisfied, he or she may request the services of a mediator from the State Mediation and Conciliation Service.

**Step Four**
If, within ten (10) working days after the mediation process has been completed, the employee is still dissatisfied he or she may file a written appeal of the decision of the Department Head to the City Administrator. The City Administrator shall review information provided by the employee, the decision of the Department Head, and suggestions or information provided by the Mediator. The City Administrator shall render his/her decision within twenty-five (25) working days after the appeal is filed. Except as provided under Step Five below, the City Administrator’s decision shall be considered final.

**Step Five**

**Request for Arbitration**
If the grievant is not satisfied with the decision at Step Four, he/she may, within fifteen (15) working days after the decision is mailed by the City Administrator, and with the concurrence of the Union, submit a request in writing to the City to proceed to arbitration. The Union shall have the right to invoke the arbitration procedure on behalf of a class of employees. Arbitration shall be conducted in accordance with the rules and procedures delineated in this Article.

**Selection of Arbitrator**
The parties shall make a good faith effort to select a mutually acceptable arbitrator from a designated list of available arbitrators. If they are unable to agree on an arbitrator within ten (10) days of the submission of the grievance to arbitration, the parties shall request a panel of experienced arbitrators from the California State Mediation and Conciliation Service. Each party shall alternately strike a name until only one name remains. The party who strikes first shall be determined by lot. By mutual agreement, the arbitration may be held under the Expedited Rules of the American Arbitration Association.

Unless the parties agree otherwise, a hearing shall be commenced within sixty (60) days from selection of the arbitrator.
Arbitrator’s Authority
Only those issues which directly relate to alleged violations of this Memorandum of Understanding or the City Charter, City ordinances, resolutions and written policies related to personnel policies and working conditions shall be subject to arbitration. In addition, matters for which a separate and comprehensive administrative process is available that provides a remedy no less complete than that provided in arbitration are not within the scope of this procedure. Examples of such comprehensive processes are: discrimination complaints covered by EEOC or DFEH, safety complaints under Cal OSHA and OSHA, workers’ compensation matters, and Civil Service appeals. The arbitrator will have no power to add to, subtract from, or modify the terms of this Agreement, the City Charter or Ordinances, or the written policies, rules, regulations or procedures of the City. The arbitrator however, may, in the course of determining the questions properly submitted to him/her, consider arguments and evidence based on external law.

Submission Agreement/Questions Regarding Arbitrability
If the parties cannot agree upon a submission agreement, the arbitrator shall determine the issues by referring to the written grievance and the answers thereto at each step. If any question arises as to the arbitrability of the grievance, such question shall be ruled upon by the arbitrator prior to hearing the merits of the grievance.

Hearing Procedure
Except as indicated in this Article, the arbitration hearing shall be conducted in accordance with the Labor Arbitration Rules of the American Arbitration Association.

Decision
After a hearing and an opportunity to present such closing arguments as may be appropriate, the arbitrator will make a reasonable effort to issue his/her decision within thirty (30) days after the conclusion of the hearing. The arbitrator's decision shall be in writing and set forth his/her findings of fact, reasoning and conclusions on the issues submitted. The decision shall be final and binding on the parties.

Costs
All costs for the services of the arbitrator, including, but not limited to, per diem expenses, travel and subsistence shall be shared equally by the parties. Any cost incurred to obtain the use of a hearing room shall be shared by the parties. All other costs shall be borne by the party incurring them.

d. The time limitations for filing and responding to grievances may be waived or extended by mutual agreement of the parties. If either party to the grievance so requests, an informal hearing shall be conducted at the Department Head or City Administrator appeal levels. Employees may be represented by counsel or other person at any stage in the grievance process.

e. Grievances which are general in character and which involve interpretation or application of this MOU or City policies or which involve matters requiring resolution outside the authority of the employee's Department Head shall be filed directly with the Assistant City Administrator who shall provide a written response within ten (10) working days.

An employee may appeal the response of the Assistant City Administrator. The employee's appeal shall be handled in accordance with the procedures beginning in step three above.

f. Disputes or complaints regarding open competitive or promotional examinations for employment shall be processed in accordance with the policy adopted by the City Administrator. The City shall consult with the Union prior to adopting or amending such policy.

g. Disputes or complaints regarding performance appraisals shall first be discussed with the individual who made the appraisal. An employee dissatisfied with the appraiser's response may discuss his/her complaint with the individual at the next higher level of supervision whose decision shall be final. An employee may be represented by counsel or other individual during these discussions.
18. **HARBOR AND AIRPORT PATROL SPECIAL DUTY ASSIGNMENT**

a. It is agreed that bonus pay associated with Harbor or Airport Patrol Special Duty Assignments shall be provided at the rate of two percent (2%) of base salary.

b. Harbor or Airport Patrol Special Duty Assignments shall be significant in nature and designated by the Waterfront Director or Airport Director.

19. **HEALTH AND SAFETY**

a. The City and the Union agree to abide by all provisions of the California Plan approved in accordance with the provisions of the Federal Occupational Safety & Health Act of 1970, and any applicable legislation as may be passed by the State of California to implement that plan. The City recognizes that it is the duty of management to make every reasonable effort to provide and maintain a safe place of employment. The Union will cooperate by encouraging all employees to perform their work in a safe manner. It is the duty of all employees in the course of performing their duties to be alert to unsafe practices, equipment, and conditions and to report any such unsafe practices or conditions to their immediate supervisors. If such conditions cannot be satisfactorily remedied by the immediate supervisor, an employee has the right to submit the matter either personally or through the Union Steward to his/her Department Head or his/her designated representative. On any matter of safety that is not resolved, consultation will take place between management and Union representatives. Compliance with basic safety requirements will be part of each employee’s performance evaluation criteria.

b. The City agrees to conduct a Safety Program on City time for the purpose of educating employees concerning the provisions of the Occupational Safety and Health Act as well as the City's safety policies. The Union agrees to support without qualification the City's Safety Program and will encourage its members to attend safety courses if required by the City and made available on City time. The City agrees that any safety courses the employees are required to take will be provided on City time with pay and that first aid training shall be provided to all employees in an on-duty status.

c. Both the City and the Union recognize the need and will strive to reduce the number of industrial injuries among the employees.

d. The parties agree that the City shall perform on-site safety inspections in major work sites at least once a year, and to hold regular safety meetings with departmental safety coordinators. It is further agreed that the City shall continue to maintain vehicles and equipment in a safe operating condition and that no employee will be penalized for refusing to use vehicles or equipment proven to be unsafe pursuant to State law.

20. **HEALTH INSURANCES (MEDICAL, DENTAL, VISION)**

a. **Medical Insurance**- The parties agree that the City will pay 100% of the premium for medical insurance for the employee only, up to a maximum per month per employee of $1009.43

It is agreed that should the amount of subject premium be less than the limits described above, the difference between the employee-only premium and said dollar amount shall be applied to employee dependent medical coverage, if any. The City will provide an HMO option.

The Union will appoint a standing Union Insurance Advisory Committee. The City agrees to consult with the Committee prior to implementing any insurance contract change. The City shall provide the Union with a copy of the medical insurance policy.
The City retains full and complete control over the selection, approval, and administration of the City’s employee medical insurance program to include selection of the carrier, insurance contract renewal, and changes in program specifications. However, medical insurance benefits at the commencement of this Agreement shall be maintained to the extent it is within the control of the City.

b. **Dental Insurance**- The parties agree that the City shall pay up to a maximum of $76 per month per employee towards the dental insurance premium.

The City retains complete and full control over the administration of this dental program subject to maintenance of benefits equivalent to those provided above for the term of this Agreement, to the extent it is within the control of the City.

The City will continue to provide a Dental HMO option (currently DeltaCare).

c. **Vision Insurance**- The City shall pay up to a maximum of $9.26 per month per employee towards the vision insurance premium for the term of this Agreement. Employees who drop vision insurance shall not be able to re-enroll within two years of dropping coverage.

21. **HOLIDAYS**

a. The City and the Union agree that the following days shall be observed as legal holidays by all employees in the Unit who are in a classification which would normally take a holiday when it occurs.

- January 1st (New Year's Day)
- 3rd Monday in January (Martin Luther King Jr.’s Birthday)
- 3rd Monday in February (Washington's Birthday)
- Last Monday in May (Memorial Day)
- July 4th (Independence Day)
- 1st Monday in September (Labor Day)
- 4th Thursday in November (Thanksgiving)
- The Friday Immediately following Thanksgiving Day
- December 25th (Christmas Day)

When a holiday falls on a Saturday or Sunday the preceding Friday or following Monday respectively shall be observed as a legal holiday.

b. For shift employees, 2.77 hours per biweekly pay period (9 days per year) will be allocated to their vacation balance and shall be used like vacation. Employees eligible to receive this accrual shall begin accruing effective the first day of employment. Shift employees are those employees that have been designated by the Department Head as shift employees because the nature of operations in their area of responsibility is such that work on holidays is a regular job requirement. Shift employees receive straight time pay for work on a day being observed as a holiday if it is part of the employee’s regular shift. However, if a shift employee is called back to work on a day which is not the employee’s regular shift day, and that day is being observed as a holiday, as listed above, the employee shall be compensated at the rate of time and one-half. For purposes of this provision, Park Rangers are considered shift employees.
c. Nothing in this Agreement shall preclude the City from declaring a holiday when a legal holiday has been declared by the President of the United States or the Governor of the State of California.

d. If an employee who is not a shift employee under section “b” of this article is required to work on a day that is being observed as a holiday, as listed above, the employee shall be compensated at the rate of time and one-half for hours worked on that day. The employee will also be entitled to an additional day off. Such day off shall be taken within thirty (30) calendar days or shall be compensated at straight pay after the 30th day.

e. The City will solicit volunteers within a work unit to work on Thanksgiving and Christmas. If an insufficient number of volunteers are available, then the supervisor shall make every reasonable effort to rotate assignments on Thanksgiving and Christmas.

f. The Union reserves the right to raise the issue of adding the Cesar Chavez holiday as a new paid holiday during negotiations for a successor to this Agreement.

22. IMPLEMENTATION OF MOU

City shall implement the provisions of this Memorandum of Understanding by adopting appropriate resolutions, ordinances, and administrative policies.

23. JURY/WITNESS DUTY

In the event that an employee of the City is required by a court of competent jurisdiction to perform jury duty and that requirement causes the employee to be away from his/her regularly assigned work schedule, said jury duty shall be considered leave with pay without interruption of service on the condition that the employee pay to the City Treasurer all compensation he/she receives for the jury duty. For those employees on shift work, the City will, whenever possible, reschedule an employee to a day shift.

Pursuant to Government Code §1230.1, whenever an employee is served with a subpoena which compels his/her presence as a witness, unless he/she is a party or an expert witness, such employee shall be granted a leave of absence with pay in the amount of the difference between the employee’s regular earnings and any amount he/she receives for such appearance.

24. LAYOFF POLICY

a. Basis of Layoff: Whenever a position is abolished pursuant to section 1008 of the City Charter an employee will be laid off as set forth below.

b. Notification to the Union: Whenever the City Administrator submits a budget to the City Council requiring layoff of employees in this bargaining unit, the City Administrator shall provide the Union with a list of the classifications(s), department(s), and division(s) from which the layoff will be made, and a seniority list of those affected.

c. Notification to Employee: Employees to be laid off shall be given at least thirty (30) calendar days prior notice.
d. Order of Layoff: Employees will be laid off by classification, department and division in the following order:

1. Probationary employees;
2. Regular employees who within the twenty-six pay periods immediately prior to the layoff received a cumulative performance evaluation score of less than 3.0 under the former evaluation form, or an overall score of “needs improvement” under the new 2009 evaluation form.
3. Regular employees by inverse order of seniority. Seniority is determined by continuous service in the classification.
4. If employees have the same seniority within the classification, selection shall be made at random.

e. Bumping (Displacement) Rights: regular employees who are laid off have the right to return to the last position they previously held under the following conditions:

1. They meet the positions’ minimum qualifications
2. They are physically able to perform the duties of the position
3. The position has continued to exist

If an employee bumps down into the last position held, the employee will bump the employee with the least seniority in the classification.

f. Transfer or Voluntary Demotion: If an employee to be laid off meets the minimum qualifications for a vacant position, before an open competitive recruitment can be commenced, the employee will be given an opportunity to fill the vacant position through transfer or voluntary demotion.

If an employee does not meet the minimum qualifications for the vacant position the City will consider appointment to the vacant position as a trainee level appointment. Trainee-level employees appointed under this section will be paid at 100% of Step 1, rather than 80%.

Final appointment through transfer or demotion is at the sole discretion of the Department head.

g. Separation Enhancement Plan: The City may offer a separation enhancement to avoid layoffs.

25. **LEAD PAY**

a. During the term of this Agreement, Harbor Patrol Officers who are scheduled and work an assigned shift in Lead capacity shall receive an additional five (5%) percent over their base salary. The five (5%) percent shall not be applied to vacation, sick leave, compensatory time or other paid leaves. The City agrees to designate a “Lead” officer whenever the Harbor Patrol Supervisor and the Harbormaster are not working.

Nothing in this provision is intended to preclude the Harbor Patrol Supervisor or the Harbormaster from assigning a “Lead” officer whenever they deem it to be necessary for the safe and efficient operation of the department. Which officer is assigned as the lead officer is within the sole discretion of Waterfront management.

26. **LEAVE OF ABSENCE**

a. It is agreed that represented employees as defined in this Agreement shall have the right to request an extended leave of absence without pay for a period of up to one year for personal reasons or for additional schooling. If the leave is approved, the employee will have the right of return but such leave shall be considered a break in service with no accrual of benefits. Leave approval will be at the discretion of the City Administrator.
b. Employees may be entitled to up to 12 weeks of leave, with benefit continuation and reinstatement rights, under the City’s FMLA/CFRA Family Care and Medical Leave Policy for the birth of a child or to care for a newborn, for the placement of a child with an employee in connection with adoption or foster care, to care for a child, parent, spouse, domestic partner or child of a domestic partner who has a serious health condition, or for the employee’s own serious health condition. For combined pregnancy and child bonding leave, the amount of leave available under this policy may be longer. Employees may also be entitled to up to 26 weeks of leave to care for a covered service member under the City’s FMLA/CFRA Family Care and Medical Leave Policy.

c. Extended medical leaves of absence may be granted by the City Administrator for a period of up to a total of one year (including any period of FMLA/CFRA Family Care and Medical Leave) on request of the employee due to the employee’s illness. The City shall continue to pay its contribution to insurance for the longer of the first ninety (90) days of such leave, or any period of leave continuation provided under the FMLA/CFRA Family Care and Medical Leave Policy.

d. The following criteria will be used in determining the granting of personal or extended medical leaves of absence:
   1. the employee's seniority in City service.
   2. the employee's job performance record.
   3. the employee's disciplinary record.
   4. the needs of the City service.

e. "Continuous service" means employment with the City without break or interruption; in computing continuous service for the purposes of this article, neither military leaves nor medical leaves of absence, including maternity leaves, whether with or without pay, shall be construed as a break in employment or service. Other absences aggregating in excess of ninety (90) working days in any period of twelve (12) months, including layoffs on account of lack of work, lack of funds, or abolition of positions shall be construed as breaking "continuous service".

27. LIFE INSURANCE

The City will provide a term life insurance policy covering the employee in the amount of $50,000 with equal accidental death and dismemberment provision.

28. LONG-TERM DISABILITY

The City will provide a long-term disability insurance plan by enrolling Unit members in the City's current long-term disability plan.

29. MAINTENANCE OF BENEFITS

The City and the Union agree that all compensation, other than direct wages, as provided by ordinance, resolution, and City Charter, which are in existence at the commencement of this Agreement, shall not be diminished, lessened, or reduced for the duration of this Agreement, except as may be herein provided.

Wage adjustments as provided for from time to time by ordinance or resolution, or by City Charter, as may be amended in accordance with this Agreement, shall also continue for the duration of this Agreement.

The City and the Union agree that the City has the right and prerogative to assign duties to and direct employees in accordance with applicable job specifications and Section 3.12 of the Santa Barbara Municipal Code.
30. MANAGEMENT RIGHTS

The parties agree that the City has an exclusive right to manage and direct the performance of services and the work force performing such services unless the City has specifically delegated, abridged, or modified any such rights in this Agreement. Such rights shall include but not be limited to the sole right to determine the organizational structure of the City, establish levels and types of services to be provided, determine the methods, means, and number of personnel by which operations are to be conducted, including sole authority to contract or subcontract for municipal services, and to exercise complete control and discretion over the technology of performing the City's work. The City retains complete authority over the policies and direction and administration of all City departments including but not limited to standards and methods of selection for employment; promotion and performance evaluation; disciplinary action; relief of employees from duty because of lack of work or other legitimate reasons; maintenance of the efficiency of government operations; establishment of the work week and work schedules; and determination of the content of job classifications consistent with applicable laws and with due regard for provisions of this Agreement.

It is further agreed that nothing in this Agreement shall in any way diminish the rights of employees, the City, or the Union as established by the Meyers-Milias-Brown Act of the State of California and all amendments thereto, or Santa Barbara Municipal Code, Chapter 3.12, except as herein provided.

31. MUNICIPAL CODE CHANGES

During the term of the Agreement the City and the Association shall meet and confer with regard to any City proposed changes to Santa Barbara Municipal Code Title 3 which are within the scope of representation. The negotiations will be held jointly with the General bargaining unit. The representatives for the Union shall be limited to SEIU staff and one bargaining unit member from the General bargaining unit and one member for the Treatment and Patrol bargaining units. The negotiations will be interest based.

32. NO STRIKE OR LOCKOUT

The City and the Union agree that during the term of this Agreement the City will not lock-out employees; nor will the Union sanction, support, condone, approve, or engage in any strike, sick-in, slow-down, or work stoppage which is detrimental to providing services to the citizens of Santa Barbara.

33. OFFICER STATUS

City recognizes that Airport Patrol Officers are peace officers pursuant to Section 830.33(d) of the California Penal Code and that Harbor Patrol Officers are peace officers pursuant to Section 830.33(b) of the California Penal Code. Park Rangers are peace officers not authorized to carry firearms pursuant to Section 830.31.

City agrees that during the term of this contract departmental policies and procedures pertaining to the function, duties and responsibilities of said Airport Patrol Officers shall be made available to those officers.

34. OVERTIME

a. The City and the Union agree that overtime work will be assigned to the employees on a rotation basis whenever possible.
b. Overtime compensation shall accrue for work performed beyond a regularly scheduled work day of at least eight (8) hours at the rate of one and one-half hours of overtime, payable in increments of 15 minutes. This shall include overtime work done from home. Work performed for the purpose of computing overtime shall include all paid leave time actually taken as time off. It will not include holiday or other paid leave time “cashed out” but not taken.

c. If an employee is physically called back to the workplace on an overtime basis, such employee shall be compensated for no less than two (2) hours overtime. When an employee is called out on an emergency 3 hours or more before the beginning of his/her regularly scheduled shift, he/she will be provided paid leave time (without deductions from leave banks) to allow five (5) hours off-duty without loss of pay before reporting for the next regularly scheduled shift. With the permission of the Supervisor, the employee may choose to work the beginning of his/her next regularly scheduled shift, and take the equivalent paid rest period at the end of the regularly scheduled shift instead. The City agrees that such permission shall not be unreasonable withheld.

d. If an employee is required to stay beyond the regularly scheduled work day of at least 8 hours and if such overtime extends two (2) hours or more beyond the workday, the City shall provide the employee with nourishment and a rest period.

e. The parties agree that employees have the right to request cash payment or compensatory time off but that approval of one or the other benefit remains the right of the City consistent with the needs of the City. Denial of an employee's request to take compensatory time off from his/her bank of CTO hours shall require a statement by the Department Head or his designee that approval of the request would unduly disrupt the operation of the department.

It is agreed that the City has the right to require employees to take compensatory time off but shall provide a minimum of seven (7) calendar days advance notice in such cases. The City also retains the right at its option to provide cash payment for overtime at the rate of one and one-half hours of pay for one hour of overtime.

The parties agree that overtime not paid for as described above, shall be accrued in a bank of hours, which if the employee requests, may not exceed more than one hundred (100) hours. Overtime in the "bank" may be taken as compensatory time off (CTO) at the rate of one and one-half hours of CTO for one hour of overtime worked or cashed out at time and one-half.

f. The City and the Union agree that overtime work accrued during a declared disaster, as determined by the President of the United States, the Governor of the State, the Mayor, City Council, or the City Administrator, shall be compensated at the rate of time and one-half providing that the City is reimbursed at the rate of time and one-half wages in Federal or State Disaster Relief Funds.

35. PAYROLL

a. Employees who receive payroll overpayments shall reimburse City for such overpayments. City shall establish a reasonable schedule of payments based upon amount of such overpayment and date overpayment was made.

b. City agrees to explain all payroll stub information to employee upon request of said employee.

c. City agrees to provide the Union with up to three (3) deduction codes.

d. The parties agree that the City will continue deducting monies from payroll and remit same to Union as authorized by employee payroll deduction authorizations in accordance with present policy. However, when an employee switches from the Treatment and Patrol bargaining units to a unit not represented by S.E.I.U. Local 620, S.E.I.U. dues will no longer be deducted, unless and until the union submits another
signed authorization form. Any changes in dues deductions shall be subject to indemnification of the City by
the Union.

e. The City shall provide to the Union, on a bi-weekly basis, a new hire and termination list of
bargaining unit employees with their name, job classification title and department. The cost of programming
said report shall be paid for by the Union.

f. All employees shall participate in the City’s payroll direct deposit program.

1. Each existing employee who was not previously enrolled in direct deposit will submit an
authorization form to the Payroll Office within sixty days of ratification of this Agreement. All
newly hired employees will be subject to this provision upon hire.

2. Each employee shall execute a payroll authorization form and submit a voided check or
savings deposit slip to the Payroll Office. It shall be the employee’s choice as to which
bank he or she designates as the institution receiving payroll funds.

3. When the authorization form is properly executed and filed with the Payroll Office, the
City will begin automatically depositing the net amount of pay on or before each
designated biweekly payday in the employee’s designated bank account.

4. Exceptions: An exception to this policy may be granted by the Finance Director to an
employee upon a showing of good cause for such exception (e.g., that he/she is unable
to establish and/or maintain a personal banking/financial account for direct deposit, or
that other personal circumstances necessitate a temporary or permanent exception).
The Finance Director may require the employee to renew this exception periodically.
Exceptions will not be unreasonably denied.

5. Employees participating in direct deposit will be provided with a payroll detail report each
pay period. Alternatively, employees may voluntarily opt out of a paper detail and access
this information electronically via the City’s computer system.

36. PERSONAL LEAVE

a. Except as provided in part “b” of this section, below, employees shall be entitled to four (4) days
personal leave each fiscal year per the following schedule:

Employees on the payroll July 1: 4 days (32 hours)
Employees hired between July 2 and October 1 (inclusive): 3 days (24 hours)
Employees hired between October 2 and January 1 (inclusive): 2 days (16 hours)
Employees hired between January 2 and April 1 (inclusive): 1 day (8 hours)

b. During the July 2011- June 2012 Fiscal Year and during the July 2012- June 2013 Fiscal Year
employees in the following classifications on payroll as of July 1 will be subject to a reduced personal leave
allowance as follows:
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</tbody>
</table>

Employees not on the payroll as of July will receive personal leave subject to proration in a percentage equivalent to the proration schedule outlined in “a”, above. Beginning with the July 2013- June 2014 Fiscal Year these employees will receive the full personal leave allowance described in part “a” of this section, above.

c. Personal leave days must be taken by the end of each fiscal year or lost. Personal leave shall be scheduled on the same basis as vacation. In no case shall employees be entitled to cash payment for personal leave days not taken.

d. City shall maintain minimal staffing on workday afternoon prior to New Years and Christmas holidays so that as many employees as possible may enjoy personal leave, vacation, or C.T.O. at those times.

37. PERSONAL PROPERTY DAMAGE REIMBURSEMENT

Any employee entitled to a uniform allowance who experiences a loss or damage to personal property may submit a claim to his/her immediate supervisor for consideration of reimbursement. The claim shall be submitted within fifteen (15) days after the loss or damage is sustained. The claim shall contain the following information: type of item, date of purchase, replacement cost, condition, description of damage, circumstances, etc. If the personal property is stolen, a report shall be filed with the Police Department.

The following conditions must apply for the claim to be considered:

a. The loss must be in the line of duty.
b. There must not be contributory negligence or carelessness on the part of the employee.
c. There must not be other means of recovery such as, but not limited to, court action or insurance.
d. The personal property for which the claim is made must be owned by the employee involved. Exceptions to the above may be referred to the Department Director for approval.
e. $200 limit per item claimed unless personal property item has written pre-approval by the Department Head.

The supervisor shall conduct an inquiry into the validity of the claim and forward it to the Division Manager with his/her recommendation. The Division Manager shall review the claim and forward his/her recommendation to the Department Director. The Department Director will approve or deny the claim. Claims meeting the above criteria shall not be unreasonably denied.
Reimbursement will be calculated from the following schedule:

<table>
<thead>
<tr>
<th>Age of Item</th>
<th>% Reimbursed</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 6 months</td>
<td>100%</td>
</tr>
<tr>
<td>6 to 12 months</td>
<td>80%</td>
</tr>
<tr>
<td>12 to 18 months</td>
<td>50%</td>
</tr>
<tr>
<td>18 to 24 months</td>
<td>25%</td>
</tr>
<tr>
<td>24 months and over</td>
<td>0%</td>
</tr>
</tbody>
</table>

If the claim is approved, payment will be forwarded to the initiating employee.

38. **PROBATIONARY PERIOD**

The probationary period required by Charter Section 1004 may be extended beyond one (1) year by signed mutual agreement of City and employee. If the employee's supervisor intends to request an extension of the probationary period, notification of that intent shall be given to the employee at least two (2) weeks prior to the expiration of the probationary period if feasible.

39. **PURPOSE**

It is the purpose of this Memorandum of Understanding to promote and provide for harmonious relations, cooperation, and understanding between management and the employees covered by this memorandum; to provide an orderly and equitable means of resolving any misunderstanding or differences which may arise under this Memorandum of Understanding; and to set forth the full and entire understanding of the parties reached as a result of good faith meeting and conferring regarding the wages, hours, and other terms and conditions of employment covered by the memorandum.

40. **RECOGNITION**

a. Pursuant to the provisions of Section 3.12 of the Municipal Code of the City and applicable State law, the Union is recognized as the majority representative of the City employees in the Airport and Harbor Patrol Officers' Bargaining Unit and the Treatment Plants' Bargaining Unit and as the exclusive bargaining agent for the employees in said Unit.

b. The term "employee(s)" as used herein shall refer only to full-time or permanent part-time employees serving in classifications who occupy positions authorized and designated as in the Airport and Harbor Patrol Officers' Unit and the Treatment Plants' Unit by the City Council on the official City "Position and Salary Control Resolution."

Classifications may be added to or deleted from the bargaining unit in accordance with the provisions of this Agreement and the City's Employer/Employee Relations Ordinance.

41. **RECRUITMENT**

a. The City agrees to supply job announcements for posting on employee bulletin boards in all departments but City assumes no responsibility for notices once delivered. City shall also provide Union an interoffice mail slot in City Hall and shall place job announcements in said slot when distributing job announcements to City departments.

b. The City agrees to continue its policy of maintaining consistent oral examination boards to the maximum extent possible. It is agreed that employees may contact the Human Resources Office to request inter-departmental or inter-divisional transfers, and are to contact Department or Division Heads for intra-departmental or intra-divisional transfers. Intra-departmental or divisional transfer opportunities will be made known to employees in those organizations prior to transfer action.
c. City shall provide a minimum application filing period of five (5) days for all open vacant positions and ten (10) days for all vacant promotional positions in the classified service within the bargaining unit for which an eligibility list must be established.

d. The names of nine (9) more eligible (including tie scores) than the number of vacancies shall be certified to the appointing authority in alphabetical order.

e. Positions in the bargaining unit shall not be filled from eligibles placed on the certification list by virtue of being on another eligible list which is at a higher salary range and for which the qualifications are substantially similar.

42. **RENEWAL AND WAIVER**

The City and the Union agree that meeting and conferring over the renewal or continuation of this Agreement shall be initiated at the request of either party after October 1, 2013 but not later than November 15, 2013 and every effort will be made to reach an agreement prior to the expiration of this Agreement on December 31, 2013. A request to meet and confer shall be filed in writing and meeting and conferring shall commence within ten (10) days of receipt of said request.

It is further agreed that nothing in this Agreement shall in any way diminish the rights of employees, the City, or the Union as established by the Meyers-Milias-Brown Act of the State of California and all amendments thereto, or Santa Barbara Municipal Code, Chapter 3.12, except as herein provided.

Except as otherwise expressly provided in this Agreement or when the parties mutually agree to meet and confer on a matter, the City and the Union agree that, for the term of this Agreement, each party waives the right and each agrees that the other party shall not be obligated to meet and confer with respect to any subject or matter pertaining to or covered by this Agreement, except as to meeting and conferring over the renewal, or continuation of this Agreement.

43. **REPRESENTATION - UNION OFFICERS AND STEWARDS**

a. The City and the Union agree that Union officers and stewards will be allowed to meet with City management on City time for the purpose of meeting and conferring in good faith and without loss of pay or any benefits.

b. The Union agrees to provide the City with a list of Union officers and stewards, with their job classifications, who are authorized to meet and confer in good faith. The Union shall keep the list up to date.

c. The City agrees that authorized Union staff representatives shall be given access to work locations during working hours to conduct Union grievance investigations and/or observe working conditions. Such visits are to be made with the prior knowledge and approval of the Department Head and a management representative may accompany the Union staff member on the visit. A staff representative is defined as a paid full-time or part-time employee of the Union.

d. The Union shall provide the City with a list of staff representatives and shall update said list as appropriate.

44. **RETIREE MEDICAL INSURANCE CONTRIBUTION**

a. This provision is applicable to employees who retire from City service on or after October 1, 1994, and
1. Have 15 or more years of classified or unclassified service; or
2. Retire from City with an industrial disability.

For employees who retire on or after January 1, 2011, the City shall contribute $8.95 per month, per year of service up to a maximum of 35 years (i.e., $313.25/month) towards the purchase of medical insurance for the retiree and his/her spouse or domestic partner registered with the City Clerk’s Office or the Secretary of State, if applicable.

c. The retiree is not limited to purchase of a City sponsored plan, provided however, that if the retiree purchases another insurance plan, the retiree must supply the City with adequate proof of insurance coverage prior to any contribution from the City. Proof of such coverage shall be provided to the City on a periodic basis, as reasonably determined by the City.

d. The City shall continue to make its contribution until the retiree reaches age 65 or dies, whichever occurs first, provided however, that if the retiree dies before reaching the age of 65 and there is a surviving spouse or registered domestic partner, the City's contribution shall cease when the retiree would have reached age 65. Thereafter, the spouse may remain on the insurance plan, at his/her own cost, subject to the conditions set forth by the insurance company.

e. In the event Health Care legislation is passed which affects the nature of the benefit described above, the parties will reopen negotiations and modify this benefit, if necessary, so as to maintain their original intent (e.g., eligibility, scope, cost).

f. If any Court decision with binding effect on the City of Santa Barbara rules that a retiree medical provision like the provision contained herein violates the State or Federal law against age discrimination, the parties agree that within 30 days they will reopen negotiations on said provision to convert to a retiree medical policy with equivalent cost that does not violate age discrimination law. The parties agree that whatever policy is agreed upon will not reduce or increase the City's contribution toward retiree medical insurance.

45. RETIREMENT

a. MISCELLANEOUS EMPLOYEES:

1. The City will provide miscellaneous employees the two point seven percent (2.7%) at age fifty-five (55) benefit formula under the Public Employees' Retirement System (PERS), pursuant to Government Code Section 21354.5.

2. The City will contribute toward the PERS normal employee's contribution as detailed in section “3”, below, and these contributions, if any, shall be credited to the member's account. The City shall report the value of any Employer Paid Member Contributions (EPMC) to PERS as compensation earnable through enabling City resolution, pursuant to Government Code Section 20636(c)(4).

3. Employees will continue to pay the full cost of the benefit enhancement to 2.7% at 55, including the effects of market volatility, according to the following formula:

   i. While the PERS miscellaneous plan employer rate is exactly equal to 20.164%, the employee shall pay 7.162% of the 8% required employee contribution. This will be deducted on a pre-tax basis and credited to the employee’s PERS member account. The City will pay the difference of .838%, which shall be reported to PERS as compensation earnable, and credited to the employee’s member account.
ii. If PERS sets the employer rate at less than 20.164%, the employee shall receive credit for 30.559% of the amount by which the employer rate is less than 20.164%. The City will apply the credit by paying an additional portion of the required 8% employee contribution, up until the point where the City again pays a full 7% of the 8% required employee contribution. This additional City-paid employee contribution (EPMC) shall be reported to PERS as compensation earnable, and credited to the employee’s member account.

[For example: If the employer rate is only 18.164% of PERS-able compensation, the City will pay an additional 0.61% (2.0% times 30.559%) of the 8% employee contribution, for a total of 1.448%];

iii. If PERS sets the employer rate at more than 20.164%, the employee shall pay 30.559% of the amount by which the employer rate exceeds 20.164%. The employee shall pay for this cost in the following manner:

A. First, through an increase in the employee-paid portion of the 8% required employee contribution up to a maximum increase of 0.838%. This additional employee paid amount will be deducted on a pre-tax basis and credited to the employee’s member account.

[For example: If the employer rate is 22.164% of PERS-able compensation, the employee will pay an additional 0.61% (2.0% times 30.559%) of the 8% employee contribution, for a total of 7.772%];

B. Second, through payroll deduction. To the extent allowable by PERS, and in compliance with any restrictions imposed by PERS, the City will amend its contract to allow the employee to assume this additional cost in such a way that it will be credited to the employee’s PERS member account and payable on a pre-tax basis. [Unless the parties through meeting and consulting (not meeting and conferring) agree that affected employees can pay through another mechanism, including, but not limited to paid vacation or paid holiday. If the parties enter into the meet and consult process, a State mediator will act as the facilitator.]

[For example: If the employer rate is 25.164% of PERS-able compensation, the employee will pay an additional 1.528% (5.0% times 30.559%) of PERS-able compensation as follows: an additional 0.838% (8%-7.162%) to cover the full 8% employee contribution, and a payroll deduction equal to 0.69% (1.528%-0.838%) of PERS-able compensation.]

4. The following contract provisions shall apply to the PERS miscellaneous plan
i. The City will provide One-Year Final Compensation for Miscellaneous employees under PERS, pursuant to Government Code section 20042.
ii. The PERS Miscellaneous contract shall provide for Military Service Credit as Public Service under Government Code Section 21024 and for Public Service Credit for Excluded or Limited Prior Service under Government Code Section 21031.
iii. The PERS Miscellaneous contract shall provide for Public Service Credit for Peace Corps or Americorps: Volunteers in Service to America (VISTA) pursuant to Government Code Section 21023.5,
iv. The City will provide the Fourth (4th) Level of 1959 Survivor Benefits for Miscellaneous employees, pursuant to Government Code Section 21574.

b. HARBOR PATROL SAFETY EMPLOYEES:

1. The PERS contract shall provide local safety member status under the 3% at 50 benefit formula to
employees regularly assigned as Harbor Patrol Officers pursuant to Government Code section 20423.

2. The City will provide to Harbor Patrol Officers the additional PERS benefits of One-Year Highest Compensation, Increased Level of 1959 Survivor Benefits (Level Two), Post Retirement Survivor Benefits and Post Retirement Survivor Allowance to Continue After Remarriage, Military Service Credit as Public Service under Government Code Section 21024 and Public Service Credit for Excluded or Limited Prior Service under Government Code Section 21031.

3. The City will continue to pay the entire 9% PERS normal employee's contribution for Harbor Patrol Officers during the term of the agreement, which shall be credited to the member's account.

4. City shall report the value of Employer Paid Member Contributions (EPMC) to PERS as compensation earnable through enabling City resolution, pursuant to Government Code Section 20636(c)(4).

5. Notwithstanding the above, harbor patrol officers will temporarily participate in PERS cost-sharing as follows:
   a. Effective June 18, 2011, sworn employees will participate in retirement cost-sharing by paying 3.0% of earnings to the City through post-tax payroll deductions in the manner contemplated by Govt. Code § 20516(f). Such payments will not be credited under the retirement system. Such payments will not affect the City's payment of the 9% EPMC.
   b. Effective September 24, 2011, employees will begin to cost share pursuant to Govt. Code § 20516(a) or 20516 (f) in the same amount and through the same method as City of Santa Barbara Police Officers under the labor agreement applicable to those positions. The parties acknowledge that cost-sharing under a Section 20516(a) PERS contract amendment may not exceed the PERS actuarially determined limit of 13.095% until July 14, 2021 and 4.460% thereafter.
   c. In the event that cost-sharing deductions for Police Officers cease for any reason before December 31, 2013, Harbor Patrol employees will continue to cost share at 3% of earnings through post-tax payroll deductions directly to the City in the manner contemplated by Govt. Code § 20516(f), which will continue until December 31, 2013, unless extended by agreement.

c. The City is authorized to amend its contract with PERS immediately, in order to be able to implement the incentives listed below:

Upon declaration of the Council of the City of Santa Barbara that the State of California's budgetary or fiscal impacts on the City's budget have caused grave fiscal conditions to exist that require prompt and immediate attention, the City may offer the following early retirement incentives to applicable employees:

1. Two years additional service credit in accordance with Government Code Section 20903; and/or
2. City payment of Military Service Credit as Public Service in accordance with Government Code Section 21024.

46. RETIREMENT REFORM

a. Information Gathering: Beginning in June 2011, the City and the Union will meet informally (not meet and confer) to gather and consider information regarding the options and financial implications of retirement benefit reform.
   i. The options considered will include, but not be limited to, offering a different
retirement plan, commonly referred to as a “Second Tier” retirement plan, to newly hired employees.

ii. Not more than two (2) employees will receive paid release time for this purpose, and that not more than five (5) meetings will be held for this purpose, absent mutual agreement.

b. Reopener: Upon 30 days written notice from the City to the Union, but not sooner than January 2, 2013, the parties will formally reopen meet and confer negotiations regarding applying a second tier of retirement plan to newly hired employees, and regarding the compensation and non-pension benefits provided to those newly hired employees that are subject to such alternate retirement benefits.

i. Unless the parties agree differently, the effective date that a second tier retirement plan is applicable to newly hired Miscellaneous (non-safety) employees shall not be sooner than the effective date that a second tier retirement plan is applicable to newly hired Police Safety and Fire Safety employees. However, the terms of the second tier retirement plan that is applicable to newly hired Police Safety and Fire Safety employees need not be the same as the second tier retirement plan applicable to Miscellaneous employees.

47. RETROACTIVITY

An employee will be eligible for the increases to salaries and benefits provided under the Agreement on the dates specified for each increase if the employee is an active City employee and bargaining unit member on the date that the City Council ratifies this Agreement.

48. SAFETY RETIREMENT FOR AIRPORT PATROL- REOPENER

During the term of this Agreement, either party may notify the other in writing to request that the parties meet and confer to consider (1) whether PERS safety retirement status can and should be granted to Airport Patrol Officers and (2) any cost offsets related to such a change. Cost offsets will require mutual agreement by the parties. All other provisions of this Agreement will remain in full force and effect.

49. SAFETY EQUIPMENT

a. The City and the Union agree that the City will either provide all safety equipment required by the City or will reimburse the employee for purchasing the equipment whenever such equipment has been required by the City as necessary for the job. Such equipment shall include, but not be limited to, safety shoes, safety glasses, helmets, gloves, boots, life jackets, and all related safety items. Both parties agree that the City shall retain the right to determine the minimum specifications of the safety equipment, procurement procedures, and limitations and exclusions.

b. Notwithstanding the above, the parties agree that employees designated by the City as required to wear steel-toed safety shoes with the exception of Harbor Patrol Officers, Airport Patrol Officers and Park Rangers, in the performance of their duties, shall be eligible to receive an annual allowance for the provision of said shoes upon the presentation of valid claims in keeping with City established procedures in amounts not to exceed $230. If the employee desires, he/she may combine two years’ allowance for the purchase of shoes. The allowance is for the purchase of shoes only.

c. City shall provide prescription safety glasses to those employees who wear prescription glasses and perform duties that require the use of safety glasses. Such employees shall provide the City with the lens specifications prescribed by the employee’s doctor. The City will provide the initial pair of safety glasses based upon this prescription and shall replace same only upon a subsequent substantial change of prescription or evidence acceptable to the City that said prescription safety glasses are rendered unusable by accidental damage suffered while performing assigned duties.
50. **SALARIES**

a. Employees will receive an across-the-board base salary increase of 3.0% effective December 28, 2013.

i. Re-opener in the Event of Fiscal Emergency: If Council, no fewer than 90 days prior to the effective date of this salary increase, declares by Resolution that a state of fiscal emergency exists that necessitates reopening negotiations with the Union, the parties will re-open formal negotiations on the sole issue of salary increases.

ii. Reopener in the Event of Financial Windfall: If Council declares by Resolution that the City has enjoyed a financial windfall that justifies reopening negotiations with the Union, the parties will reopen negotiations about the potential for reduced concessions in the last year of this agreement.

b. Achieving the second salary step, or "B" step, and subsequent steps shall require, in addition to satisfactory performance, a period of one year of actual service.

c. Employees shall receive at least a five percent (5%) salary increase upon promotion provided however that the City shall not be required to pay a salary in excess of the salary range authorized for the appropriate classification by the City Council in the official Position and Salary Control Resolution. The City shall make every effort to provide a minimum five percent (5%) separation in salary between classifications within a series and classifications within recognized career ladders as determined by the City. The City shall provide the Union with a chart of career ladders, and the City shall update said list.

d. Anniversary dates for newly hired employees shall be the first of the month if the employee was hired on or before the fifteenth of that month and the first day of the following month for those hired after the fifteenth. The end of the probationary period shall coincide with the anniversary date.

e. The parties agree that a compensation survey will be completed before the expiration of the MOU according to Appendix F.

51. **SERVICE CREDIT FOR SICK LEAVE UPON RETIREMENT**

At the time of retirement, the City shall purchase an annuity for the retiring employee that pays a monthly benefit similar to the PERS amendment that provides service credit for sick leave under Government Code section 20862.8.

The following conditions apply to this benefit:

1. In order to qualify for service credit for sick leave upon retirement, the retiring employee must have at least 500 sick leave hours;

2. The conversion rate of 0.004 years of service credit for each 8-hour day of sick leave is utilized;

3. The retiring employee may take the cash purchase value of the annuity in lieu of the monthly annuity;

4. Safety group members who obtain 90% of final compensation upon retirement are not eligible for this benefit. (All safety group PERS contracts limit a safety member's maximum annual pension to no more than 90% of final compensation regardless of the length of service and this benefit carries the same restriction); and
5. If the City amends its PERS Miscellaneous or Police contract to include service credit for sick leave upon retirement, non-safety or Police employees, respectively, will be included in that PERS contract amendment and the annuity program will be discontinued for that group.

52. **SEVERABILITY**

Should any provision in this Agreement be held inoperative, void or invalid by a court of competent jurisdiction, the remaining provisions of this Agreement shall not be affected thereby, and the parties agree to meet and consult over the invalidated provision.

53. **SHIFT DIFFERENTIAL**

   a. The City and the Union agree that regular, full-time employees on a shift of eight (8) or more hours shall receive:

   1. Swing shift differential pay when 50% or more of the hours of the assigned shift hours, excluding overtime, fall between 5:00 p.m. and midnight; or

   2. Graveyard shift differential pay when 50% or more of the hours of the assigned shift hours, excluding overtime, fall between midnight and 7:00 a.m.

   b. Overtime as Continuation of Assigned Shift. Shift differential for overtime which is a continuation (without break) of the assigned shift is paid based upon the eligibility of the assigned shift. See Examples 1, 2, 3 and 4 in Appendix A entitled Shift Differential Examples.

   c. Back-to-Back Shifts. Shift differential for overtime which are two (2) entirely distinct assigned shifts are paid based upon the separate eligibility of each shift. See Examples 5 and 6 in Appendix A entitled Shift Differential Examples.

   d. Call Backs.

   1. Shift differential is not paid for call back overtime of less than eight (8) hours. See Example 7 in Appendix A entitled Shift Differential Examples.

   2. Shift differential is paid for call back overtime of eight (8) hours or more when 50% or more of the hours fall between 5:00 p.m. and midnight or midnight and 7:00 a.m. See Example 8 in Appendix A entitled Shift Differential Examples.

   e. Shift differential amounts shall be as follows:

<table>
<thead>
<tr>
<th>Swing Shift</th>
<th>Graveyard Shift</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1.15</td>
<td>$2.60</td>
</tr>
</tbody>
</table>

54. **SICK LEAVE**

   a. The City and the Union agree that the City’s sick leave policy shall be that employees shall accrue sick leave at the rate of 3.7 hours for each full pay period of service with a maximum accumulation of two thousand and eighty (2,080) hours. Said sick leave accrual shall begin effective the first day of employment.

   b. The programs referred to as “Non-Replenishable” and “City Administrators” sick leave authorized by Municipal Code Sections 3.08.150 (b) and 3.08.210 are eliminated.

   c. An employee may use sick leave for a medical appointment when it is not possible to arrange such
appointment on non-worktime subject to the following two conditions: 1) Reasonable advance notice which in no event shall be less than 24 hours; 2) Subject to supervisory approval based on operational needs.

d. An employee may use up to six days (48 hours) of available accrued sick leave per calendar year to attend to an illness of a child, parent, registered domestic partner or spouse of the employee as provided under State law. Part-time employees may use the equivalent of six (6) months of sick leave accrual at their prorated accrual rate for such purposes. All rules for use of sick leave will apply, including those regarding physician statement requirements and use of sick leave for medical appointments.

55. **STANDBY PAY**

The City and the Union agree that effective during this Agreement, when an employee is officially designated by management to remain available to physically return to the workplace, at any time during specific hours outside of normal working hours, the employee shall receive two hours of straight-time pay or compensatory time off for each eight hours on standby or fraction thereof. To the extent feasible, the parties agree that standby shall be assigned on an equitable basis to all eligible employees.

The City and the Union agree that all employees will be on automatic standby duty during a state of emergency or civil defense disaster as declared by the President of the United States, the Governor of the State, the Mayor of the City, the City Council, or the City Administrator. Such automatic emergency standby shall be without compensation unless the City is reimbursed by the State or federal government for such an expenditure. The City will make a reasonable effort to obtain such reimbursement.

56. **STATE DISABILITY INSURANCE (SDI) AND STATE PAID FAMILY LEAVE INSURANCE (PFL)**

a. All employees must participate in the State Disability Insurance (SDI) and State Paid Family Leave (PFL) programs. The employee shall pay all costs associated with these programs.

b. Employees may apply for SDI or PFL benefits with the State of California Economic Development Department (EDD). To be eligible for benefits, the employee must meet all applicable State requirements. Depending on eligibility, an employee may receive:
   1. Up to 52 weeks of wage replacement benefits for the employee’s own disability, and/or
   2. Up to 6 weeks of wage replacement benefits for providing required care for the serious health condition of a child, parent, spouse or domestic partner or for bonding with a new child.

c. Employees who receive SDI or PFL benefits must integrate available SDI and PFL benefits with available paid sick leave, personal leave and compensatory time. Documentation of the SDI/PFL benefits received must be provided to the Payroll Office for this purpose.

d. Employees on a medical or family medical leave of absence who are eligible to use their leave accruals during the leave of absence must exhaust available leave balances before using unpaid leave. Employees must use available sick/family sick leave balances, and then compensatory time off and personal leave balances, before using vacation balances.

e. Employees who coordinate SDI/PFL paid leave benefits with City payroll benefits will receive City retirement contributions, time off accruals, and other non-insurance benefits based on the City-paid portion of wage replacement only. For non-insurance benefits purposes, the SDI/PFL portion of wage replacement will be treated as unpaid leave.

f. Employees coordinating SDI/PFL benefits with City payroll benefits shall be eligible for continuation of City-paid insurance contributions under Article 25 (c) (Leave of Absence) of this Agreement only up to the date they would have received such benefits had they not coordinated SDI/PFL benefits.
57. **TERM OF AGREEMENT**

The City and the Union agree that the term of this Agreement shall be thirty six (36) months commencing January 1, 2011 and ending at midnight on December 31, 2013. It is further agreed that the term of this Agreement may be extended by mutual agreement.

58. **TRAINING**

a. The parties recognize that training programs and the advancement of employees to positions of higher skill are matters of great importance and interest to the City, the Union, and the employees covered by this Agreement. However, the City shall retain the right to determine what training is required for the employee to improve his/her performance on the job and to make such training a condition of employment. Such training may include requests by Department Heads for additional training of current employees, subject to the approval of the City Administrator. The parties agree that employees will be trained in the use of fire prevention equipment under the supervision of the City's Fire Department and that a fire evacuation plan will be developed by each department for each major City facility and posted.

b. Direct costs for all training or instruction required by the City shall be paid for by the City. Determination of eligible employees will be based upon the needs of the City with seniority being a factor considered. Wage compensation for employees shall be determined as follows:

**Non-Exempt Employees**

The Fair Labor Standards Act (FLSA) provides that time spent by non-exempt employees in training is compensable unless all of the following conditions are met:

1. Attendance is outside of the employee's regular working hours;
2. Attendance is in fact voluntary;
3. The course, lecture, or meeting is not directly related to the employee's job; and
4. The employee does not perform any productive work during such attendance.

Attendance is not voluntary if it is required by the City. It is not voluntary in fact if the employee is given to understand or led to believe that his/her present working conditions or the continuance of his/her employment would be adversely affected by nonattendance.

The training is directly related to the employee's job if it is designed to make the employee handle his/her job more effectively as distinguished from training him/her for another job, or to a new or additional skill.

If the training is considered compensable and travel time is associated with the employee's attendance, the following must be considered:

- **Travel During Regular Working Hours.** If the travel time related to attending required training occurs during normal working hours, then the time is considered to be compensable.

- **Special One-Day, Out-of-Town Travel.** Travel time associated with special one-day, out-of-town training is required to be paid for irrespective of the mode of transportation utilized or whether the employee drives or is a passenger. Time that can be excluded from payment is normal home-to-work travel time and time spent eating while traveling.

- **Overnight Travel.** If an employee travels overnight on business (for more than one day), the
employee must be paid for time spent in traveling (except for meal periods) during his/her normal working hours on non-working days, such as Saturday, as well as on his/her regular working days. Travel time as a passenger on an airplane, train, boat, bus, or automobile outside of regular working hours is not considered worktime, provided however, that any work which an employee is required to perform while traveling shall be considered as hours worked.

If an employee is offered public transportation but requests permission to drive his/her car instead, the City shall count as hours worked, the time spent driving the car or the time the employee would have had to count as hours worked during working hours if the employee had used the public transportation, whichever is less.

**Exempt Employees**

In the case of an exempt employee, the MOU language (other than the FLSA requirements applicable to non-exempt employees) determines whether training or related travel time is compensable. Exempt employees will only be paid for time spent in required training and travel during normal work hours. Travel outside of regular work hours is excluded.

c. For Harbor and Airport Patrol Officers, the City agrees to encourage employees to voluntarily develop their job skills through the coordinated use of City Police Department audio visual training materials in instances where the nature of their jobs would make such training valuable to employee job performance. The City agrees that Peace Officers Standard Training (P.O.S.T.) is desirable for Airport and Harbor patrol officers. The City may provide such training to permanent patrol officers through and including P.O.S.T. Level I.

d. Employees will be eligible to participate in the Citywide Educational Reimbursement Program. The union waives any requirement for the City to meet and confer on enhancements to this policy to increase the maximum reimbursement (currently $1000) or expand reimbursement eligibility. However, the City will notify the union of any such change.

e. In the event an Airport Patrol Officer chooses to take the FAA Ground School on his or her own time, and successfully completes the school and passes the written examination, then, upon verification thereof, the City shall reimburse such employee for his or her expenses for required books and the course fee up to $200.

59. **UNAUTHORIZED LEAVE/SUSPENSION**

No sick leave, vacation, or holiday shall be paid to an employee during any period of unauthorized leave or suspension. An employee's absence shall be unauthorized if such employee does not report absence to supervisor designated by Department Head within one-half (1/2) hour before or after his/her regular starting time, except in cases of emergency in which case the employee shall provide notification as soon as possible.

60. **UNIFORM MAINTENANCE ALLOWANCE**

a. The parties agree that the following classifications, shall receive a cash uniform purchase and replacement allowance paid in the first pay period of employment and as follows:

<table>
<thead>
<tr>
<th>Time Period</th>
<th>Airport Patrol</th>
<th>Harbor Patrol</th>
<th>Park Ranger</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 1, 2011- December 31, 2013</td>
<td>$1064</td>
<td>$1004</td>
<td>$969</td>
</tr>
</tbody>
</table>

Payment of the Uniform Maintenance Allowance will be paid to employees who are on the payroll during the pay period ending two (2) weeks prior to the payday on which the Uniform Maintenance Allowance is paid in June or December of each year. Payment will be made in a separate check, one-half in December and
one-half in June, per the following schedule:

   June 3, 2011
December 2, 2011 and June 1, 2012
December 14, 2012 and June 14, 2013
December 13, 2013

It is agreed that the above uniform allowance shall be applied towards the purchase of appropriate shoes.

b. The City and the Union agree that employees required by the City to wear uniforms and receiving a Uniform Maintenance Allowance from the City for participation in a uniform laundry service shall have the full cost of the uniform maintenance paid for by the City. The City retains full and complete control over the administration of the uniform maintenance program. City shall provide all personnel at all treatment plants and in distribution and collection, except Laboratory Technicians, with a minimum of ten (10) uniform changes and a maximum of twelve (12) uniform changes based on the employee's request.

The City shall provide five (5) coverall changes for all Treatment Plant Mechanics and for Operators at El Estero Wastewater Treatment Plant. Operators at the Water Treatment Plant(s) shall receive three (3) coverall changes. The City shall provide Laboratory Technicians with two (2) coverall changes and three (3) laboratory coat changes.

c. Effective within 60 days of ratification of this Agreement, the City will provide Harbor Patrol employees, on a one-time basis, two sets of NFPA standard uniforms. For purposes of this section, “two sets” will consist of the following: two short sleeved shirts, one long-sleeved shirt, two pairs of pants, and one paid of shorts. The City shall retain full discretion with regard to the style and color of such uniforms.

61. UNION BUSINESS ATTENDANCE

It is agreed that not more than five (5) Union officers or chief stewards will be permitted up to twenty-four (24) hours of leave each per year with pay for union activities including training, conference attendance and other off-site union related business. Release time will be subject to approval of scheduling with the Department Head and prior notification to the Human Resources Manager.

62. UNION NOTICE- EMPLOYEE ORIENTATION & INTERDEPARTMENTAL TEAMS

a. The City will provide the union a list of attendees in the bargaining unit at a group New Employee Orientation meeting not less than two weeks prior to the orientation along with the date, location, and time for the Union’s presentation. The City will provide a Union representative an opportunity during the orientation to provide information to bargaining unit members regarding the benefits and obligations of union membership. Such presentation shall not exceed 15 minutes in duration. Management may witness the Union’s presentation.

b. The City will provide the Union with advanced written notice of Interdepartmental Team Opportunities offered through its Succession Program that are offered to bargaining unit members, along with the anticipated scope of work. The Union will notify the City if the Union believes that the anticipated scope of work may involve issues within the scope of collective bargaining and lodge a written demand to bargain on such issues. Bargaining unit member participation on an Interdepartmental Team will not constitute collective bargaining nor satisfy any duty for the City to collectively bargain with the Union.

63. UNION STEWARDS

The City agrees that the Union may designate Union stewards to represent employees in the processing of grievances. The Union shall furnish the City with a list identifying by name and work location all Union
stewards. Said list shall be kept current by the Union at all times. Union stewards may begin representing a grievant only after the employee has tried to resolve the problem with his/her immediate supervisor and the two parties failed to reach a resolution to the problem.

64. UNION SECURITY (AGENCY SHOP & MAINTENANCE OF MEMBERSHIP)

a. Election - This Agency Shop provision went into effect following certification of the election results by the State Mediation and Conciliation Service on November 1, 1994.

b. Definition - Agency Shop as used in this Article means an organizational security agreement as defined in Government Code Section 3502.5 and applicable law.

c. Agency Fee - Each employee in the Unit shall be required to choose to: a) become a member in good standing of the Union; or b) satisfy the agency fee financial obligations set forth below, unless he/she qualifies for the religious exemption set forth below. New employees must make the required choice within 30 days of employment in the Unit.

Unless the employee has a) voluntarily submitted to the City an effective dues deduction request; b) notified the Union of his/her intent to pay an agency fee (full fee or reduced because objections filed), as evidenced by written notice of same from the Union to the City; or, c) qualified for exemption upon religious grounds as provided below, the City, upon notice from the Union of the employee's failure to make a timely choice, shall process a mandatory agency fee payroll deduction in the appropriate amount and forward that amount to the Union.

The amount of the fee to be charged shall be determined by the Union subject to applicable law; and shall therefore be an amount not to exceed the normal periodic membership dues and general assessments applicable to Union members.

As to non-members objecting to the Union spending their agency fee on matters unrelated to collective bargaining and contract administration, the amount of the agency shop fee shall not reflect expenditures which the courts have determined to be non-chargeable, including political contributions to candidates and parties, members-only benefits, charitable contributions and ideological expenditures and, to the extent prohibited by law, shall not reflect expenditures for certain aspects of lobbying, ballot measures, publications, organizing and litigation.

d. Conformance With Law - The Union represents that the collection, administration and use of agency fee funds shall be in conformance with the law. In addition, the Union shall comply with applicable law regarding disclosure of its expenses, notice to employees of their right to object, provision for agency shop fee payers to challenge the Union's determinations of amounts chargeable to objecting non-members, and appropriate escrow provisions to hold contested amounts while the challenges are underway.

The Union shall make available, at its expense, an expeditious administrative appeals procedure to Unit employees who object to the payment of any portion of the representation service fee. Such procedure shall provide for a prompt decision to be made by an impartial decision-maker jointly selected by the Union and the objecting employee(s). A copy of such procedure shall be made available upon request by the Union to non-Union employees and the City.

The foregoing description of permissible agency shop fee charges and related procedures is included here for informational purposes and is not intended to change applicable law. The City will promptly remit to the Union all monies deducted, accompanied by a list of employees for whom such deductions have been made.

e. Employee Notification - Each non-member who is required to pay an agency fee shall annually receive written notification from the Union of the amount of the deduction and the procedure which he/she
must follow to receive a rebate for non-representation activities during the year and the procedure for appealing all or any part of the agency fee. The City shall be sent a copy of this yearly notice.

The City will make a reasonable effort to distribute to each new employee in the Unit, a letter supplied by the Union which describes the Agency fee obligation.

f. Religious Exemption

1. Any employee who is a member of a religious body whose traditional tenets or teachings include objections to joining or supporting employee organizations shall not be required to meet the above agency fee obligations, but shall pay by means of mandatory payroll deduction an amount equal to the agency shop fee (proportionate share of the Union’s cost of legally authorized representational services), to a non-religious, non-labor charitable organization exempt from taxation under Section 501 (C) (3) of the Internal Revenue Code, as designated by the employee from a list provided by the City Finance Department.

2. To qualify for the religious exemption the employee must provide to the Union, with a copy to the City, a written statement of objection, along with verifiable evidence of membership as described above. The City will implement the change in status within thirty (30) days unless notified by the Union that the religious exemption is not valid.

g. Provision of Information - The Union shall furnish any information needed by the City to fulfill the provisions of this Article.

h. Dues/Fee Deductions - Any of the above described payment obligations shall be processed by the City in the usual and customary manner and time frames.

i. Leave Without Pay - Employees on an unpaid leave of absence for an entire pay period or more shall have agency shop fees suspended. Fee deductions shall have the same priority as dues deductions in the current hierarchy for partially compensated pay periods.

j. Rescission of Agency Shop - The Agency Shop provision may be rescinded pursuant to the procedures contained in Government Code Section 3502.5(d).

k. Union’s Right to Implementation Election – The Union shall have the right pursuant to state law to implementation elections during the term of this Agreement if the agency shop provision is rescinded under the terms of Section J above. If the Union requests an implementation election, the election will be conducted by the California State Mediation and Conciliation Service.

l. Indemnification/Hold Harmless Clause - The Union agrees to fully indemnify, defend and hold harmless the City and its officers, employees and agents against any and all claims, proceedings, settlements and/or liability regarding the legality of this Article or any action taken or not taken by or on behalf of the City under this Section.

m. Maintenance of Membership – All regular unit employees who are members of the Union in good standing shall maintain their membership in the Union in good standing, subject however, to the right to resign from membership by submitting a written request to the Union during the month of August annually.

Resignation requests submitted to the City shall be referred to the Union. When resignation requests are received outside the window period the Union will promptly provide such members a letter explaining the maintenance of membership provision, along with a copy of this section of the MOU.

Union members who drop their union membership but are subject to Agency Shop fee provisions shall still be required to comply with their financial obligations under the Agency Shop provisions. Fee payers may also change their status from full fee payer to “core” fee payer by submitting a written request to the
Union during the month of August annually.

65. USE OF COMPUTER RESOURCES

Employees’ rights and obligations regarding use of the City’s computers and computing resources are governed generally by the City’s computer use policies. The Union and the City agree that occasional and incidental employee use of City computing resources for union business is allowable within the same parameters applied to other acceptable non-commercial personal use under those policies.

The parties agree that such use shall not interfere with the performance of work duties or the effective delivery of services, and shall not result in any significant cost to the City or compromise the security of City systems. The parties further agree that City computer resources, including the e-mail system, will not be used by the Union or City employees to support or oppose a political campaign or ballot measure.

The Union acknowledges that employees have no expectation of privacy in the use of City computer resources, including but not limited to e-mail and text messaging, even if they are locked or password-protected.

66. VACATION POLICY

a. All employees shall begin accruing vacation effective the first day of employment. It is agreed that vacation time earned may be taken as accrued subject to approval by the City and in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Length of Continuous Service</th>
<th>Vacation Entitlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 2 years</td>
<td>10 days per year (80 hours)</td>
</tr>
<tr>
<td>3 - 5 years</td>
<td>13 days per year (104 hours)</td>
</tr>
<tr>
<td>6 - 10 years</td>
<td>18 days per year (144 hours)</td>
</tr>
<tr>
<td>11 - 17 years</td>
<td>23 days per year (184 hours)</td>
</tr>
<tr>
<td>18 - 23 years</td>
<td>25 days per year (200 hours)</td>
</tr>
<tr>
<td>24 &amp; over years</td>
<td>28 days per year (224 hours)</td>
</tr>
</tbody>
</table>

Vacation periods shall be scheduled by management to provide adequate staffing. Such scheduling shall be subject to the needs of the City but shall take into account employee seniority and choice.

Non-shift employees may not accrue a vacation balance in excess of thirty-two days (256 hours) unless approved by the City Administrator based upon extenuating circumstances. For shift employees, whose holiday pay is added to their vacation banks (including Park Rangers), the maximum vacation accrual will be thirty-five days (280 hours).

b. The vacation cash out provisions will remain suspended for the MOU term. There will be no vacation cash out in July 2011, December 2011, July 2012, December 2012, July 2013, or December 2013.

67. VACATION & SICK LEAVE ADVANCED CREDIT UPON HIRE

a. An employee who is appointed from outside City of Santa Barbara government service within one (1) year of leaving employment with either the City of Santa Barbara or another city, county, state agency, federal agency or special district and who, in the opinion of the Human Resources Manager, possesses government experience directly related to the position to which he or she has been appointed, may be offered credit for years of prior service with the City of Santa Barbara and/or his or her immediate previous government employer in the following ways:
i. Vacation Accrual: At the discretion of the Human Resources Manager, the employee may be offered credit for up to the total number of prior full years of service at the City of Santa Barbara and/or his or her immediate previous government employer toward the initial vacation accrual rate. The employee will not be eligible to progress to a higher accrual rate until employee has the normal required minimum amount of City of Santa Barbara service for that accrual rate.

ii. Sick bank: At the discretion of the Human Resources Manager, the employee may be credited with up to 96 hours of sick leave. Thereafter, employee will accrue sick leave at the normal rate.

b. A former City of Santa Barbara employee reemployed within one year under Santa Barbara Municipal Code Section 3.16.320 will automatically qualify for the full vacation accrual credit under (i), above, for his or her prior City of Santa Barbara service. However, under no circumstance will prior accrued vacation balances cashed out to the employee upon termination be reinstated.

68. WORK SCHEDULE

a. The normal work week shall average forty (40) hours. There shall be at least two consecutive days of rest observed after each work week subject to City needs for standby, call back, overtime and regularly scheduled shift changes. The Department Head shall establish a "regular" schedule for each employee with a start and quit time. Such schedule shall not be changed without forty-eight hours (two days) advance notice except in emergencies. City shall provide employees with reasonable "clean-up" time and employees shall be ready to begin work at start time. City agrees that work outside the regularly scheduled workday shall be compensated in accordance with the overtime policy contained herein.

b. In no case shall an employee's work schedule be altered to avoid the payment of overtime earned as a result of call back after the employee's regular shift, work day, or work weekends.

c. It is the intent of the City, when staffing permits, to assign a minimum of two (2) Harbor Patrol Officers to each shift at the Harbor and a minimum of two operators to the El Estero Treatment Plant.

d. Airport Patrol Officers shall be scheduled on either a four-ten work week (4/10), a three-twelve (3/12) work week, or a three-twelve-and-a-half (3/12.5) work week schedule. Assignment to one of these work schedules shall have no effect on accrual rates or employment terms.

e. A one-year trial period may be conducted to allow Harbor Patrol Officers to work a four-ten work schedule.

At the end of the trial period, the four-ten work schedule will be reviewed by both parties. The criteria for the review will be based on costs, staffing, overlap and mission. The review shall include both parties’ right to offer options. Both parties will be obligated to consider those options in good faith. The continuation of this schedule shall be subject to Department Head approval with input from affected employees and based on the criteria listed above.

This change to a four-ten work schedule shall have no effect on accrual rates or employment terms.

f. Employees on a 9/80 Work Schedule will be covered under the “9/80 WORK SCHEDULE POLICY” contained in Appendix E.

69. WORKERS’ COMPENSATION

a. The parties agree that Municipal Code Section 3.08.220 shall be amended to provide that employees who sustain illness or injury arising out of and in the course of their City employment shall
receive benefits equal to those mandated by the State of California plus the difference between State mandated benefits and the equivalent of eighty-five percent (85%) of the individual's gross (excluding O.T.) salary, if any, paid by the City for a maximum of ninety (90) working days.

b. Once an individual is no longer eligible for continuation of 85% of his/her gross pay as described in (a) above and are still unable to return to work, the City shall continue to pay its contribution to insurance for the first ninety (90) calendar days.

c. This section shall not be construed to grant employees the use of sick leave benefits in lieu of or to supplement workers' compensation benefits provided herein or by State law, except as follows.

An employee who returns from an accepted work-related injury or illness to regular duty or modified duty may attend follow-up medical appointments during work hours when it is not possible to arrange such appointments on non-work time. Reasonable advance notice must be given to the supervisor, which in no event shall be less than 24 hours. Release time is subject to supervisory approval based on operational needs.

Under these conditions, to account for the lost work time to attend physician, physical therapy, chiropractic, counseling and other physical and mental care appointments, the employee may:

1. Use accrued paid leave time (sick leave, vacation time, compensatory time, or personal leave); or
2. Use “industrial leave without pay” if employee has no accrued paid leave time, or
3. If the employee has not reached a permanent and stationary status, the employee may elect to use “industrial leave without pay” if employee does not choose to use accrued paid leave (sick leave, vacation time, compensatory time, or personal leave). However, employees who have reached permanent and stationary status must exhaust available leave balances before being placed on leave without pay.

An employee who has not reached a permanent and stationary status and uses industrial leave without pay may be entitled to “wage loss” under workers’ compensation system depending on eligibility.

The City may make changes to its Personnel Policies including, but not limited to, the Santa Barbara Municipal Code to reflect the substance of this Agreement.

70. WORKING OUT OF CLASSIFICATION

The City and the Union agree that it is the intent of departmental management to avoid working an employee out of classification.

It is further agreed that working an employee out of classification will occur only to meet the work requirements within the City and that such out of classification work will terminate after fifteen (15) consecutive work days or thirty (30) work days in any one calendar year, or if extended beyond fifteen (15) consecutive or thirty (30) work days, the employee shall be compensated at the rate of the higher classification while the out of classification work continues subject to right of employee to waive this provision based upon personal career development.

For purposes of this article, an out of classification assignment is defined as assignment by the Department Head or designee of the full-time performance of the significant duties of an authorized, funded, permanent, full-time position in one or more higher classification(s) by an employee in a position in another classification. "Significant duties" shall be as defined on the appropriate class specification.
When an employee works out of classification continuously for fifteen (15) working days or more, the City shall place a letter in the employee's personnel file acknowledging the out of classification work.

It is the intent of this article to compensate employees for assigned out of class work extended beyond fifteen (15) consecutive or thirty (30) work days in any one calendar year.

Reclassification Requests

If an employee believes he/she is working out of classification on a regular on-going basis, the employee may:

a. Request a reclassification from his/her manager in writing. The manager shall respond in writing within ten (10) working days of receipt of the request. The manager may recommend that a classification review be conducted by submitting a written request, approved by the Department Head, to Human Resources.

b. If the employee is not satisfied with the manager’s response, he/she may submit a written reclassification request to his/her Department Head or designee within ten (10) working days of receiving his/her manager's written response. Within twenty (20) working days of receipt of the employee's written request, the Department Head or designee shall meet with the employee and issue a written response to the employee and the Human Resources Office.

c. If the Department Head’s response so requests that a classification review be conducted, Human Resources shall conduct said classification review and shall issue its decision to the employee and the Department Head within forty-five (45) working days of receipt of the request.
APPENDIX ‘A’

SHIFT DIFFERENTIAL EXAMPLES

Example 1. An employee is assigned to work a ten (10) hour shift from 3:30 p.m. to 1:30 a.m. Because 50% or more of the assigned shift hours fall between 5:00 p.m. and midnight, the employee is entitled to Swing Shift Differential pay. If that employee is asked to work overtime from 1:30 a.m. to 3:30 a.m., the employee will be entitled to Swing Shift Differential pay at the overtime rate for the additional two hours (1:30 a.m. to 3:30 a.m.) worked.

Example 2. An employee is assigned to work an eight (8) hour shift from 7:30 a.m. to 4:00 p.m. and is then directed to work an additional five (5) hours to cover for a sick employee from 4:00 p.m. to 9:00 p.m. The employee is not entitled to shift differential pay because the assigned shift hours (7:30 a.m. to 4:00 p.m.) do not qualify for shift differential and the overtime worked is less than eight hours.

Example 3. An employee is assigned to work 8:00 a.m. to 4:30 p.m. However, on this particular day, the employee is assigned to work from 3:00 a.m. to 8:00 a.m. in addition to the assigned regular shift hours in order to cover for an absent employee. The employee is not entitled to shift differential pay because the assigned shift hours do not qualify for shift differential.

Example 4. An employee is assigned to work 7:30 a.m. to 4:00 p.m. and then is directed to work additional time for an emergency situation. The employee then works until 1:00 a.m. The employee is entitled to Swing Shift Differential pay at the overtime rate for the period of 4:00 p.m. to 1:00 a.m. The employee has in effect worked two shifts.

Example 5. An employee is assigned to work the swing shift between 4:00 p.m. and midnight and then is assigned to work the graveyard shift from midnight to 8:00 a.m. In this case the employee is assigned to work two distinct shifts. Therefore, the employee is entitled to Swing Shift Differential pay for the time between 4:00 p.m. to midnight and Graveyard Shift Differential pay at the overtime rate for the hours from midnight to 8:00 a.m.

Example 6. An employee is assigned to work the graveyard shift between midnight and 8:00 a.m. and then is assigned the day shift from 8:00 a.m. to 4:30 p.m. As in Example 5, the employee is assigned two distinct shifts; therefore, the employee is entitled to Graveyard Shift Differential for the time period of midnight to 8:00 a.m., but no shift differential for the time period of 8:00 a.m. to 4:30 p.m.

Example 7. An employee is assigned to work from 4:00 p.m. to midnight. That employee leaves work at midnight, goes home, and then is called back to work between 2:00 a.m. and 7:00 a.m. That employee is entitled to Swing Shift Differential pay for the regular assigned shift from 4:00 p.m. to midnight. The employee is not entitled to shift differential pay for the overtime hours (2:00 a.m. to 7:00 a.m.) because it is considered a call back of less than eight hours.

Example 8. An employee is assigned to work 7:30 a.m. to 4:00 p.m. and then is called back to work at 7:00 p.m. and works until 3:00 a.m. due to an emergency situation. The employee is entitled to Swing Shift Differential at the overtime rate for the call back of eight hours or more (7:00 p.m. to 3:00 a.m.).
Note: A leave or reduced schedule approved under one of these policies runs concurrently with any applicable leave entitlements under the FMLA/CFRA Family and Medical Leave Policy.

Contents

1. Maternity Leave Policy
2. Parental Leave Policy
3. Flexible Leave Policy
4. Alternative Work Schedules
5. Job Sharing
6. Part-time Work
7. At-home Work
1. **MATERNITY LEAVE** (medical leave)

The City of Santa Barbara is committed to providing time off from work, so far as possible, to employees during pregnancy and following childbirth.

Maternity leave requests, including both medical and non-medical components (see section on Parental leave for information regarding non-medical leave), must be submitted to the City Administrator via the Department Head at least 30 days in advance. The requirement for 30 days advance notice may be waived when warranted by unexpected medical circumstances. Pursuant to state law, maternity leaves for medical reasons will be granted for up to four (4) months and may be extended up to a maximum of one (1) year subject to the operational needs of the department as determined by the Department Head. All medical leaves must be verified by a doctor's certificate of disability.

When an employee is physically disabled from work due to pregnancy or following childbirth, the employee will obtain a doctor's certificate of disability indicating the dates when the employee will be physically unable to work. When physically disabled, the employee may use sick leave or other paid leave. An employee disabled due to pregnancy or childbirth may request an unpaid leave of absence for medical reasons once her sick leave and other paid leave balances total less than forty (40) hours. A doctor's note listing the dates of the disability must be submitted with the medical leave request. Any leave of absence greater than 7 days must be approved in advance by the City Administrator.

The City will coordinate an employee's use of State Disability Insurance (SDI) with City paid leave which allows employees on maternity leave and covered by SDI to extend the use of their paid leave time.

When an employee is on medical leave of absence due to pregnancy, the City will continue to pay the employer portion of the insurance for the first ninety (90) days of the medical leave of absence. Thereafter, an employee will have to pay both the employer and the employee portions of her insurance.

2. **PARENTAL LEAVE** (all employees, non-medical leave)

The City recognizes that after the birth or adoption of a child, it is important for a parent to be with his or her child. As a result, the City encourages Department Heads to accommodate requests for parental leaves to care for a newborn or newly adopted child.

Parental leaves shall be with pay if the employee has leave balances of vacation, personal leave, or compensatory time. An employee may request a parental leave of absence without pay when the employee's paid leave balances total less than forty (40) hours (see section on Maternity Leave for information regarding medical leave related to pregnancy and childbirth).

Parental leave requests must be submitted to the City Administrator via the Department Head at least 30 days in advance. When requested, parental leaves will be approved for a length of time sufficient to provide the employee a minimum of one (1) month absence from work. Any medical leave related to pregnancy and child birth (maternity leave) will not be counted in the minimum one (1) month. The scheduling of parental leave is subject to the approval of both the City Administrator and Department Head based on the operational needs of the department. Extension of the parental leave of absence may be granted, subject to the approval of the City Administrator, via the Department Head. The total duration of the combined medical and parental leaves of absence cannot exceed one year.
Employees are encouraged to discuss their time off needs with their supervisors as early as possible. Employees are also encouraged to save their vacation, personal leave, and compensatory time for use during a parental leave. Temporary waivers of the minimum annual vacation use and maximum vacation accrual will be considered to assist prospective parents in building their leave banks.

While on parental leave of absence without pay, an employee will have to pay both the employer and employee portions of his or her insurance.

3. **FLEXIBLE LEAVE POLICY** (All employees)

Employees may use accrued personal leave, vacation, comp time, to respond to emergency needs for spouse or dependent*, such as illness, child care or elder care. The employee shall notify his/her supervisor immediately of the nature of the emergency. Approval for leaves under this policy shall not be unreasonably withheld. Advance approval for spouse or dependent illness is not required.

* For purposes of this policy, a dependent is one who is a dependent pursuant to IRS regulations.

4. **ALTERNATIVE WORK SCHEDULES** (All employees)

The City believes that alternative work schedules are viable options to meet personal needs in areas such as child care and transportation where such schedules continue to meet the operational needs of the department.

Individual employees may request alternative work schedules which meet their personal needs and the operational requirements of the department. Alternative schedules may be different daily work hours or a different work week. Approval for reasonable alternative work schedules is subject to the operational needs of the department as determined by the Department Head. The continuation of such schedules shall be subject to Department Head review with reasonable input from affected employees.

5. **JOB SHARING** (All employees)

The City recognizes that job-sharing may facilitate the balancing of employees’ personal needs with their job responsibilities. As a result, the City encourages Department Heads to attempt to accommodate requests for job-sharing subject to the operational needs of the department as determined by the Department Head.

An employee may request that his/her full-time position be redefined as a job-sharing position to be filled by two part-time employees. Requests for job sharing positions shall be submitted to the Department Head and require final approval by the City Administrator and City Council.

Job sharing positions may be discontinued at the discretion of the Department Head, with 30 days notice to affected employees.
6. **PART-TIME WORK** (All employees)

An employee may request to work on a part-time basis. A request to work part-time for a limited duration is subject to the operational needs of the department as determined by the Department Head. The Department Head may grant part-time assignments of limited duration. Extensions of part-time assignments will be considered upon employee request.

All part-time assignments may be periodically reconsidered by the Department Head. If the Department Head determines additional hours are required in the position, the employee will be given thirty days notice of the requirement to work increased hours.

Part-time assignments must be a minimum of 20 hours per week. Part-time regular employees receive insurance benefits and paid leave benefits prorated based on the number of hours worked.

To change an employee from full-time to part-time status requires a Personnel Action Form (PAF) and notification to the Personnel Office.

7. **AT-HOME WORK** (All employees)

With prior approval of the Department Head and review by Risk Management, an employee may request to work at home on a limited-term basis. All requests will be subject to the operational needs of the department as determined by the Department Head. Increased City liability including safety and workers' compensation issues will be closely reviewed prior to granting at-home work requests.

Requests for work schedules which include working at home for part of the regular work week may be submitted to the Department Head. Authorization for such schedules for either a predetermined or indefinite length of time will be made based on the following criteria:

a) the operational needs of the department work site must be met adequately;

b) the job duties must be such that work can be accomplished at home;

c) proper equipment and supplies necessary to the job assignment can be provided at reasonable cost;

d) sufficient measures of productivity can be determined;

e) efficient and effective methods can be established for supervisory review of work assignments;

f) the employee can be contacted at home during predetermined work hours.

Plans for meeting each of these criteria should be submitted in writing to the Department Head for evaluation. Once approved, at-home work schedules are subject to periodic review and may be discontinued at the discretion of the Department Head, with fourteen (14) days notice to the employee.
APPENDIX C
CITY OF SANTA BARBARA
CATASTROPHIC LEAVE POLICY

I. PURPOSE: To establish a program whereby City employees can donate vacation and/or compensatory time to:
   A. The sick leave banks of permanent full-time and permanent part-time employees who are incapacitated due to a catastrophic off-duty illness or injury; or
   B. The vacation leave banks of permanent full-time and permanent part-time employees who are caring for a spouse or child who has a catastrophic illness or injury.

II. DEFINITION: A catastrophic illness or injury is a severe illness or injury which is unusual, unexpected, or immediate in nature; and which is expected to preclude an employee from returning to work for an extended period of time, during which the employee will exhaust all of his/her applicable accumulated leave balances.

III. POLICY: City employees may donate vacation and/or compensatory time to a permanent full-time or permanent part-time employee if:
   A. An employee experiences a catastrophic illness or injury or must care for a spouse or child who has a catastrophic illness or injury which requires the employee to be absent from work for an extended period of time;
   B. The employee has nearly exhausted all applicable leave balances (sick, vacation, personal leave, and compensatory time in the case of the employee's off duty catastrophic illness or injury; vacation, personal leave and compensatory time due to caring for a spouse or child who has experienced a catastrophic illness or injury); and
   C. The employee or if incapacitated, the legally recognized representative, has agreed to accept the donation if approved by the Department Head and the City Administrator.
   D. The Department Head will take action to help ensure that each employee's decision to donate or not donate to a Personal Catastrophic Leave Account is kept confidential and that the donor and recipient employees are not pressured to participate.
   E. State and Federal income tax on the value of vacation and/or compensatory time donated shall be deducted from the recipient employee's pay at the time the hours are used.

IV. PROCEDURES:
   A. A request is made by the recipient employee or if incapacitated, the legally recognized representative, to the Department Head for the establishment of a Personal Catastrophic Leave Account. This request may be made prior to the employee exhausting all of his/her applicable paid leave balances so that time donated may be utilized immediately upon exhaustion of the employee's leave balances, but not before.
B. Upon approval of the Department Head and the City Administrator, and upon agreement of the recipient employee, a Personal Catastrophic Leave Account will be established. The employee or if incapacitated, the legally recognized representative, will sign the "Request to Receive Donation(s)" form allowing publication and distribution of information regarding his/her situation.

C. The employee or if incapacitated, the legally recognized representative, will be required to provide verification of the catastrophic illness or injury from an attending physician before and while using time donated under this program. All information provided by the attending physician will remain confidential.

D. The request for donations shall occur in three month intervals and may be extended up to a maximum of twelve (12) continuous months for any one catastrophic illness/injury, based upon approval of the Department Head and City Administrator.

E. Donated vacation and/or compensatory time shall be converted and credited to the recipient's applicable leave bank in equivalent hours based upon the recipient's base hourly rate. (e.g., employee A makes $20/hour and donates 1 hour of vacation time to employee B who earns $10/hour. B's applicable leave bank is increased by 2 hours for each hour donated by A.)

F. Employees will use the "Donation of Vacation and/or Compensatory Time" form to submit donations of vacation and/or compensatory time directly to Human Resources. All donations will be reviewed for compliance with this policy. After review, the form will be forwarded to Payroll for action and adjustment to the donor's and recipient's paid leave balances.

G. All donations of vacation and/or compensatory time shall be in increments of 4 hours or more (e.g. 4, 8, 12 hours) and shall be made in three month increments. An employee may not donate vacation or compensatory time which would reduce his or her total accrued combined balance of vacation, compensatory time, personal leave and sick leave to less than 120 hours after the donation.

H. The donation of vacation and/or compensatory time is irreversible. Should the recipient employee not use all the donated time for the catastrophic illness or injury, any balance will revert to a City-wide "Catastrophic Leave Bank" for future use by employees with need for that donated time pursuant to the provisions of this Catastrophic Leave Policy.

I. The donation of vacation and/or compensatory time must be made to a specific approved catastrophic leave recipient with the following exception: an employee who is within 50 hours of the maximum vacation accrual may request to donate up to a maximum of 50 hours directly to the City-wide "Catastrophic Leave Bank" to avoid cessation of accruals. Such donation directly to the City-wide "Catastrophic Leave Bank" may not be made more than one time in any 12 month period.

J. A report on the usage of Personal Catastrophic Leave Accounts and status of the City-wide "Catastrophic Leave Bank" will be available to recognized labor organizations and others with a need to know. The report will include the identity of the recipient(s), hours donated, hours used and the remaining balance(s).
CITY OF SANTA BARBARA
DRUG AND ALCOHOL TESTING POLICY
CITY OF SANTA BARBARA
DRUG AND ALCOHOL TESTING POLICY

This policy sets forth the rights and obligations of the covered employees. You should familiarize yourself with the provisions of this policy BECAUSE COMPLIANCE WITH THIS POLICY IS A CONDITION OF YOUR EMPLOYMENT.

If you are an employee covered by this policy, you should be aware that you are still required to comply with the provisions of the City's Drug and Alcohol Free Workplace Policy (ATTACHMENT A) that was adopted by the City Council on August 21, 1990. The obligations and requirements set forth below are in addition to existing obligations and requirements set forth in the Drug and Alcohol Free Workplace Policy.

A. EMPLOYEE QUESTIONS

Employees shall refer any questions regarding rights and obligations under this policy to Human Resources or to the Union.

B. COVERED EMPLOYEES

Employees in the job classifications represented by SEIU, Local 620 in the Treatment and Patrol Bargaining Units that are not covered under the CITY OF SANTA BARBARA DRUG AND ALCOHOL TESTING POLICY PURSUANT TO DEPARTMENT OF TRANSPORTATION REGULATIONS

C. PROHIBITIONS

The following conduct is prohibited and may result in discipline, up to and including termination:

1. The use, possession, manufacture, dispensation or distribution of drugs and alcohol is prohibited:
   a. in the workplace;
   b. while on City time;
   c. in City vehicles or facilities except as defined in City’s facilities use policies;
   d. prior to coming to work, so that the employee’s performance is impaired.

2. Reporting for duty or remaining on duty while having an alcohol blood concentration level of 0.08 or greater.

3. Being on duty or operating a vehicle on duty while possessing alcohol.

4. Using alcohol while on duty.

5. Reporting for duty or remaining on duty when the employee used any controlled substances, except if the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee’s ability to perform their job.

6. Reporting for duty or remaining on duty if the employee tests positive for controlled substances.
7. Refusing to submit to any alcohol or controlled substances test required by this Policy. A covered employee who refuses to submit to a required drug/alcohol test will be treated in the same manner as an employee who tested 0.08 or greater on an alcohol test or tested positively on a controlled substances test.

A refusal to submit to an alcohol or controlled substances test required by this Policy includes, but is not limited to:

a. A refusal to provide a urine sample for a drug test;

b. An inability to provide a urine sample without a valid medical explanation;

c. A refusal to complete and sign the breath alcohol testing form, or otherwise to cooperate with the testing process in a way that prevents the completion of the test;

d. An inability to provide breath or to provide an adequate amount of breath without a valid medical explanation;

e. Tampering with or attempting to adulterate the urine specimen or collection procedure;

f. Not reporting to the collection site in the time allotted by the supervisor or manager who directs the employee to be tested (the time allotted shall be reasonable. In most cases the City will provide transportation to and from the collection site.);

g. Leaving the scene of an accident without a valid reason as to why authorization from a supervisor or manager who shall determine whether to send the employee for a post-accident controlled substances and/or alcohol test was not obtained.

D. CIRCUMSTANCES UNDER WHICH DRUG AND ALCOHOL TESTING WILL BE IMPOSED ON COVERED EMPLOYEES.

1. Pre-Employment Testing

All applicants for City employment may be required to submit to pre-employment/pre-duty drug testing. This applies to testing prior to initial appointment as a classified employee only, and not to promotion within the service.

Note: there is no pre-employment alcohol test.

2. Post-Accident Testing

Post-accident drug and alcohol testing will be conducted on employees following an accident.

Alcohol: Post-accident alcohol tests shall be administered within two hours following an accident and no test may be administered after eight hours.

Drug: A post-accident drug test shall be conducted within eight (8) hours following the accident.

An accident occurs when as a result of an incident involving a vehicle operated by a covered employee:

(1) any individual(s) receives an injury(s) requiring immediate hospital treatment,
(2) there is a recommendation by an on scene paramedic or medical professional that individual(s) involved in the accident should see a physician for injury(s) arising out of the accident.

3. Return To Duty / Follow-up Testing:

A covered employee who has violated any of the prohibitions of this policy (See Section C) may be required to submit to a return to duty test before he/she may be returned to his/her position. The test result must indicate an alcohol concentration of less than 0.08 or a verified negative result on a controlled substances test.

E. EMPLOYEE RESPONSIBILITIES

An employee must notify his/her department head of all alcohol or criminal drug statute convictions no later than 5 days after such conviction.

An employee must notify his/her supervisor, before beginning work, when drugs (prescription or non-prescription) may interfere with the safe and effective performance of duties or operation of City equipment (See Attachment A, Article III, Section 3).

Any employee who thinks he/she may have an alcohol or drug use problem is urged to voluntarily seek free confidential assistance from the City’s Employee Assistance Program (EAP) counselor. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to job related performance problems.

F. MANAGERS’ AND SUPERVISORS’ RESPONSIBILITIES

1. Managers and supervisors are responsible for enforcement of this policy and will inform the Department Head and the Human Resources Manager of any violations.

2. Employees who may have a suspected alcohol or drug use problem should be encouraged to voluntarily seek confidential assistance from the City’s Employee Assistance Program (EAP).

3. When an employee is involved in an accident, managers and supervisors shall prevent the employee from engaging in further work, remove the employee from the workplace, and then send the employee for a drug and/or alcohol tests within the timelines outlined in Section D. 2 above.

4. When it is suspected that an employee may have illegal drugs or is under the influence of illegal drugs, managers and supervisors may notify the appropriate law enforcement agency.

G. PROCEDURES TO BE USED FOR DETECTION OF DRUGS AND ALCOHOL

1. Alcohol Testing:

Alcohol testing will be conducted by using an evidential breath device (EBT) approved by the National Highway Traffic Safety Administration. (Non-EBT devices may be used for initial screening tests.)

A screening test will be conducted first. If the result is an alcohol concentration level of less than 0.02, the test is considered a negative test. If the alcohol concentration level is 0.02 or more, a second confirmation test will be conducted. A positive test for alcohol means a confirmed alcohol concentration of 0.08 or more.
The procedures that will be utilized by the collection and testing of the specimen shall be the same as those required under the City Of Santa Barbara Drug And Alcohol Testing Policy Pursuant To Department Of Transportation Regulations (49 CFR 40).

2. Drug Testing:

Drug testing will be conducted pursuant to the same requirements as those required by the City Of Santa Barbara Drug And Alcohol Testing Policy Pursuant To Department Of Transportation Regulations (49 CFR Part 40).

a. The urine specimen will be split into two (2) bottles labeled as: primary" and "split" specimen. Both bottles will be sent to the lab;

b. A positive test means a test that is positive for controlled substances under the Federal D.O.T. Urine Specimen Testing Levels (Current levels ATTACHMENT B). If the urinalysis of the primary specimen tests positive for the presence of controlled substances, the employee has seventy-two (72) hours to request that the split specimen be analyzed by a different certified lab at the employee's cost.

c. The urine sample will be tested for the following: marijuana, cocaine, opiates, amphetamines, and phencyclidine;

d. If the test is positive for one or more of the drugs, a confirmation test will be performed using gas chromatography/mass spectrometry analysis;

e. All drug results will be reviewed and interpreted by a physician before they are reported to the employee and then to the City;

f. With all positive drug tests, the physician (a.k.a. Medical Review Officer) will first contact the employee to determine if there is an alternative medical explanation for the positive test result. If documentation is provided and the MRO determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the City as "negative."

3. Confidentiality:

The confidentiality of records shall be maintained in the same manner as set forth in the City Of Santa Barbara Drug And Alcohol Testing Policy Pursuant To Department Of Transportation Regulations.

H. CONSEQUENCES OF FAILING/REFUSING AN ALCOHOL AND/OR DRUG TEST:

Failing a pre-employment drug test will be grounds for rejection from employment.

Upon failing a post-accident alcohol and/or drug test the employee:

1. Will be removed from driving or operating any heavy or dangerous equipment;

2. May be disciplined up to termination. Failing/refusal to take a controlled substances/alcohol test may result in disciplinary action, up to and including termination.
3. May be allowed to sign a last chance agreement as an alternative to discipline which could require the employee to undergo treatment to cure his/her alcohol or drug abuse and be tested periodically. Generally, an employee who tests positive and has not been found to be using alcohol or drugs on-duty will be offered a last chance agreement. The City does not pay for this examination or any treatment. However, if the exam and/or treatment is covered by the employee's insurance policy, the employee may use the insurance policy to (help) pay for the covered expenses.

4. The employee may use accumulated vacation, personal leave, overtime or leave without pay while undergoing treatment/rehabilitation

5. The employee may use sick leave only when participating in a medically supervised/approved residential rehabilitation program or during the first ninety (90) days of a medically supervised/approved outpatient rehabilitation program.

6. May not be returned to his/her position until the employee submits to a return-to-duty controlled substances and/or alcohol test (depending on which test the employee failed) which indicates an alcohol concentration level of less than 0.08 or a negative result on a controlled substances test;

7. May be required to submit to unannounced follow-up testing after he/she has been returned to his/her safety-sensitive position.

J. EMPLOYEE ASSISTANCE PROGRAM (EAP)

The City has established an Employee Assistance Program to help employees who need assistance with alcohol and controlled substance abuse. Employees are encouraged to contact the City's Benefits Office for the number of the current EAP provider.
RESOLUTION NO. 90-141

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA, ADOPTING A DRUG AND ALCOHOL FREE WORKPLACE POLICY.

WHEREAS, The Federal Drug Free Workplace Act of 1988 requires the adoption of a drug free workplace policy, and

WHEREAS, the presence of drugs and alcohol on the job, and the influence of these substances on employees during working hours jeopardizes the safety of employees, the public, and the efficiency of City operations; and

WHEREAS, the City wants to establish a drug and alcohol free workplace;

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

That the attached Drug and Alcohol Free Workplace Policy be adopted.

Adopted August 21, 1990
I. PURPOSE

The City of Santa Barbara, in its efforts to provide a drug and alcohol free environment, has adopted this Drug and Alcohol Free Workplace Policy. It is the purpose of this policy to eliminate alcohol and drug abuse by City Employees and its effects in the workplace. The presence of drugs and alcohol on the job and the influence of these substances on employees during working hours jeopardizes the safety of employees, the public, and the efficiency of City operations. It is the intent of the City, in adopting this policy, to meet the requirements of the Drug Free Workplace Act of 1988 (41 U.S.C. Section 701-707).

II. POLICY

In recognition of the duties entrusted to the employees of the City of Santa Barbara and with knowledge that drugs and alcohol hinder a person's ability to perform job related duties safely and effectively, the City of Santa Barbara adopts the following policy:

1. The use, possession, manufacture, dispensation or distribution of drugs and alcohol is prohibited:
   a. in the workplace;
   b. while on City time;
   c. in City vehicles or facilities except as defined in City's facilities use policies;
   d. prior to coming to work, so that the employee's performance is impaired.

2. The City is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as handicapped, under federal law.

3. The City has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems (as well as for a variety of other personal problems). Employees may seek confidential assistance from the EAP counselor.

III. APPLICATION

1. This policy applies to all full time, part time and temporary employees, and to all applicants for positions with the City. This policy applies to alcohol and all substances, drugs or medications, legal or illegal, which impairs an employee's ability to effectively and safely perform his/her job duties.

2. A copy of this policy will be provided to all City employees.

3. A drug-free awareness program will be established to inform employees of the dangers and penalties of drug use in the workplace and of available counseling, rehabilitation and employee assistance programs.
4. Violations of the policy may result in disciplinary action being taken, up to and including termination, in addition to possible criminal penalties or refusal to hire an applicant.

IV. EMPLOYEES RESPONSIBILITIES

An employee:

1. Must not report to work, or be subject to scheduled duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use.

2. Must not use, possess, manufacture, dispense or distribute drugs or alcohol

   a. in the workplace;

   b. on City time;

   c. in City vehicles or facilities except as defined in City's facilities use policies;

   d. prior to coming to work, so that the employee's performance is impaired.

3. Must notify his/her supervisor, before beginning work, when drugs (prescription or non-prescription) may interfere with the safe and effective performance of duties or operation of City equipment. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using prescribed drug, authorization from a qualified physician may be required.

4. Must notify his/her department head of any criminal drug or alcohol statute conviction, for a violation occurring in the workplace, no later than five (5) days after such conviction.

5. A safety employee must notify his/her department head of all alcohol or criminal drug statute convictions, no later than five (5) days after such conviction.

6. Who thinks he/she may have an alcohol or drug use problem is urged to voluntarily seek free confidential assistance from the City's Employee Assistance Program (EAP) counselor. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to job related performance problems.

V. MANAGERS AND SUPERVISORS RESPONSIBILITIES AND GUIDELINES

1. Managers and supervisors are responsible for enforcement of this policy and will inform the Department Head and the Human Resources Manager of any violations.

2. Employees who may have a suspected alcohol or drug use problem should be encouraged to voluntarily seek confidential assistance from the City's Employee Assistance Program (EAP).

3. When it is suspected that an employee is under the influence of drugs or alcohol at the workplace, managers and supervisors shall prevent the employee from engaging in further work, remove the employee from the work place, consult with another manager or supervisor to confirm their suspicions, and then, take appropriate action. The employee shall be informed that a union representative or shop steward could be notified, at the employee's request. Managers and supervisors may notify the appropriate law enforcement agency.

4. When it is suspected that an employee may have illegal drugs or is under the influence if illegal drugs, managers and supervisors shall notify the appropriate law enforcement agency.
5. For employees working on programs receiving federal grant money, the City shall:

   a. notify the Federal contracting agency within ten (10) days after receiving notice of an employee's criminal drug statute conviction occurring in the workplace. (41 U.S.C. Section 701-717)

   b. impose a sanction, or require the satisfactory participation in a drug abuse assistance or rehabilitation program for any employee who is convicted of a criminal drug statute violation occurring in the workplace. (41 U.S.C. Section 701-707)
Federal D.O.T. Urine Specimen Testing Levels  
From 49 CFR Part 40 Subpart F

All cutoff concentrations are expressed in nanograms per milliliter (ng/mL). The table follows:

<table>
<thead>
<tr>
<th>Type of Drug or Metabolite</th>
<th>Initial Test</th>
<th>Confirmation Test</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Marijuana metabolites</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(i) Delta-9-tetrahydrocannabinol-9-carboxylic acid (THC)</td>
<td>50</td>
<td>15</td>
</tr>
<tr>
<td>(2) Cocaine metabolites</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Benzoylcegonine)</td>
<td>300</td>
<td>150</td>
</tr>
<tr>
<td>(3) Phencyclidine (PCP)</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>(4) Amphetamines</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(i) Amphetamine</td>
<td>1000</td>
<td>500</td>
</tr>
<tr>
<td>(ii) Methamphetamine</td>
<td></td>
<td>500</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Specimen must also contain amphetamine at a concentration of greater than or equal to 200 ng/mL.)</td>
</tr>
<tr>
<td>(5) Opiate metabolities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(i) Codeine</td>
<td>2000</td>
<td>2000</td>
</tr>
<tr>
<td>(ii) Morphine</td>
<td></td>
<td>2000</td>
</tr>
<tr>
<td>(iii) 6acetylmorphine</td>
<td></td>
<td>10</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Test for 6-AM in the specimen. Conduct this test only when specimen contains morphine at a concentration greater than or equal to 2000 ng/mL.</td>
</tr>
</tbody>
</table>
PURPOSE:

To set forth the City of Santa Barbara’s policy and procedures governing the establishment and administration of an alternate work schedule commonly referred to as “9/80’s”.

This policy is intended to complement the provisions of the City of Santa Barbara’s “FlexWork Policy” and “Child Care Personnel Policies”. However, in the event of a conflict between those provisions and this policy, this policy shall control for all purposes.

POLICY:

The 9/80 alternate work schedule may be the standard assigned schedule for a position or work unit, or may be granted, at the employee’s request, as an alternative work schedule under the City’s FlexWork Program or Childcare Personnel Policies (also called “Family Friendly Policies”). The guidelines set forth in this policy will apply to any employee working a 9/80 schedule.

DEFINITIONS:

1. 9/80 Alternate Work Schedule
The 9/80 alternate work schedule shall consist of eight (8) work days of nine (9) hours and one work day of eight (8) hours for a total of eighty (80) hours during two (2) consecutive work weeks. For non-management employees, the eight (8) hour work day must be on the same day of the week as the employee’s regular Flex Day Off (FDO). Under the 9/80 schedule, one calendar (e.g., Saturday-Friday) week shall consist of 44 work hours (four 9-hour days and one 8-hour day) and the alternating calendar week will consist of 36 work hours (four 9-hour days and one day off).

2. Flex Day Off
The Flex Day Off (FDO) shall be an eight (8) hour day and may occur on any day of the week. For non-management employees, the FDO must be the same day of the week as the employee’s 8-hour work day that occurs in the preceding and subsequent work weeks (e.g., if the employee’s regularly scheduled Flex Day Off is each alternate Friday, then the employee shall be scheduled to work eight hours the preceding and subsequent Fridays).

3. 9/80 FLSA Workweek
Under the Fair Labor Standards Act, the workweek is defined as “a fixed and regularly recurring period of seven consecutive 24-hour periods (168 hours).” When an employee
is assigned to a 9/80 schedule, the 9/80 work week begins on the employee’s 8 hour day, at exactly four (4) hours after the scheduled start time and ends 168 hours later, at the same time on the same day during the following week. This results in 40 straight time hours per FLSA workweek, and 80 straight time hours per pay period.

4. City Pay Period
The City’s pay period begins at 12:00 a.m. (midnight) on Saturday, and ends immediately before the same time on Friday two weeks later. This is different than the FLSA work period for an employee on a 9/80 schedule, whose FLSA workweek may span 2 pay periods.

5. Fair Labor Standards Act (FLSA)
The Fair Labor Standards Act is a Federal law that sets minimum wage, overtime pay, equal pay, recordkeeping, and child labor standards for employees that it covers.

6. Non-Exempt Employee
A non-exempt employee is an employee who, because of the type of duties performed, the usual level of decision making authority, and the method of compensation, is subject to the provisions of the Fair Labor Standards Act. Nonexempt employees are generally required to account for all hours worked and must be compensated at not less than time-and-one half at the regular rate for all hours worked over 40 in one FLSA workweek.

APPROVAL:

Scheduling of a 9/80 Work Schedule including the selection of the work days, work times, and the FDO, shall be done by management based on business needs, subject to the requirements of the applicable M.O.U. and/or sideletter governing the 9/80 Work Schedule.

The City and the Union agree that under certain circumstances, alternative work schedules (9/80, 4/10, and/or modified starting or ending times) may be beneficial to both employees and the City. Employees may request, upon their own initiative, consideration of an alternate schedule and/or FDO based on childcare, alternative commute, school, or other personal issues through the FlexWork Policy or Childcare Personnel Policies.

[For General, Treatment and Patrol, and Hourly bargaining unit members: When a change to or from a standard 9/80 work schedule is made at the City’s initiative, the City will make every reasonable effort to give the affected employee 30 calendar days notice]
and the opportunity to apply for accommodation under these policies. All such requests will be considered in good faith, and will not be denied for arbitrary or capricious reasons.

CHANGES TO SCHEDULE LIMITED:

1. Changing the Flex Day Off
Once the FDO is designated, working on the FDO may incur overtime in one or more FLSA workweeks, therefore working on the FDO or making changes to the FDO requires management approval.

Temporary changes to the FLSA workweek and/or the FDO to avoid overtime are not permitted.

2. Working on the 8 Hour Day
Once the 9/80 schedule begins, working an alternate schedule on the 8 hour work day may incur overtime liability* in one or more FLSA workweeks. Therefore, altering an employee’s schedule on the 8 hour day requires management approval. (*e.g., if an employee scheduled to work from 8-5 comes in 7-4 instead, one work week will incur 1 hour of overtime, and the employee will be short an hour in the next work week and need to use leave balances.)

HOLIDAYS, PERSONAL TIME OFF AND JURY DUTY:

1. Holidays
Employees on a 9/80 work schedule who are eligible for holiday pay will be entitled to the same Holiday pay as employees on a 10/80 (40 hour) work schedule. Holiday pay shall remain at eight (8) hours. When a holiday falls on a regular nine (9) hour workday, the employee shall use one (1) hour of personal accrued leave time (vacation, personal leave, or comp time) to make up the ninth hour.

When the holiday is observed on the employee’s FDO, the employee will accrue an additional 8-hour holiday day off. If required under the applicable M.O.U., such day off shall be taken within thirty (30) calendar days or shall be compensated at straight pay after the 30th day.

2. Personal Leave and Bereavement Leave
Employees on a 9/80 work schedule who are eligible for personal and/or bereavement leave will be entitled to the same Personal Leave and/or Bereavement pay as employees on a 10/80 (40 hour) work schedule. Personal Leave and Bereavement pay
are granted to full-time employees in amounts equivalent to 8 hour days (e.g., the employee will be eligible for a total of up to 32 hours of personal leave and up to 40 total hours of bereavement leave). Personal Leave and Bereavement pay are charged at nine (9) hours for time taken on a scheduled nine hour day and (8) hours for time taken on a scheduled eight hour day.

3. Vacation, Sick, Compensatory Time, PTO, etc.
Time off from work using accrued vacation, sick, PTO, or other paid leave banks will be charged at nine (9) hours for time taken on a scheduled nine hour day. Time off from work on the eight (8) hour work day will be charged at eight (8) hours.

4. Jury Duty
An employee shall not be entitled to jury duty pay, or to overtime pay or compensatory time off for jury duty on the FDO. However, an employee on an absence exceeding one week for jury duty, military duty, etc. may request to temporarily switch back to a regular 10/80 schedule. The transition guidelines below will apply to approval of such request to transition to the 40-hour schedule (Section F2, below) or back from the 40-hour schedule (Section F1, below).

OVERTIME:

1. Overtime Earned
When an overtime-eligible employee is on a 9/80 work schedule, overtime for hours exceeding 40 in a workweek, both under the FLSA and as provided under any applicable M.O.U., will be based on the FLSA workweek. In other words, employees who are eligible for overtime shall receive overtime pay or compensatory time off for hours worked in excess of 36 or 44 hours in their respective scheduled (e.g., Saturday-Friday) calendar workweek.

Employees may also be eligible for overtime or compensatory time for other hours in excess of the regular 9/80 work schedule, as provided under the applicable M.O.U.
2. Overtime Paid
The 9/80 FLSA workweeks will not generally correspond with the City’s pay periods. Therefore, where adjustments to overtime compensation cannot be calculated until the completion of the employee's workweek (e.g., when they occur in the last half of the 8 hour day), a one pay period’s delay in the employee receiving the additional compensation may occur.

TRANSITIONING TO OR FROM A 9/80 WORK SCHEDULE

When an employee transitions from a 10/80, 4/10, or other 40-hour per week work schedule to a 9/80 work schedule, there will be a change to the beginning of the FLSA workweek. This results in a situation in which 4 hours fall in both the old workweek and the new workweek. The following procedures are designed to avoid an overtime obligation during this change. Any deviation from these procedures must be approved in advance by management.

1. Transitioning to a 9/80 Work Schedule
For a non-management employee, the transition to a 9/80 work schedule will be set to begin during a 36-hour calendar workweek, when an FDO occurs. Four hours in the new FLSA workweek will overlap with the prior 40 hour calendar work week, but because the following calendar week will contain 36 hours, this will result in 40 hours of straight time in the first new FLSA work week.

2. Transitioning to a normal 40 hour Work Schedule
For a non-management employee, the transition back to a normal 40-hour work week (e.g. “10/80” or “4/10”) from a 9/80 work schedule will be set to begin the week following a 36-hour calendar work week. This will result in 40 hours of straight time in both the prior FLSA 9/80 work week and the new regular FLSA calendar work week.

While this change will not lead to overtime, this will result in the employee working only 72 hours in the pay period in which the change occurs. Employees must use 4 hours from their available leave banks to make up this time not worked. [To avoid this result, management would need to approve the employee to work an additional 4 hours during that pay period, recognizing that those hours will be paid at the overtime rate.]
APPENDIX F: SALARY SURVEY AGREEMENT

The City will conduct a salary survey to compare the Treatment and Patrol Units compensation to that offered by similar public agencies within the appropriate labor market. All reasonable efforts will be made to conclude the survey 60 days prior to the expiration of the MOU.

Selection and Payment

The survey will be designed by a professional compensation analyst. The City will pay costs related to conducting the salary survey. The City shall have sole authority to choose the compensation analyst, determine the methods to be used in the salary survey, and direct the salary survey; however, a committee of up to 5 Union members (the Union Survey Committee) will be selected by SEIU Local 620 and will be provided with opportunities to consult with and advise both the City and the compensation analyst throughout the process.

Goals

The salary survey will be designed with the goal of determining the base compensation package value that is needed to attract and retain qualified employees for Treatment & Patrol classifications from within the appropriate public sector competitive labor market. Consistent with this philosophy and with the City Charter and the Santa Barbara Municipal Code (as amended), and after feedback and input from the Union survey committee the professional compensation analyst will recommend:
   a. An appropriate public sector competitive labor market generally applicable to the City’s TAP’ classifications;
   b. Changes to the benchmark positions the City has used in the past and/or existing internal relationships between ‘TAP’ classifications;
   c. A reasonable means to recognize, or otherwise give consideration to, the relative cost of housing in Santa Barbara.

The Union Survey Committee will be provided the opportunity to review and provide comment on these recommendations before they are finalized. The City shall have the sole authority to approve or disapprove the recommendations of the compensation analyst before data is collected. However, nothing herein shall be construed so as to waive the Union’s right to consult on the Survey Goals identified above prior to the collection of the data through the Union survey committee and, or to meet and confer on the results of the salary survey following the data collection.

Comparable Classifications

Only positions for which the actual job duties and scope of responsibility are, in the judgment of the compensation analyst, sufficiently similar to the actual job duties and scope of responsibility of the benchmark City of Santa Barbara classification will be compared. Similarity of job title alone will not qualify a classification for comparison.

Comparable Base Salary

Base salary for the City will be compared to base salary for other agencies as of 60 days prior to the expiration of the MOU.
Comparable Benefits

The comparable compensation package will include, in addition to base salary, the following compensation variables:

i. Applicable retirement formula. The retirement formula will be valued as a percent of base salary as follows:

   1. Miscellaneous
      a. 3% at 60: 9.085%
      b. 2.7% at 55: 6.162%
      c. 2.5% at 55: 2.761%
      d. 2% at 55: 0%
      e. 2% at 60: -3.109%

   2. Safety
      a. 3% at 50: 0%
      b. 3% at 55: -5.0%
      c. 2% at 50: -10.248%

ii. Retirement Contributions: Any contribution the employer makes to the employee’s required contributions to a PERS (or other) defined benefit retirement plan, plus the maximum employer contribution to a deferred compensation plan.

iii. Health Benefit Allowance: The greater of either (a) the maximum cash-equivalent cafeteria plan allowance, or (b) the combined maximum contribution for family medical, dental and vision insurance premiums, including any optional benefit amount that can be used by the employee for this purpose.

In addition, the survey shall take into account the relative cost of housing. The compensation analyst shall propose a value or recommend another reasonable method to give consideration to this variable.

Implementation of Results

Once the survey is completed, the Union survey committee will be given a reasonable opportunity to review and independently verify the data collected prior to the finalization of the survey results.

Unless otherwise mutually agreed upon, a salary inequity for a City of Santa Barbara TAP classification will exist where the monthly comparable compensation package\(^1\) for the benchmark classification is 1% or more below the median compensation package for that position in the comparable labor market. If a salary inequity exits for a benchmark position, the same inequity will be deemed to exist for positions benchmarked to that classification.

Equity adjustments to an individual TAP classification’s compensation package to remedy the inequity, if any, will be implemented in addition to any regular across-the-board increases as may be mutually agreed to by the parties during the regular meet and confer process for subsequent MOUs.

\(^1\) “Compensation package means the sum of those salary and benefit variable included in the survey: (1) monthly base salary; (2) monthly value of retirement formula; (3) monthly retirement contributions; and (4) monthly health benefit contributions.”
CITY OF SANTA BARBARA
FISCAL YEARS 2012 AND 2013
MANDATORY UNPAID FURLough PLAN
TREATMENT AND PATROL BARGAINING UNITS

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I. Purpose

The purpose of this mandatory unpaid work furlough plan ("the plan") is to:

- Allow the City to address anticipated revenue shortfalls and increased expenses; and
- Establish, in advance, a clear and understandable method to mitigate the impacts of a work furlough on affected employees.

II. Definitions

"Work furlough" refers to one or more hours of required unpaid leave taken on a consecutive or intermittent basis.

III. Application

This policy applies to all employees in the Treatment and Patrol Bargaining Units.

IV. Declaration and Scheduling of Mandatory Work Furlough

1. Implementation: This Mandatory Furlough Plan may be implemented for Fiscal Year 2012 and/or Fiscal Year 2013 without any further duty to meet and confer, subject to the following conditions:

a. The City Council makes a declaration by Resolution that a reduction in workforce for the coming Fiscal Year is necessary for economic reasons and that a mandatory unpaid work furlough should be implemented.

b. The mandatory unpaid furlough time does not exceed the number of hours designated for each classification under the Memorandum of Understanding for any affected full-time employee, prorated for part-time employees.

2. Scheduling of Furlough:

a. General Furlough Closure: The City will observe a General Furlough Closure, during which many City offices and operations will be closed. General Furlough Closure periods are tentatively planned to be observed on the dates reflected in the Fiscal Year 2012 Furlough Closure Schedule (see attachment).

Some employees in operations that are subject to the General Furlough Closure, and in other
operations, will be scheduled to take furlough time off during these furlough closure dates. However, some other employees will be scheduled to work during such closure periods based on City operational needs, or by mutual agreement between the employee and the employee’s supervisor.

b. Furlough Time Off Bank: Any furlough hours not scheduled to be taken as part of a General Furlough Closure shall become part of an employee’s furlough time off bank. Employees will take the furlough time off before no later than the last day of the last full pay period in the fiscal year (June 15, 2012 and June 14, 2013, respectively). Such time off shall be scheduled on the same terms as vacation under the current MOU, and furlough time off will be granted in minimum blocks of 4 hours, absent mutual agreement between the employee and the supervisor.

Provided requests to take furlough time off are received at least 2 weeks in advance and prior to September 30 of each Fiscal Year, management will make good faith efforts to accommodate employee choice whenever practicable.

Groups of employees (not individual employees) who have issues emanating from the furlough may request that the issue be reviewed by a panel consisting of one City representative and one Union representative who shall issue a non-binding advisory opinion to the Department Head.

Management may require employees to use furlough banks before paid vacation or personal leave is taken off. Management reserves the right to schedule an employee to take any unscheduled furlough hours remaining in an employee’s bank on or after March 30 of each year based solely on operational need.

c. Rescheduling Furlough Time Off: If an employee is not able to take furlough time off as originally scheduled, the furlough hours will become part of the employee’s Furlough Time Off Bank and will be rescheduled as provided in subsection “b” above. Supervisors will be encouraged, where practicable, to make reasonable efforts to avoid disruption to employees if scheduled furlough time off must be rescheduled (e.g. by finding qualified volunteers). However, this may not always be possible.

3. Application to Voluntary Hours Reduction Requests: Once this plan is implemented, employees who previously offered to voluntarily reduce their hours to part-time under the “Part-Time Work” Policy or to take an unpaid leave of absence under the “Leave of Absence Without Pay, Non-Medical Reasons” Policy will be provided an opportunity to rescind their voluntary part-time schedule or unpaid leave request.

4. Work During Furlough: No employee may perform work for the City when scheduled to be off of work on furlough period unless authorized by management.

V. Effect of Mandatory Work Furlough on Employee Pay

1. Pay Reduction: The period of furlough time off will be unpaid. Furlough time off will be tracked under a separate unpaid hours code.
2. Pay Mitigation Plan:
   a. The wage loss from the mandatory furlough will be distributed evenly over the full fiscal year. Effective the first full pay period in Fiscal Year 2012, beginning on June 18, 2011, a bi-weekly deduction will be made from employee compensation in an amount equivalent to \( \frac{1}{26} \) of the total unpaid mandatory furloughed time for that year through the end of the last pay period of Fiscal Year 2012, ending on June 15, 2012. Effective the first full pay period in Fiscal Year 2013, beginning on June 16, 2012, a bi-weekly deduction will be made from employee compensation in an amount equivalent to \( \frac{1}{26} \) of the total unpaid mandatory furloughed time for that year through the end of the last pay period of Fiscal Year 2013, ending on June 14, 2013.
   
   b. Mutual Reimbursement:
      i) For employees in active paid status as of the beginning of the fiscal year who terminate employment within the fiscal year:
         (A) If, at the time of termination, the reduction in pay exceeds the furlough time off taken, the employee will be entitled to pay for the difference.
         (B) If, at the time of termination, furlough time off taken exceeds the reduction in pay, the employee will need to reimburse the City for the difference in pay.
      ii) An employee who is hired or otherwise enters active paid status after the beginning of the fiscal year will be scheduled for furlough time off and will have his or her pay reduced by an amount equivalent to \( \frac{1}{26} \) of the total furloughed time for the first 26 pay periods of employment. The employee will be subject to the same mutual reimbursement provisions in Section (1) above, if the employee terminates employment before the 26 pay periods are complete.
      iii) An employee who is on unpaid status for any other reason at any point during the fiscal year will, upon return to active paid status, be scheduled to make up any furlough hours not taken and will continue to have his or her pay reduced by an amount equivalent to \( \frac{1}{26} \) of the total furloughed time until 26 full pay periods of reduction have been achieved. The employee will be subject to the same mutual reimbursement provisions in Section (a) above, if the employee terminates employment before the 26 pay periods are complete.

VI. Benefits During a Mandatory Work Furlough

1. Health, Life, and Cafeteria Plan Benefits: An employee shall receive continued medical, dental, vision, life insurance, and cafeteria plan benefits, including any City contribution, at the level the employee would have received absent the work furlough. Employees will be responsible for the same employee contributions to these benefits that they would have made absent the work furlough.

2. Retirement: To the extent allowable by CalPERS, and in compliance with any restrictions imposed by CalPERS, the City will ensure that retirement benefits will not be adversely impacted as a result of the furlough and related reduction in hours and/or salary.

3. Other Benefits: Other benefits may be reduced as required under normal benefit rules related to work schedule or unpaid leave. Such benefits include, but are not limited to: disability insurance or SDI/PFL contributions, Medicare contributions, etc.

4. Paid Leave Accrual: Employees will receive the same vacation, sick leave, and personal leave accruals they would have received absent the work furlough.

5. Legal Holidays: Employees on a work furlough shall receive legal holiday pay as follows:
a. Employees in classifications entitled to accrue holiday credit will continue to receive the same holiday credit.

b. For employees who do not accrue credit, where a legal holiday is observed during a period of work furlough, the employee will be paid hours for that holiday at the same level employee would have received absent the work furlough. In other words, that holiday will not count as an unpaid furlough day. For employees on a 9/80 or 4/10 schedule, the employee may be required to use accrued paid leave banks to make up the full paid holiday, as usual.

6. Use of Paid Leave: An employee will not be permitted to use accrued paid leave banks (vacation, sick leave, compensatory time, personal or management leave) during the unpaid furloughed hours.

7. Vacation Accruals: Management will make every reasonable effort to work with employees to avoid loss of vacation accruals or personal leave due to encroachment on accrual caps or time limits for use.

8. Standby and Call-back: An employee may be assigned to call-back or standby during a work furlough as provided under the applicable labor agreement or City policy. An employee called-back to active paid work during the unpaid furlough period will be required to take equivalent additional unpaid furlough during the remainder of the fiscal year.

9. Service & Seniority: Furlough shall not count as a break in City service and shall not affect seniority or eligibility for merit increases.

10. Schedule Changes: While an employee is on a furlough, schedule changes will be subject to the requirements of the applicable labor agreement.

11. Overtime: Employees will only be eligible for overtime premium that they would have received absent the reduction in work hours. (i.e., for over 40 hours worked in a workweek) Furlough time will be counted as time worked for purposes of determining overtime eligibility.

12. Probationary Period: Probationary periods shall not be affected by a mandatory furlough.

13. Limits on Benefit Continuation: Special benefit continuation under this furlough plan is available only to employees during their mandatory unpaid furlough period(s). Otherwise, employees are covered by benefit continuation under other City policies, including the City’s applicable Leave Without Pay policies.
AGENDA DATE: June 14, 2011

TO: Mayor and Councilmembers

FROM: City Administrator’s Office

SUBJECT: Introduction Of Ordinance For Extension To Supervisors Memorandum Of Understanding

RECOMMENDATION:

That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Ordinance No. 5484, the 2009-2011 Memorandum of Understanding between the City of Santa Barbara and the Santa Barbara City Supervisory Employees’ Bargaining Unit (Supervisors’ Unit) to Include a Supplemental Agreement.

DISCUSSION:

For the past several years, the Supervisors Bargaining Unit, which represents 81 first and second line supervisors throughout the City, has negotiated cooperatively with management on labor concessions in order to avoid layoffs and service cuts. City negotiators have again reached a tentative agreement with this group to extend their existing Memorandum of Understanding (MOU) by one additional year, through June 30, 2012, and to provide up to 6% in labor concessions. Members are expected to ratify this agreement prior to Council consideration of this action.

The agreement provides for concessions as follows:

- Harbor Patrol Supervisor contributions to PERS,
- A unpaid furlough in Fiscal Year 2012, and
- Suspension of the vacation cash out benefit in Fiscal Year 2012, and

Most employees in this bargaining unit are part of the PERS Miscellaneous Plan and have paid into the PERS pension plan for a number of years. However, the sworn Harbor Patrol Supervisor is included under the PERS Police Safety Plan and did not previously make a contribution. He will begin making a 3% contribution toward pension benefits, similar to that recently negotiated with the Police Officers Association.
Most employees will take 101 hours of furlough in Fiscal Year 2012. The Harbor Patrol Supervisor will take a lesser furlough of 48 hours, in recognition of the new PERS contribution.

The vacation cash out benefit is valued at the actual usage of this benefit in 2008, the last year it was available.

To ease the administrative burden of the unpaid furlough, time limits to take certain paid leave banks have been extended into Fiscal Year 2013, when it is anticipated fewer furlough hours will be necessary. As with the previous agreement, employees will have two years to use their annual allotment of personal leave, rather than the usual one year, and there is a limited provision to balance lost vacation accruals with personal leave.

Other miscellaneous agreements include a reopener on non-economic issues in September 2011 and the completion of a salary survey for use in the next negotiation period.

The agreement contains an equity clause which reduces the required labor concessions retroactively if the City ultimately agrees to a significantly lesser percent of labor concessions with the General bargaining unit. Fairness is a consistent theme in concession negotiations. The equity clause contained in this agreement allowed the Association to offer significant concessions, while still ensuring that its membership would not ultimately be asked to do more than the General Unit employees.

Agreeing to lesser concessions with the SEIU union would impact budget savings achieved under this agreement, but it is still an option. Under the equity clause, if the City agrees to lesser concessions in Fiscal Year 2012 with the General Unit, concessions for Supervisors will be reduced retroactively. Differences of less than a half percent will not trigger an adjustment.

**BUDGET/FINANCIAL INFORMATION:**

This agreement is expected to generate $517,313 in labor savings in Fiscal Year 2013, with $252,312 of that to the General Fund. These savings are consistent with what was included in the proposed FY 2012 budget.

**PREPARED BY:** Kristine Schmidt, Employee Relations Manager

**SUBMITTED BY:** Marcelo Lopez, Assistant City Administrator

**APPROVED BY:** City Administrator’s Office
ORDINANCE NO.


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

SECTION 1. The 2009-2011 Memorandum of Understanding between the City of Santa Barbara and the Santa Barbara City Supervisory Employees Bargaining Unit, adopted by Ordinance No. 5484, on March 24, 2009, is hereby amended to include the Supervisors Supplementary Agreement, dated as of June 14, 2011, attached hereto and incorporated herein by reference as Exhibit A.

SECTION 2. The City Administrator is authorized to apply the changes to salaries and benefits contained in this supplemental agreement to the City’s confidential supervisors.
SUPERVISORS SUPPLEMENTARY AGREEMENT
June 14, 2011

SUPPLEMENTAL AGREEMENT BETWEEN THE CITY AND THE SUPERVISORY EMPLOYEES’ BARGAINING UNIT REGARDING FURLOUGH AND OTHER LABOR MEASURES

Pursuant to Section 3.12 of the Municipal Code of the City of Santa Barbara and Section 3500 et seq. of the Government Code, the duly authorized representatives of the City of Santa Barbara (“The City”) and the Santa Barbara City Employee Supervisor Association (“The Association”), having met and conferred in good faith, agree that the existing 2009-2011 Memorandum of Understanding (MOU) shall be supplemented with the following agreement:

1. **MODIFIED TERM:** The term of the existing Memorandum of Understanding reflected in Article 50, and initially extended by Ord. No. 5516 through June 30, 2011, will be extended through June 30, 2012.

2. **SALARY AND BENEFIT CHANGES:** Subject to the requirements of Equity Clause, below, the Association agrees to all of the following measures:
   a. Measures to Achieve One-time (or “Temporary”) Budget Savings
      i. Furlough:
         1. During Fiscal Year 2011-2012, each Supervisory Unit employee except the Sworn Harbor Patrol Supervisor will be subject to an unpaid furlough of **101 hours** (prorated for part-time employees) on the terms included in the attached Mandatory Unpaid Furlough Plan (Attachment A), and
         2. During Fiscal Year 2011-2012, the Sworn Harbor Patrol Supervisor will be subject to an unpaid furlough of **48 hours** (prorated for part-time employees) on the terms included in the attached Mandatory Unpaid Furlough Plan (Attachment A).
      ii. Vacation Cash Out: The vacation cash-out provision of the MOU (1.2% value), referenced in Article 54 of the MOU, will be suspended during the July 2011-June 2012 Fiscal Year (i.e., the fall 2011 cash-out) on the same terms outlined in Article 54, subsection “c” of the MOU, and
      iii. Sworn to pay 3% of salary to PERS: Sworn employees in the Police Safety Plan (currently just the Harbor Patrol Supervisor) will contribute toward PERS pension benefits, as follows:
         1. Effective June 18, 2011, sworn employees will participate in retirement cost-sharing by paying **3.0%** of earnings to the City through post-tax payroll
deductions in the manner contemplated by Govt Code § 20516(f). Such payments will not be credited under the retirement system. Such payments will not affect the City’s payment of the 9% EPMC.

2. Effective September 24, 2011, employees will begin to cost share Govt Code § 20516 in the same amount and through the same method as City of Santa Barbara Police Officers under the labor agreement applicable to those positions.

3. **PERSONAL LEAVE:** There will be an exception to the general rule that personal leave days must be taken by the end of each fiscal year or lost.
   
   a. As previously agreed, personal leave days awarded in July 2010 must be taken by the end of fiscal year 2011-2012 (i.e., no later than June 30, 2012). In no case shall employees be entitled to cash payment for personal leave days not taken.
   
   b. Personal leave days awarded in July 2011 may be used over a period of two fiscal years, but must be taken by the end of fiscal year 2012-2013 (i.e., no later than June 30, 2013). In no case shall employees be entitled to cash payment for personal leave days not taken.
   
   c. If an employee can demonstrate that the employee lost more than 4 hours or more of vacation accrual between July 1, 2011 and June 30, 2012 solely by reason of having reached the vacation accrual maximum ("vacation cap"), the employee will be awarded one additional personal leave hour for FY 2012-2013 for each vacation hour not accrued during FY 2011-2012, not to exceed a maximum of 20 additional personal leave hours. To be eligible for this, the employee must submit a written request to the payroll office identifying the pay periods during which the employee lost vacation accrual no later than June 30, 2012. These additional hours must be taken no later than June 30, 2013. In no case shall employees be entitled to cash payment for personal leave days not taken.

4. **EQUITY ("ME TOO") CLAUSE** The parties acknowledge that the Association is willing to concede to the extended MOU term and salary and benefit changes listed above on the condition that the City achieves similar concessions from the General Employees Bargaining Unit, represented by SEIU Local 620 (hereinafter the "General Unit").
   
   a. **Similar Concessions:** For purposes of this section "similar concessions" from the General Unit means an agreement (or extension to the agreement, or a unilateral adoption of a last, best, and final offer, etc.) beyond the existing labor agreement terms and conditions which achieves net labor cost savings in Fiscal Year 2011-2012 at least equivalent to 6% (6 times the 1% Number With Roll-Up for the General Unit, listed on Attachment B), and
b. Adjustment Methodology: In the event that the City does not achieve similar concessions from the General Unit, concessions from the Association will be adjusted as follows:

i. If the net budget savings in Fiscal Year 2011-2012 (whether one-time/temporary or ongoing/permanent) are not at least equivalent to 6% (6 times the 1% Number With Roll-Up for the General Unit, listed on Attachment B), the one-time/temporary budget measures listed above will be reduced by an equivalent factor of the 1% Number for the Association, listed on Attachment B, through a reduction in the unpaid furlough.

ii. Notwithstanding the above, a variance in one-time or ongoing budget savings during FY 2011-2012 of less than 0.5% of salary (0.5 times the General Unit 1% number with roll-up) will be considered de minimis and will not trigger an adjustment to this agreement.

iii. For variances in one-time or ongoing budget savings of greater than or equal to 0.5%, adjustments to concessions will be made by 0.5% for each full 0.5% difference between the Association’s Concessions and the General Unit Concessions.

iv. Given that labor negotiations with the General Unit may extend beyond the effective date of concessions under this Agreement, the budget savings measures under this Agreement will be implemented as planned, and will be adjusted retroactively, as appropriate, when negotiations with the General Unit are concluded.

c. Effect of Position Eliminations: The one percent numbers in Attachment B are based on proposed budgeted staffing levels as of the date of this agreement. If one or more positions in the General Unit or the Association are eliminated from the FY 2011-2012 budget as it is adopted by the City Council in June 2011, the 1% numbers reflected in Attachment B will be equitably adjusted downward by 1% of the salary plus roll-up cost of those eliminated positions and any equitable adjustments under this agreement will be based on the adjusted 1% numbers.

d. The comparability of “net budget savings” from various labor concessions will be determined by the Finance Director who will provide a detailed explanation of his findings, upon request, to the Association. If the Association disagrees with the Finance Director’s determination, the Association may appeal this decision in writing to the City Administrator, citing the specific bases of disagreement. The City Administrator will respond within 20 days and his decision will be final.

5. REOPENER ON NON-ECONOMIC ISSUES:

3 Supervisors Agreement
The Association may request to reopen negotiations during the term of this agreement to consider 1) the establishment of a Health Reimbursement Arrangement (HRA) to allow employees to contribute to a retirement trust account (such as a Section 115 Trust) for retirement health savings purposes, and 2) no more than three additional non-economic conditions of employment. Such request will be made by a single written notice served to the City no sooner than September 1, 2011 and no later than September 30, 2011. Such negotiations will commence within 30 days of the written notice.

6. **REOPENER IN THE EVENT OF LAYOFFS:** Nothing in this Supplemental Agreement shall restrict the right of the City Council to make permanent reductions in workforce for economic reasons if the City's financial position has significantly changed, as authorized under the Santa Barbara City Charter, including but not limited to Sections 1007 and 1008, and the Santa Barbara Municipal Code. However, prior to the implementation of any layoffs proposed during the remaining term of the MOU, the City will provide the Association with a minimum of 60 days notice and the immediate opportunity to meet and confer over any negotiable impacts of such layoffs not contained in the current MOU.

7. **DEVELOPMENT OF SALARY DATA:** The City agrees to conduct a total compensation survey in collaboration with the Association during the term of the agreement and make every effort to have the results finalized prior to the expiration of the agreement, for reference during negotiations for a successor agreement. This may be waived by agreement between the parties.

8. **SEVERABILITY**- If any provision of this Supplemental Agreement is held unenforceable, then such provision will be modified to reflect the intention of the parties. All remaining provisions of the Supplemental Agreement shall remain in full force and effect.
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CITY OF SANTA BARBARA
FISCAL YEAR 2012
MANDATORY UNPAID FURLough PLAN
Supervisors
(Dated April 23, 2011)

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I. Purpose

The purpose of this mandatory unpaid work furlough plan is to:

- Allow the City to address anticipated revenue shortfalls and increased expenses in Fiscal Year 2012 while minimizing the need for service cuts and staff layoffs; and
- Establish, in advance, a clear and understandable method to mitigate the impacts of a work furlough on affected employees.

II. Definitions

"Work furlough" refers to one or more hours of required unpaid leave taken on a consecutive or intermittent basis.

III. Application

1. This policy applies to employees in the Supervisory Employees Bargaining Unit.

2. Nothing in this plan shall restrict the right of the City to make bonafide permanent reductions in workforce, nor to otherwise reduce work hours for economic reasons, as authorized under the Santa Barbara City Charter, including but not limited to Sections 1007 and 1008, and the Santa Barbara Municipal Code. However, the City acknowledges that such alternate work reductions may trigger a separate duty to meet and confer with the City’s recognized labor organizations about such decision(s) and/or the effects of such decisions on employees.
IV. Declaration and Scheduling of Mandatory Work Furlough

1. Implementation: This Mandatory Furlough Plan will be implemented to include the number of furlough hours contained in the Agreement between the City and the Association, prorated for part-time employees, or such lesser amount as may result from the Equity (“me too”) Clause contained in the Agreement between the City and the Association.

2. Scheduling of Furlough: The City will have the sole authority to schedule the furlough periods, and such decisions shall not be subject to grievance or appeal.
   a) General Furlough Closure: The City will observe a General Furlough Closure, during which many City offices and operations will be closed. Many employees in operations that are subject to the General Furlough Closure, and in other operations, will be scheduled to take furlough time off during these furlough closure dates. However, some employees will be scheduled to work during such closure periods based on City operational needs, or by mutual agreement between the employee and the employee’s supervisor.
   b) Furlough Time Off Bank: Any furlough hours not scheduled to be taken as part of a General Furlough Closure shall become part of an employee’s furlough time off bank. Employees will be scheduled to take the furlough time off at another time after July 1, 2011 but before June 29, 2012. Such time off shall be scheduled on the same terms as vacation under the applicable Memorandum of Understanding or other City policy.
   c) Rescheduling Furlough Time Off: If an employee is not able to take furlough time off as originally scheduled, the furlough hours will become part of the employee’s Furlough Time Off Bank and will be rescheduled as provided in subsection “b”, above. Supervisors will be encouraged, where practicable, to make reasonable efforts to avoid disruption to employees if scheduled furlough time off must be rescheduled (e.g. by finding qualified volunteers). However, this may not always be possible.

3. Application to Work Groups and Positions:
a) Although this plan may be applied uniformly to all supervisory employees Citywide, the City may also apply this policy differentially to all or some work groups or positions at its discretion. Such decisions shall not be subject to grievance or appeal. For example:

(1) The City may decide not to furlough certain work groups or positions because they are performing essential or contracted functions, because compensation is paid from restricted funding sources, or for any other business reason.

(2) The City may also decide to furlough some work groups or positions at different times or for different durations than other work groups or positions for any business reason.

4. Application to Voluntary Hours Reduction Requests: Once a mandatory furlough is declared for Fiscal Year 2012 under this plan, employees who offered to voluntarily reduce their hours to part-time under the “Part-Time Work” Policy or to take an unpaid leave of absence under the “Leave of Absence Without Pay, Non-Medical Reasons” Policy during Fiscal Year 2012 will be provided an opportunity to rescind their voluntary part-time schedule or unpaid leave request.

5. Work During Furlough: No employee may perform work for the City during the furlough period unless authorized by management.

V. Effect of Mandatory Work Furlough on Employee Pay

1. Pay Reduction: The period of furlough time off will be unpaid. Furlough time off will be tracked under a separate unpaid hours code.

2. Non Exempt Employees- Pay Mitigation Plan:

a) For non-exempt employees, the wage loss from the mandatory furlough will be distributed evenly over the full fiscal year. Effective the first full pay period in Fiscal Year 2012, beginning on June 18, 2011, a bi-weekly deduction will be made from employee compensation in an amount equivalent to 1/26th of the total unpaid mandatory furloughed time through the end of the last pay period of Fiscal Year 2012, ending on June 29, 2012.

b) Mutual Reimbursement:

(1) For employees in active paid status as of the beginning of the fiscal year who terminate employment within the fiscal year:
(a) If, at the time of termination, the reduction in pay exceeds the furlough time off taken, the employee will be entitled to pay for the difference.

(b) If, at the time of termination, furlough time off taken exceeds the reduction in pay, the employee will need to reimburse the City for the difference in pay.

(2) An employee who is hired or otherwise enters active paid status after the beginning of the fiscal year will be scheduled for furlough time off and will have his or her pay reduced by an amount equivalent to 1/26\textsuperscript{th} of the total furloughed time for the first 26 pay periods of employment. The employee will be subject to the same mutual reimbursement provisions in Section (1) above, if the employee terminates employment before the 26 pay periods are complete.

(3) An employee who is on unpaid status for any other reason at any point during the fiscal year will, upon return to active paid status, be scheduled to make up any furlough hours not taken and will continue to have his or her pay reduced by an amount equivalent to 1/26\textsuperscript{th} of the total furloughed time until 26 full pay periods of reduction have been achieved. The employee will be subject to the same mutual reimbursement provisions in Section (a) above, if the employee terminates employment before the 26 pay periods are complete.

3. Exempt Employees
a) Exempt employees will be considered non-exempt employees under the Fair Labor Standards Act (FLSA) guidelines in any FLSA workweek in which one or more hours of unpaid furlough time off occurs (See 29 CFR 541.710(b)). Such employees will be eligible for hourly pay for any work performed during that FLSA workweek, just as non-exempt employees would be. Such employees may also be eligible for overtime compensation during any such FLSA workweek according to applicable FLSA guidelines. For purposes of this provision only, the FLSA workweek of an otherwise exempt employee will be the City’s standard FLSA workweek, beginning and ending at midnight on Friday night, regardless of the employee’s regular work schedule.

b) Exempt Employees- Pay Mitigation Plan: Exempt employee pay will be reduced under the same Pay Mitigation Plan outlined for non-exempt employees in Section V.2, above.

   (a) The City and the affected bargaining units agree that is our mutual good faith interpretation of 29 CFR 541.710(b) that the City may implement a pay mitigation plan for exempt employees without affecting the exempt status of such employees under the FLSA to a greater degree than expressed in Section V.3(a), above.

   (b) If the City receives an opinion from the U.S. Department of Labor or other binding legal authority that indicates that the pay mitigation plan for exempt employees further affects the exempt status of such employees, the City will promptly notify the affected represented bargaining units and the parties will reopen negotiations within 30 days of such notice to determine an alternate method of furlough pay deductions that will preserve such employees’ exempt status.

   (c) Management employees must sign an agreement to participate in the Pay Mitigation Plan, otherwise the full pay deductions will be taken in the pay period(s) in which the furlough time off actually occurs.

VI. Benefits During a Mandatory Work Furlough

1. Health, Life, and Cafeteria Plan Benefits: An employee shall receive continued medical, dental, vision, life insurance, and cafeteria plan benefits, including any City contribution, at the level the employee would have received absent the work furlough. Employees will be responsible for the same employee contributions
to these benefits that they would have made absent the work furlough.

2. **Retirement:** To the extent allowable by CalPERS, and in compliance with any restrictions imposed by CalPERS, the City will ensure that retirement benefits will not be adversely impacted as a result of the furlough and related reduction in hours and/or salary.

3. **Other Benefits:** Other benefits may be reduced as required under normal benefit rules related to work schedule or unpaid leave. Such benefits include, but are not limited to: disability insurance or SDI/PFL contributions, Medicare contributions, etc.

4. **Paid Leave Accrual:** Employees will receive the same vacation, sick leave, personal leave, and management leave accruals they would have received absent the work furlough.

5. **Legal Holidays:** Employees on a work furlough shall receive legal holiday pay as follows:
   a) Employees in classifications entitled to accrue holiday credit will continue to receive the same holiday credit.
   b) For employees who do not accrue credit, where a legal holiday is observed during a period of work furlough, the employee will be paid hours for that holiday at the same level employee would have received absent the work furlough. In other words, that holiday will not count as an unpaid furlough day. For employees on a 9/80 or 4/10 schedule, the employee may be required to use accrued paid leave banks to make up the full paid holiday, as usual.

6. **Use of Paid Leave:** An employee will not be permitted to use accrued paid leave banks (vacation, sick leave, compensatory time, personal or management leave) during the unpaid furloughed hours.

7. **Vacation Accruals:** Management will make every reasonable effort to work with employees to avoid loss of vacation accruals or personal leave due to encroachment on accrual caps or time limits for use.

8. **Standby and Call-back:** An employee may be assigned to call-back or standby during a work furlough as provided under the applicable labor agreement or City policy. An employee called-back to active paid work during the unpaid furlough period will be required to take equivalent additional unpaid furlough during the remainder of the fiscal year.

9. **Service & Seniority:** Furlough shall not count as a break in City service and shall not affect seniority or eligibility for merit increases.
10. **Schedule Changes:** While an employee is on a furlough, schedule changes will be subject to the requirements of the applicable labor agreement.

11. **Overtime:** Employees will only be eligible for overtime premium that they would have received absent the reduction in work hours (i.e., for over 40 hours in a workweek).

12. **Probationary Period:** Probationary periods shall not be affected by a mandatory furlough.

13. **Limits on Benefit Continuation:** Special benefit continuation under this furlough plan is available only to employees during their mandatory unpaid furlough period(s). Otherwise, employees are covered by benefit continuation under other City policies, including the City’s applicable Leave Without Pay policies.
Exhibit A- Attachment B

1% number for all funds with roll-up effective July 2011, at current budgeted staffing levels, assuming no labor concessions from existing agreements.

<table>
<thead>
<tr>
<th>Unit</th>
<th>1% With Roll-Up ALL Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Unit (SEIU)</td>
<td>320,611.63</td>
</tr>
<tr>
<td>Supervisors Association</td>
<td>86,541.12</td>
</tr>
</tbody>
</table>
AGENDA DATE:  June 14, 2011

TO:  Mayor and Councilmembers

FROM:  City Administrator’s Office

SUBJECT:  Introduction Of Ordinance For Management Salary Plans

RECOMMENDATION:


DISCUSSION:

The recommended Fiscal Year 2012 operating budget included assumed labor cost savings attributable to General employees, Supervisory employees, and most unrepresented Management employees. The salary plans adopted today will implement concessions for managers in Fiscal Year 2012. For budget planning purposes, the Salary Plan also authorizes implementing concessions up to the same amount in Fiscal Year 2013, if necessary; however, final decisions on required concessions for Fiscal Year 2013 will be made closer to that fiscal year.

Non-sworn Managers

Non-sworn Managers realized a greater reduction in take home pay than other groups in the last few years (in Fiscal Year 2011, this was 8.75% versus SEIU’s 6%). This year the proposed budget includes a reduction in the required management concession, but it is anticipated that managers will still contribute more overall than General and Supervisory Employees, with whom the City is still negotiating. The pay reductions counted toward management concessions include a 1.5% salary increase that was rescinded in April 2010 (but other units received and are still receiving), a 4% furlough (equivalent to 83.5 hours), and suspension of the vacation cash-out benefit.
Police and Fire Chiefs & Deputy Chiefs

In Fiscal Years 2010 and 2011, the Police and Fire Chiefs and Deputy Chiefs were required to take pay reductions in an amount similar to non-sworn managers. Again these amounts were greater than other non-sworn employee groups, and significantly greater than for sworn employees. The proposed FY 2012 salary plan for these employees includes concessions of approximately 7.74%.

<table>
<thead>
<tr>
<th>Labor Cost Savings</th>
<th>Percent Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cancel salary increase (1.5%)</td>
<td>1.5%</td>
</tr>
<tr>
<td>4% Unpaid Furlough</td>
<td>3.97%</td>
</tr>
<tr>
<td>Suspend Vacation Cash-Out</td>
<td>2.32%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>7.78%</strong></td>
</tr>
</tbody>
</table>

Fire Battalion Chiefs

City HR staff has long recognized a significant compaction issues for Battalion Chief compensation when compared to lead Fire Captains, who are represented by the Firefighters Association. For the past several years, compensation increases for Firefighters Association members have exceeded those for unrepresented fire managers. In addition, Captains earn overtime and time and one half, and have significantly more available overtime than Battalion Chiefs. In many cases this has led to the compensation of Captains exceeding the compensation of the Battalion Chiefs who manage them. This becomes a problem in enticing employees to promote to management and leads to morale issues.

For this reason, concessions for this group are proposed to be lower than other managers. They will include these employees paying the same amount toward PERS as their subordinate employees, which they have been doing since March 2011, and relinquishing 80 hours of paid leave, which will lead to overtime savings.

<table>
<thead>
<tr>
<th>Labor Cost Savings</th>
<th>Percent Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pay toward PERS</td>
<td>1.96%</td>
</tr>
<tr>
<td>Minus 40 hrs Mgmt Leave</td>
<td>0.62%</td>
</tr>
<tr>
<td>Minus 40 hrs Holiday</td>
<td>0.62%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>3.20%</strong></td>
</tr>
</tbody>
</table>
Although the budget savings for the paid leave concession will be only .62%, because non-shift employees are not backfilled during absences, the value of increased productivity from these employees would make the total concession from this group more like 4.24%.

It should be noted that, due to salary increases due in the later years of the Fire Association MOU, the compaction issue can only be expected to worsen in FY 2013. HR staff will continue to monitor this issue and may make additional recommendations to address the problem.

These salary plans do not apply to the City Attorney or the City Administrator, recommendations for which will come later.

**BUDGET/FINANCIAL INFORMATION:**

The measures listed herein are expected to generate a total of $868,022 in labor cost savings, as compared to no continuation of concessions, with $607,632 of that to the General Fund. These cost savings were included in the FY 2012 recommended budget, in both specified salary and benefit line items and unspecified labor cost savings.

**PREPARED BY:** Kristine Schmidt, Employee Relations Manager

**SUBMITTED BY:** Marcelo Lopez, Assistant City Administrator

**APPROVED BY:** City Administrator's Office
ORDINANCE NO.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SANTA BARBARA SETTING FORTH AND APPROVING A
SALARY PLAN FOR UNREPRESENTED MANAGERS AND
PROFESSIONAL ATTORNEYS FOR THE PERIOD OF
JUNE 14, 2011 THROUGH JUNE 30, 2012; AND A
SALARY PLAN FOR SWORN FIRE MANAGERS AND
UNREPRESENTED SWORN POLICE MANAGERS FOR
THE PERIOD OF JUNE 14, 2011 THROUGH JUNE 30,
2012

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

SECTION 1. The Salary Plan for June 14, 2011, through June 30, 2012,
applicable to Unrepresented Managers and Professional Attorneys, attached hereto and
incorporated herein by reference as Exhibit "A", (hereinafter the “Management Salary
Plan 1”) is hereby approved.

SECTION 2. The Salary Plan for June 14, 2011, through June 30, 2012,
Applicable to Sworn Fire Managers and Unrepresented Sworn Police Managers
attached hereto and incorporated herein by reference as Exhibit "B" (hereinafter the
“Management Salary Plan 2”) is hereby approved.

SECTION 3. The City Administrator is hereby authorized to implement the terms of
Management Salary Plan 1 and Management Salary Plan 2 without further action by the
City Council, unless such Council action is required by state or federal law.
Management Salary Plan #1  
Applicable to Unrepresented Managers and Professional Attorneys  
June 14, 2011 through June 30, 2012

1. This Management Salary Plan sets forth a plan for salary and benefit adjustments recommended by the City Administrator for unrepresented management employees for the period of June 14, 2011 through June 30, 2012.

2. This Salary Plan will apply to all management employees and professional attorneys not represented by a recognized employee organization, except Fire Battalion Chiefs, the Deputy Fire Chief, the Fire Chief, the Deputy Police Chief, the Police Chief, the City Administrator, and the City Attorney.

3. Unpaid Furlough: The City Administrator is authorized to implement an unpaid furlough of all or some management positions of up to a maximum of 84 hours (prorated for part-time employees) during the July 2011 to June 2012 fiscal year based on budget necessity. The City Administrator is also authorized to implement an unpaid furlough of all or some management positions of up to a maximum of 84 hours (prorated for part-time employees) during the July 2012 to June 2013 Fiscal Year, based on budget necessity as determined appropriate by the City Administrator. The City Administrator’s furlough plan may provide for continuation of employee fringe benefits during the furlough at the same level the employee would have received absent the work furlough.

4. Vacation Cash Out: The management Vacation Cash-out provision contained in the Management Performance and Compensation Plan will be suspended during the July 2011 to June 2012 Fiscal Year. The City Administrator is also authorized to suspend the management Vacation Cash-out provision during the July 2012 to June 2013 Fiscal Year based on the needs of the City, as determined by the City Administrator.

5. The Management Performance and Compensation Plan and the Professional Attorneys Compensation Plan, will be amended, as necessary, to include these changes to compensation and benefits.
1. This Management Salary Plan sets forth a plan for salary and benefit adjustments recommended by the City Administrator for certain management employees for the period of June 18, 2011 through June 30, 2012.

2. This salary plan will apply only to Fire Battalion Chiefs, the Deputy Fire Chief, the Fire Chief, the Deputy Police Chief, and the Police Chief.

3. PERS Cost-Sharing
   
   A. Managers that are part of the PERS Fire Safety Plan will continue to participate in retirement cost-sharing under the PERS retirement plan in the same amount and through the same method as members of the Santa Barbara City Firefighters Association.
   
   B. Managers that are part of the PERS Police Safety Plan will participate in retirement cost-sharing as follows:
      i. Effective June 18, 2011, by paying 3.0% of earnings to the City through post-tax payroll deductions in the manner contemplated by Govt Code § 20516(f). Such payments will not be credited under the retirement system. Such payments will not affect the City's payment of the 9% EPMC.
      ii. Effective September 24, 2011, employees will begin to cost share Govt Code § 20516 (a) or (f) in the same amount and through the same method as City of Santa Barbara Police Officers under the labor agreement applicable to those positions.

3. Unpaid Furlough: The City Administrator is authorized to implement an unpaid furlough for the Police Chief, the Deputy Police Chief, the Fire Chief, and the Deputy Fire Chief of up to 23.5 hours (prorated for part-time employees) during the July 2011 to June 2012 fiscal year based on budget necessity. The City Administrator is also authorized to implement an unpaid furlough for the Police Chief, the Deputy Police Chief, the Fire Chief, and the Deputy Fire Chief of up to 23.5 hours (prorated for part-time employees) during the July 2012 to June 2013 Fiscal Year, based on budget necessity as determined appropriate by the City Administrator. The City Administrator’s furlough plan may provide for continuation of employee fringe benefits during the furlough at the same level the employee would have received absent the work furlough.

4. Vacation Cash Out: For all employees except Fire Battalion Chiefs, the management Vacation Cash-out provision contained in the Management
Performance and Compensation Plan will be suspended during the July 2011 to June 2012 Fiscal Year. The City Administrator is also authorized to suspend the management Vacation Cash-out provision during the July 2012 to June 2013 Fiscal Year based on the needs of the City, as determined by the City Administrator.

5. Paid time off for Fire Battalion Chiefs will be reduced as follows:

   A. Management Leave: No management leave will be awarded for the July 2011 to June 2012 Fiscal Year, and
   B. Personal Leave: No personal Leave will be awarded for the July 2011 to June 2012 Fiscal Year, and
   C. Legal Holidays: Employees will receive 8 fewer hours of holiday time during the July 2011 to June 2012 Fiscal Year.
   D. The City Administrator is authorized to reduce paid time off for Battalion Chiefs in these same amounts during the July 2012 to June 2013 Fiscal Year based on the needs of the City, as determined by the City Administrator.

6. The Management Performance and Compensation Plan will be amended, as necessary, to include these changes to compensation and benefits.
AGENDA DATE: May 24, 2011

TO: Mayor and Councilmembers

FROM: City Clerk's Office, Administrative Services Department

SUBJECT: Interviews For City Advisory Groups

RECOMMENDATION:

That Council hold interviews of applicants to various City Advisory Groups.

DISCUSSION:

Interviews of applicants for various positions on City Advisory Groups are to be held on May 24, 2011, at 6:00 p.m. Applicants will also have the option to be interviewed on June 7, and June 14, 2011, at 4:00 p.m.

For the current vacancies, 30 individuals submitted 30 applications. A list of eligible applicants and pertinent information about the City Advisory Groups is attached to this report.

Applicants have been notified that to be considered for appointment they must be interviewed. Applicants have been requested to prepare a 2-3 minute verbal presentation in response to a set of questions specific to the group for which they are applying.

Appointments are scheduled to take place on June 28, 2011.

ATTACHMENT: List of Applicants

PREPARED BY: Cynthia M. Rodriguez, CMC, City Clerk Services Manager

SUBMITTED BY: Marcelo A. López, Assistant City Administrator/Administrative Services Director

APPROVED BY: City Administrator's Office
ACCESS ADVISORY COMMITTEE

- One vacancy.
- Term expires 12/31/2011.
- Representative of the Disability Community who is a resident of the City or full-time employees of an entity doing business within the City, during term of office. Appointee shall demonstrate an interest, experience, and commitment to issues pertaining to disability and access and who represent the public at large.
- Appointee may not hold any full-time paid office or employment in City government.

<table>
<thead>
<tr>
<th>CATEGORY (Number of Vacancies)</th>
<th>APPLICANT</th>
<th>Incumbent Appt. Dates (Years Served)</th>
<th>Applicant’s Preference (1st, 2nd, 3rd, 4th)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disability Community (1)</td>
<td>Mary Ellen Bangs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Robert Burnham</td>
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</tbody>
</table>
### BUILDING AND FIRE CODE BOARD OF APPEALS

- One vacancy.
- Open Term
- Resident of the City or adjoining unincorporated areas of Santa Barbara County.
  Appointee shall demonstrate knowledge and expertise in specialty areas governed by the construction and fire codes of the City.
- Appointee may not hold any full-time paid office or employment in City government.

<table>
<thead>
<tr>
<th>CATEGORY (Number of Vacancies)</th>
<th>APPLICANT</th>
<th>Incumbent Appt. Dates (Years Served)</th>
<th>Applicant’s Preference (1st, 2nd, 3rd, 4th)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resident of the City or County (1)</td>
<td>None</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>
CENTRAL COAST COMMISSION FOR SENIOR CITIZENS

- One vacancy.
- Term expires 6/30/2013.
- Resident of the City.
- Appointee may not hold any full-time paid office or employment in City government.

<table>
<thead>
<tr>
<th>CATEGORY (Number of Vacancies)</th>
<th>APPLICANT</th>
<th>Incumbent Appt. Dates (Years Served)</th>
<th>Applicant’s Preference (1st, 2nd, 3rd, 4th)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resident of the City (1)</td>
<td>None</td>
<td></td>
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</tbody>
</table>

COMMUNITY DEVELOPMENT AND HUMAN SERVICES COMMITTEE

- Two vacancies.
- One term expires 12/31/2013; and
  One term expires 12/31/2014.
- Residents or employees within the City but need not be qualified electors of the City. One representative from each:
  - Housing Interests
  - Human Services Agencies
- Appointees may not hold any full-time paid office or employment in City government.

<table>
<thead>
<tr>
<th>CATEGORY (Number of Vacancies)</th>
<th>APPLICANT</th>
<th>Incumbent Appt. Dates (Years Served)</th>
<th>Applicant’s Preference (1st, 2nd, 3rd, 4th)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing Interests (1)</td>
<td>None</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Human Services Agency (1)</td>
<td>None</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
COMMUNITY EVENTS & FESTIVALS COMMITTEE

- Two vacancies.
- Terms expire 12/31/2014.
- Residents of the City who represent the public at large (one of whom shall not represent any specific group).
- Appointees may not hold any full-time paid office or employment in City government.

<table>
<thead>
<tr>
<th>CATEGORY (Number of Vacancies)</th>
<th>APPLICANT</th>
<th>Incumbent Appt. Dates (Years Served)</th>
<th>Applicant’s Preference (1st, 2nd, 3rd, 4th)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public at Large (2)</td>
<td>Rebekah Altman</td>
<td>12/19/2006 (4 years)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Jacqueline Kronberg</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
CREEKS ADVISORY COMMITTEE

- Two vacancies.
- One term expires 12/31/2011; and One term expires 12/31/2014.
- Residents of the City or the County with experience in ocean use, business, environmental issues, and/or provide community at large representation.
- Appointees may not hold any full-time paid office or employment in City government.

<table>
<thead>
<tr>
<th>CATEGORY (Number of Vacancies)</th>
<th>APPLICANT</th>
<th>Incumbent Appt. Dates (Years Served)</th>
<th>Applicant’s Preference (1st, 2nd, 3rd, 4th)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Experience in ocean use, business, or environmental issues, and/or represents the community at large (2)</td>
<td>Brandy Bartosh</td>
<td></td>
<td>City</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Kirsten Castagnola</td>
<td></td>
<td>City</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Natasha Lohmus</td>
<td>6/30/2009 (2 years)</td>
<td>County</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Jeremy Lyter</td>
<td></td>
<td>City</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Stephen MacIntosh</td>
<td></td>
<td>City</td>
<td></td>
</tr>
</tbody>
</table>
DOWNTOWN PARKING COMMITTEE

- Two vacancies.
- Terms expire 12/31/2013.
- Residents of the City or the County of Santa Barbara who demonstrates an interest and knowledge of downtown parking issues.
- Appointees may not hold any full-time paid office or employment in City government.

<table>
<thead>
<tr>
<th>CATEGORY (Number of Vacancies)</th>
<th>APPLICANT</th>
<th>Incumbent Appt. Dates (Years Served)</th>
<th>Applicant’s Preference (1st, 2nd, 3rd, 4th)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residents of the City or the County (2)</td>
<td>David Beardon</td>
<td></td>
<td></td>
<td>County</td>
</tr>
<tr>
<td></td>
<td>Ruth Anne Bowe</td>
<td></td>
<td></td>
<td>City</td>
</tr>
<tr>
<td></td>
<td>Krista Fritzen</td>
<td></td>
<td></td>
<td>City</td>
</tr>
<tr>
<td></td>
<td>William E. Pinner III</td>
<td></td>
<td></td>
<td>City</td>
</tr>
</tbody>
</table>
FIRE AND POLICE PENSION COMMISSION

- Three vacancies.
- One term expires 12/31/2012 (Qualified Elector);
  One term expires 12/31/2013 (Active/Retired Police Officer); and
  One term expires 12/31/2014 (Qualified Elector).
- One active or retired police officer who need not be a resident or qualified elector of the City; and
  Two qualified electors of the City who are not active firefighters or active police officers for the City of Santa Barbara
  and who may not hold any full-time paid office in City government.

<table>
<thead>
<tr>
<th>CATEGORY (Number of Vacancies)</th>
<th>APPLICANT</th>
<th>Incumbent Appt. Dates (Years Served)</th>
<th>Applicant’s Preference (1st, 2nd, 3rd, 4th)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Active/Retired Police Officer (1)</td>
<td>None</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Qualified Electors (2)</td>
<td>None</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


HOUSING AUTHORITY COMMISSION

- One vacancy.
- Term expires 8/6/2015 (Appointment effective 8/7/2011).
- Resident of the City who represents the public at large.
- Appointee may not hold any full-time paid office or employment in City government.

<table>
<thead>
<tr>
<th>CATEGORY (Number of Vacancies)</th>
<th>APPLICANT</th>
<th>Incumbent Appt. Dates (Years Served)</th>
<th>Applicant’s Preference (1st, 2nd, 3rd, 4th)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Resident of the City who represents the Public at Large (1)</em></td>
<td>Robert Burke</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Dale Fathe-Aazam</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>David K. Hughes</td>
<td>7/3/2007 (4 years)</td>
<td></td>
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</tr>
</tbody>
</table>
LIVING WAGE ADVISORY COMMITTEE

- Two vacancies.
- One term expires 6/30/2013 (Living Wage Advocacy Organization Nominee);
  One term expires 6/30/2015 (Owner/Manager of a Service Contractor).
- One representative from each:
  - Local Living Wage Advocacy Organization Nominee
  - Owner/manager of a service contractor subject to the City’s Living Wage Ordinance.
- Appointees may not hold any full-time paid office or employment in City government.

<table>
<thead>
<tr>
<th>CATEGORY (Number of Vacancies)</th>
<th>APPLICANT</th>
<th>Incumbent Appt. Dates (Years Served)</th>
<th>Applicant’s Preference (1st, 2nd, 3rd, 4th)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Living Wage Advocacy Organization Nominee (1)</td>
<td>Anna M. Kokotovic, PhD</td>
<td></td>
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</tr>
<tr>
<td>Owner/Manager of a Service Contractor subject to the City’s Living Wage Ordinance (1)</td>
<td>Allen Williams</td>
<td>7/11/2006, and 7/3/2007 (5 years)</td>
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</tbody>
</table>
MEASURE P COMMITTEE

- Six vacancies.
- One term expires 12/31/2011;
  Two terms expire 12/31/2012;
  One term expires 12/31/2013; and
  Two terms expire 12/31/2014.
- Two residents of the City; and
  One representative each:
    - Civil liberties advocate
    - Criminal defense attorney
    - Drug abuse, treatment & prevention counselor
    - Medical Professional
- Appointees may not hold any full-time paid office or employment in City government.

<table>
<thead>
<tr>
<th>CATEGORY (Number of Vacancies)</th>
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</thead>
<tbody>
<tr>
<td>Civil Liberties Advocate (1)</td>
</tr>
<tr>
<td>Criminal Defense Attorney (1)</td>
</tr>
<tr>
<td>Drug abuse, treatment &amp; prevention counselor (1)</td>
</tr>
<tr>
<td>Medical Professional (1)</td>
</tr>
<tr>
<td>Residents of the City (2)</td>
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<table>
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<tr>
<th>APPLICANT</th>
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<tbody>
<tr>
<td>None</td>
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<td>None</td>
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<tr>
<th>Incumbent Appt. Dates (Years Served)</th>
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<table>
<thead>
<tr>
<th>Applicant’s Preference (1st, 2nd, 3rd, 4th)</th>
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<th>Notes</th>
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PARKS AND RECREATION COMMISSION

- One vacancy.
- Term expires 12/31/2011.
- Qualified elector of the City or a resident of the City and a citizen of the United States who is 16 years of age or older.
- Appointee may not hold any full-time paid office or employment in City government.

<table>
<thead>
<tr>
<th>CATEGORY (Number of Vacancies)</th>
<th>APPLICANT</th>
<th>Incumbent Appt. Dates (Years Served)</th>
<th>Applicant’s Preference (1&lt;sup&gt;st&lt;/sup&gt;, 2&lt;sup&gt;nd&lt;/sup&gt;, 3&lt;sup&gt;rd&lt;/sup&gt;, 4&lt;sup&gt;th&lt;/sup&gt;)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qualified Elector (1)</td>
<td>Desmond O’Neill</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Charles Trentacosti</td>
<td></td>
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</tbody>
</table>
RENTAL HOUSING MEDIATION TASK FORCE

- Five vacancies.
- One term expires 12/31/2011 (Tenant);
  Two term expires 12/31/2012 (Homeowner/Landlord); and
  Two terms expire 12/31/2014 (Landlord/Tenant).
- One appointee must be a resident of the City, and four appointees may be residents of the City or the County.
  - One homeowner
  - Two landlords
  - Two tenants
  
  **Note**: Non-resident members must be owners of residential rental property within the City limits or affiliated with organizations concerned with landlord-tenant issues within the City limits.
- Appointees may not hold any full-time paid office or employment in City government.

<table>
<thead>
<tr>
<th>CATEGORY (Number of Vacancies)</th>
<th>APPLICANT</th>
<th>Incumbent Appt. Dates (Years Served)</th>
<th>Applicant’s Preference ($^{1st}$, $^{2nd}$, $^{3rd}$, $^{4th}$)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Homeowner (1)</strong></td>
<td>Leesa Beck</td>
<td></td>
<td></td>
<td>County</td>
</tr>
<tr>
<td><strong>Landlords (2)</strong></td>
<td>Chris Casebeer</td>
<td></td>
<td></td>
<td>City; Current Parks and Recreation Commissioner with term expiration date of 12/31/2013</td>
</tr>
<tr>
<td></td>
<td>James B. Fox</td>
<td></td>
<td></td>
<td>County</td>
</tr>
<tr>
<td><strong>Tenants (2)</strong></td>
<td>David M. Brainard</td>
<td></td>
<td></td>
<td>City</td>
</tr>
<tr>
<td></td>
<td>Parvaneh Givi</td>
<td></td>
<td></td>
<td>City</td>
</tr>
<tr>
<td></td>
<td>Michael Petretta</td>
<td></td>
<td></td>
<td>County</td>
</tr>
</tbody>
</table>
SINGLE FAMILY DESIGN BOARD

- Two vacancies.
- Terms expire 6/30/2015
- Residents of Santa Barbara County:
  - One licensed architect; and
  - One licensed landscape architect.
- Appointees may not hold any full-time paid office or employment in City government.

<table>
<thead>
<tr>
<th>CATEGORY (Number of Vacancies)</th>
<th>APPLICANT</th>
<th>Incumbent Appt. Dates (Years Served)</th>
<th>Applicant’s Preference (1st, 2nd, 3rd, 4th)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Licensed Architect (1)</td>
<td>Roderick Britton</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Kirk B. Gradin</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Fred L. Sweeney</td>
<td></td>
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<tr>
<td></td>
<td>Barry Winick</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Licensed Landscape Architect (1)</td>
<td>None</td>
<td></td>
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</tr>
</tbody>
</table>
AGENDA DATE: June 14, 2011

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department


RECOMMENDATION:
That Council deny the appeal of the Law Office of Marc Chytilo, representing Hidden Oaks Homeowners Association, and the appeal of Weinberg, Rodger & Rosenfeld, representing the Service Employees International Union-United Healthcare Workers West (“UHW”) and Friends of Valle Verde (“FVV”); certify the Environmental Impact Report; uphold the Planning Commission approval of the Lot Line Adjustment, the Conditional Use Permit Amendment and the Modifications; and direct Staff to return with an appropriate Resolution of Decision and Findings.

EXECUTIVE SUMMARY:
On April 14, 2011, the Planning Commission approved a Conditional Use Permit Amendment for 40 new independent residential units (37 net new units) and additions to the support facilities on the Valle Verde Retirement facility grounds. The project also included Modifications to reduce the front setback from Torino Road, and front and interior setbacks along the private roads and interior lot lines, and a Lot Line Adjustment between two Valle Verde owned parcels. At the hearing, a number of people spoke in support of the project, and a number of people, including the appellants, spoke in opposition to the project. Issues raised at the hearing and in the subsequent appeal of the project include: concerns about the project's visual, traffic, grading, and parking impacts; change in the character of the neighborhood; and adequacy of environmental review. In response to some of the comments raised at the Planning Commission hearing, the Final Environmental Impact Report was revised to clarify the information presented. This report addresses the issues raised at the Planning Commission hearing and explains the Planning Commission’s determination that the project is consistent with all applicable policies and regulations, as well as its findings to approve the project and certify the Final Environmental Impact Report.
DISCUSSION:

Project Description & Background

The Valle Verde Retirement Facility is licensed by the State both as a Residential Care Facility for the Elderly and a Skilled Nursing Facility. Valle Verde operates under a Conditional Use Permit (CUP) that was first approved in 1960, and has been amended a number of times. Since 1965, when the first phase was constructed, the use of the site has included independent living and 24-hour care for seniors. In the past, the Facility has been approved for as many as 254 independent living units and studios, a skilled nursing building with 80 beds, an assisted living building with 44 beds, common dining areas, recreational common rooms, bed and breakfast, and administrative and maintenance buildings. The current number of independent living units is 208 units with the number of independent living units having decreased by units being combined or converted to other uses.

The proposed project is a request for an amended CUP with new development additions and remodeling. The CUP would be amended to encompass an adjacent parcel owned by Valle Verde, known as the Rutherford Parcel. The project would involve the demolition of 2 independent living residential units (defined as units containing kitchens), the demolition of a single family residence on the Rutherford Parcel, and the construction of 40 new independent living residential units for a net increase of 37 new independent living residential units. The existing 11 studio units (defined as units that share a kitchen with up to 3 other studios) would be reduced to 7 units through the demolition of 4 units. If approved as proposed, the new CUP would allow 246 independent living units, and 7 studio units.

Project components involving the support facilities for the residents would include a two-story addition to the Administration building, where a 4-room bed and breakfast and a small banking office would be located. The existing 2-room bed and breakfast, currently located in a former independent living unit would be demolished. The Assisted Living facility would include an addition of four new beds, and the Dining & Multi-Purpose Building would be remodeled along with minor additions totaling 1,300 square feet. The existing 4,348 square foot Maintenance Building would be demolished and a new 5,642 square foot maintenance facility would be constructed approximately 20 feet to the east.

Several of the existing parking areas on the project site would be reconfigured for dedicated residential, visitor and employee parking, and would provide a total of 83 new parking spaces. A parking permit program would be implemented to track the residential and employee parking. After project implementation, a total of 414 parking spaces would be provided on the project site. A new driveway from the Rutherford Parcel would provide access to eight of the ten proposed residential units on that lot, with the remaining two units accessed from within the campus. The project would include the dedication of a 9.8-acre oak woodland area on the western portion of the project site. The project also includes a minor Lot Line Adjustment between two parcels owned by Valle Verde. Additional project information can be found in the Planning Commission Staff Report, dated April 7, 2011, included as Attachment 4.
Planning Commission Approval

The Planning Commission reviewed the project on April 14, 2011 and its minutes are included as Attachment 5. After considering all of the information provided by staff, the applicant, and comments from the public, both in support and opposition to the project, the Commission certified the Proposed Final EIR (4-1), and approved the project (5-0) with changes to the draft conditions of approval (See Attachment 6 – PC Resolution 011-08).

On April 25, 2011 the City Clerks received appeals filed by Mark Chytilo representing Hidden Oaks HOA and the law firm of Weinberg, Rodger & Rosenfeld on behalf of the Service Employees International Union-United Healthcare Workers West (UHW).

Appeal Issues (Response to Mark Chytilo representing Hidden Oaks HOA, Attachment 1):

Note: Additional responses to this letter can be found in Volume II of the EIR, Responses to Comments, in response to comment letter number 132.

1. The project is inconsistent with City’s General Plan, City Charter and Zoning Ordinance… The project is inconsistent with the General Plan Conservation Element, Land Use Element, Zoning Ordinance (Modifications and Setbacks) and City Charter 1507 (land development shall not exceed its public services)

   The project is inconsistent with the General Plan Conservation Element

Most of the proposed development is within the footprint of the existing campus. Proposed development on the fringe of the existing development, consisting of eight single story residential units on the Rutherford lot (West Area) occurs in an already disturbed portion of the site, and the closest neighbors (Hidden Oaks development, consisting of two-story houses) would be more than 70 feet away. The four residential units in the Northwest Area are located adjacent to the oak woodland, and the EIR found that this development would not have significant unavoidable impacts on the oak woodland habitat. The project may be found consistent with the policies in the Conservation Element because it would conserve existing oak woodland, would have only minor impacts on natural resources, and because the scale and type of proposed development that is close to neighbor properties is similar to and substantially separated from that development. Policies from the Conservation Element are analyzed under Section 6 of the EIR.

Potential visual impacts were analyzed in the EIR prepared for the project. Visual simulations were prepared and evaluated by an expert and staff. Several components were analyzed to determine visual impacts. Criteria used to determine the significance of the visual impacts included the existence of heavily travelled roadways, prominent viewing areas, and the type of visual resource being impacted. Further responses to the visual impact concerns are found in Volume II of the EIR (response #59, 60, 90 & 91). It should be noted that the project site is at the end of a cul-de-sac, there are no prominent viewing areas, such as a park, and the background views of the Santa Ynez Mountains will still be visible after the completion of the project.
The existing support facilities (e.g. long term care facilities, administration, maintenance buildings, etc.) are located in the center of the Valle Verde campus. All new development at the edge of the campus would be residential use, and would be separated from adjacent residential properties by a distance greater than required by Zoning Ordinance. This design approach is consistent with policies regarding preservation of the residential neighborhood integrity.

- The project is inconsistent with General Plan Land Use Element language that recommends that senior housing facilities be compatible with their surrounding neighborhoods

The proposed development increases the size of an existing, approved retirement community. The Valle Verde facility has existed in the neighborhood since 1965, and each project improvement has been approved based on findings of neighborhood compatibility. The proposed development would be an expansion of the existing land use, would be single-story clustered development similar in size, bulk and scale to the existing Valle Verde development and the adjacent Hidden Oak development, and would be substantially separated from the Hidden Oaks development. Existing support facilities, which are not proposed to increase substantially in size, would continue to be located within the core of the developed area on the site, and would continue to be separated from adjacent development by single story residential development. New buildings would be subject to design review that would ensure that they are visually pleasing designs.

Additional parking spaces are being provided on-site, and a parking program is proposed to be implemented, to reduce facility parking on Calle de los Amigos. Special events are currently being held on the site, and the number or attendance of these events are not proposed to change with this proposal.

- The required Zoning Ordinance Findings regarding a residential care facility’s setbacks, site area, and demand for services cannot be made

The appellant believes the eight units on the Rutherford property constitute a new residential care facility, and therefore refers to the findings SBMC §28.94.030.R.2.a. The project is the expansion of an existing residential care facility, and the appropriate findings are contained in SBMC §28.94.040.R.2.b. However, the findings are largely the same, and focus on the demand for resources. The Initial Study determined that the project site would have sufficient public services and utilities to accommodate the proposed new development. It found that fire, police, and library services are adequate, and the relatively small increment in growth associated with proposed development would not cause a deficiency in these service areas. Additionally, Attachment 8 contains an analysis that shows that the existing and proposed development of the Valle Verde retirement facility would demand less water and generate less traffic and than the number of residential units previously approved for development on the site.

The proposed units on the Rutherford parcel are located a sufficient distance from the adjacent properties to provide a buffer, and the proposed development also follows the character of the existing Valle Verde development, in that it is single-story, and proposed to be set back 20 feet from Torino Road. This setback is the same as the
existing setback for the other Valle Verde units on Torino and the setback for the nearest house in the Hidden Oaks development. Therefore, the setbacks and site area are adequate. The Modification for the front setback on Torino is appropriate because it provides a uniformity of development with the existing Valle Verde development. Further details can be found in Attachment 4, the PC Staff Report.

- The project violates the City Charter §1507, requiring that “land development shall not exceed its public services… [including] traffic and transportation”

Charter Section 1507 findings are required for rezones and General Plan amendments, not for a Conditional Use Permit such as this project. Regardless, the project does not exceed its public services, including traffic and transportation. Public services are discussed above, and the EIR concluded that the project would not have significant, unavoidable traffic impacts at intersections around the project, including the Las Positas/101 interchange.

2. Parking is inadequate, and as a result, there is excessive on-street parking.

The last approval for Valle Verde included 328 parking spaces. Over the four decades since the project was originally approved, some spaces were reconfigured and relocated to provide better emergency access. The result is the site currently provides 331 parking spaces. This number was verified by staff and the applicant counting all of the spaces. Based upon the current parking regulations and the current unit count, a total of 269 parking spaces would be required. Therefore, the project provides more spaces than are required. The parking requirement for the residential care facilities is calculated based on the number of residential units and beds in the skilled care and assisted living uses. Under the Zoning Ordinance, additional parking is not required for the accessory uses on site (dining room, common rooms, etc.).

None of the current permits prohibit parking within the public right-of-way, or specify an allotment of parking spaces for residents, visitors or employees. The proposed conditions of approval specify the number of parking spaces, the allocation of parking spaces for each group, a parking sticker program, designated parking areas for employees, signage directing visitors to find parking on site, not storing vehicles, construction parking and increasing the amount of red curbing. These measures, along with the excess parking spaces, will provide an adequate amount of parking for the facility.

Parking both on-site and within the public right-of-way is one of the larger issues raised in the appeal letters. Staff’s review of the permit history of the project site and the current parking determined that there are storage containers located within some of the on-site parking spaces. This is the only area of noncompliance with the conditions of approval. The containers will be removed, and the proposed conditions of approval specify that the parking spaces shall not be used for any purpose other than parking.
3. **The EIR and CEQA compliance is inadequate**

A more detailed response to this comment can be found in EIR Volume II, Response to Comment. The EIR concluded that there are no Class I impacts.

- The EIR project description fails to describe key components of the project including the number of employees and special events.
- The EIR fails to adequately describe the baseline existing environment regarding biological resources, and parking and traffic.

The initial study, the EIR, and responses to the comments include a thorough description of the existing conditions at the site, including amount of parking, employees and the location of resources, such as biological resources. The traffic study prepared for the EIR includes a full analysis of the number of employees in total, per shift and the number and timing of shifts. The number of parking spaces was verified by staff and the applicant by walking the entire site and counting the number of spaces.

The revised Final EIR contains additional discussion on special events, which were included in the original analysis, and found to have no significant impacts. The special events were mentioned briefly in the Initial Study’s discussion of the project background (EIR Appendix A, Page 2); however, because the special events were already ongoing at the time of the environmental analysis, guests and visitors were included in the baseline for relevant studies, such as traffic and air quality. CEQA requires an analysis of the proposed project’s environmental effects, compared against the existing conditions on the site. The revised Final EIR clarifies the special events analysis. The biological resources were analyzed by a qualified biologist and that analysis, along with comments on biological issues, were reviewed by another biologist as part of preparation of the EIR.

- The project’s land use impacts were not adequately analyzed in the EIR.

The project was analyzed according to CEQA guidelines, and includes a land use analysis in each of the impact areas. In response to comments received during the EIR circulation period, a land use compatibility analysis was provided in Section 11.3, Volume II, of the Proposed Final EIR. This analysis was also included as part of the revisions in Volume I of the EIR.

- The project fails to require adequate mitigation.

The proposed development is located on the site in a manner to minimize environmental impacts, and mitigation measures are included to ensure that development will minimize impacts, as well as enhance the existing resources. A mitigation monitor will be on site throughout construction to ensure implementation of mitigations. Further discussion of Oak Woodland protection and archeological resources is found in the next two topic areas.

- The EIR did not adequately assess the Project’s impacts to pre-historical resources…
A complete discussion on the archeological issue is in Volume II of the EIR, response to comments, and also in response to the appeal by the SEIU - United Healthcare Workers West. A thorough examination of the site and archeological records surrounding the site was conducted by a professional archeologist in accordance with State and local regulations. Because there is no archeological resource identified on site, and a General Plan Amendment is not proposed, consultation with persons listed on the Native American Contact List is not required. However, the draft EIR was made available to the public and staff has responded to questions and concerns received in this process. This issue is discussed further in topic #5, below.

4. **Oak Woodland Protection** – The 9.8 Oak Woodland habitat dedication (Condition B.(1)(p) is inadequate to preserve this threatened habitat and achieve long term protection…

The project includes three main components to ensure the oak woodland habitat is preserved and enhanced. First, the property deed will be restricted consistent with the Department of Fish and Game suggestion in their letter dated October 12, 2010, “…implementing a conservation easement or deed restriction on the land containing the oak woodland.” As conditioned (Attachment 6), a deed restriction must be recorded against the property’s title along with a map showing the restricted development area. The recorded deed restriction runs with the land. Second, a restoration plan will be implemented, and a mitigation monitor will oversee the implementation. Third, a fuel management plan will be implemented as part of the project’s conditions of approval. It will extend to 75 feet from all structural development, except the proposed employee parking lot, which is not considered a structure for fuel management purposes. The fuel management plan provides a more selective vegetation removal compared to the fuel management plan currently being implemented by the property owner. The new plan is consistent with the City’s fuel management requirements and provides more protection for the oak woodland.

5. **Archeological Resources**

- *This site is part of a complex of village sites and intensive and continuous occupation associated with Arroyo Burro Creek. The City has violated CEQA, the General Plan and the City Code…*

The Initial Study provided an analysis of the project’s archaeological impacts, and found them to be less than significant. Therefore, this issue area was not scoped into the main analysis in the Draft EIR. David Stone, the archeologist who prepared an archeological letter report (2008) and a previous Phase I Archeological Report (2003), reviewed the comments regarding archeological resources submitted by Mr. Frank Arrendondo and both of the appellants, and provided a written response that is included as part of the Volume II, Response to Comments. The appellant’s assertion that the site is a complex of village sites is not correct. The City’s Master Environmental Assessment (MEA) does identify a portion of the site as being located within the Arroyo Burro Creek watercourse, and requires that archeological investigation is necessary to determine if there any resources, which was why a archeological report was prepared. Additionally,
investigation of the Rutherford Parcel was not necessary, since it is outside the Arroyo Burro watercourse, but the report investigated this area anyway.

For the 2008 letter report, Mr. Stone, not only investigated the area identified in the MEA, but the entire project site where additional development is proposed. The Phase I report he prepared in 2003 encompassed an even larger project area. In summary, the significant resources that were identified in the three letters commenting on the project are located at least one quarter a mile from the project site. One report prepared for the adjacent park found a small resource within the flood plain in the adjacent park, however the report preparer determined it was not significant, and a subsequent study was not able to locate the small resource. Finally, while not required, Staff recommends an additional condition of approval (Attachment 7) that requires archaeological monitoring for the Units 19, 20, 21 & 22, which are in the area of greatest concern to Mr. Arrendondo.

Response to Appellant’s Requests

Request 1 – Eliminate Units 6/7 & 12/13 from the Rutherford Parcel

The Planning Commission determined that the development on the Rutherford Lot is appropriate, and that no changes were necessary. No additional issues are raised in these appeals that were not addressed previously. Consistent with Staff’s responses above, the development on the Rutherford Lot was found to be consistent with the General Plan, and the proposed development includes a buffer of 65 feet from adjacent residential development, which is almost double the required Ordinance setback of 35 feet.

Request 2 – Eliminate Units 16/17, 18, 31, 32, 33, & 34 from the northwest corner of the existing campus

The Planning Commission determined that this portion of development was appropriate. The development in the hillside area and at the edge of the Oak Woodland area would have minimal impacts, and an extensive restoration plan along with a fuel management plan would improve the habitat area.

Request 3 - Increase parking by providing underground parking

Providing underground parking would demonstrably change the scope of the project. Both underground parking and podium parking (at grade parking with offices/habitable space above) could increase grading and visual impacts (more two-story development), and would likely cause more demolition of existing structures within the campus. Either scenario would require a large area within the existing campus to accommodate a parking facility large enough for all of the proposed parking and, in the case of podium parking, change the character of the campus with two story development.

The proposed Valle Verde employee surface parking areas would be centered near the core employee areas would be hidden from public views, and the majority would occupy previously developed areas, with the small new areas having minimal impacts to habitat. The remaining residential parking and visitor parking areas would be created from reconfigured parking areas.
Request 4 - Enhance the parking permit condition

Condition B.12 (Attachment 6) addresses most of these requests (a limit of one car per unit and a requirement that residents and employees to park on site) except for mandating guests to park on site. It contains a parking sticker program whereby Valle Verde management can monitor employee parking. Staff does not support the second request to start the parking program prior to construction, since the new employee parking lots are necessary to implement the parking program.

Request 5 - Revise the condition for the oak woodland

Subsection B of the conditions of approval (Attachment 6) addresses this request. All conditions under this subsection must be recorded against the property, which means the development restriction areas runs with the land. Also, Condition A.5 emphasizes the timing of when the oak woodland restriction should be recorded.

Request 6 – Direct compliance with cultural resource requirements

As discussed in this report, all archeological concerns that were raised were reviewed by the archeologist that prepared the reports for the site. There is no known archeological resource on the site and a condition of approval is included that addresses what actions are necessary in the event that a resource is found.

Weinberg, Rodger & Rosenfeld Appeal on Behalf of the Service Employees International Union-United Healthcare Workers West (UHW) Attachment 2

Note: Except for the addressee and subject line, the April 25, 2011 appeal letter is exactly the same as the comment letter submitted on April 11, 2011 for the Planning Commission hearing. Staff reviewed the letter prior to the April 14 hearing and found no new issues relating to the project. Many issues that were raised mirrored similar concerns submitted by the Law Offices of Marc Chytilo and other interested parties. More in depth responses to this letter can found in Volume II, Responses to Comments (Comment Letter # 60). Below Staff will provide brief responses to each appeal area.

1. Appellant: The Project Description is Inadequate under CEQA

The project description adequately described all of the proposed development, and all areas impacted by the proposed development including surrounding intersections. For example, disposal of beauty products are not part of the proposed project description since there is an existing beauty salon, which is part of the baseline. Additionally, this use is subject to current regulations for proper disposal. Plans were developed to a level where the project reviewers understood that adequate area is available for the proposed mitigations. Final plans will be developed to construction detail level prior to Project Design Approval by the Architectural Board of Review.

2. Environmental impacts of the project not adequately addressed - Biology

The project was analyzed by two biologists, and mitigations consistent CEQA and other regulations, are provided. The California Department of Fish and Game reviewed the project and did not express any concern on the mitigations. The project would be
located mainly down slope from the oak woodland, and the impacts outlined in the letter, such as runoff from parking areas, would likely not occur due to the topography. The project is required to comply with all current City regulations, such as storm water management, and the Lighting Ordinance. The project would cause a minor loss of habitat at the edge of the oak woodland and, as mitigated, would result in additional habitat being deed restricted from future development, additional native vegetation being planted and a fuel management plan that would be less intrusive then the current fuel management plan.

3. Environmental impacts of the project not adequately addressed – Transportation/Circulation

One new driveway is proposed off of Torino Drive. Torino Drive serves a very small population consisting of the Hidden Oaks subdivision and Valle Verde. The new driveway would serve ten new units, rather than 59 units asserted in the letter. Valle Verde conducts evacuation drills, consistent with State requirements, and the evacuation plan is included in the EIR analysis. The project site is not located within a high fire area. The Painted Cave Fire occurred 20 years ago, and since that time there have been changes in regulations for fuel management and construction techniques within the urban area. The two fires that are referenced in the appeal letter occurred at the northern edge of the City. In fact, Valle Verde served as a receiver site for a retirement facility that was evacuated elsewhere in the City. The successful evacuation of the other facility provided an example of how Valle Verde would evacuate during an emergency.

4. Environmental impacts of the project not adequately addressed – Hazard/Public Service

The project includes a fuel management plan that will be finalized prior to project design approval at ABR. While the appellant states a fire occurred in the Arroyo Burro Creek, which is not substantiated, the likelihood of impacting the neighborhood is low due response time from the nearest City fire station and that the park is surrounded by urban development.

The risk from the high pressure gas pipeline, located off site, is low due in part to several overlapping local, state and federal regulations. While the pipeline is off site either in the adjacent right-of-way or on private property, any construction in the vicinity is subject to the dig-alert requirements. A more detailed discussion on the gas pipeline is found in Volume II, response to comments (Comment Letter # 65). Part of the data that assisted staff in determining the risk of the pipeline was provided through the U. S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) website.

5. Environmental impacts of the project not adequately addressed – Land Use Impacts/Compatibility

Land Use discussions are found throughout the EIR, consistent with CEQA. In response to previous comments during the Draft EIR review period, the final EIR includes additional discussion on land use impacts in Volume II. Additionally, Volume I
was revised subsequent to the Planning Commission hearing to include a copy of the Land Use discussion under the Plans and Policies section.

6. Environmental impacts of the project not adequately addressed – Cultural Resources

There are no known archaeological resources on site, which is discussed previously in this Council Agenda Report. The proposed project area was evaluated by a qualified archeologist, consistent with CEQA and the City’s Master Environmental Assessment Guidelines.

7. Revision and Recirculation of the EIR is required

The EIR was prepared by experts, and provides accurate information for the decision makers to thoroughly evaluate the project and includes mitigations that more than adequately offset any impacts. In response to comments received, staff revised the Final EIR. Pursuant to CEQA Guidelines Section 15088.5(b), recirculation is not required where new information added to the EIR mainly clarifies or amplifies or makes insignificant modifications in an adequate EIR. The primary revisions to the EIR elaborated on the nature of the special events and clarified that these events have been occurring, and will continue to occur. These special events were evaluated in the Draft EIR, and did not result in significant, adverse impact. Other changes made to the EIR were minor clarifications and therefore, a recirculation is not necessary.

CONCLUSIONS AND FINDINGS:

The Planning Commission agreed with the EIR’s conclusion that the project would not result in any significant, unavoidable environmental impacts, and certified the Final EIR. Because of additional input from the appellants during and after the Planning Commission hearing, the EIR has been further revised to clarify and elaborate on the analysis that had been previously performed. No new impacts were discovered through the EIR revision process. During the Planning Commission’s hearing, the project opponents (current appellants) presented the same arguments against the project that are addressed in this Council Agenda Report. The Planning Commission conditioned the project to address some of the neighbors’ concerns, and approved the project, making the findings shown in PC Resolution #009-11 (Attachment 6). Staff recommends that the Council use the Planning Commission’s findings as a starting point for making its own findings to deny the appeal, certify the Final EIR, and approve the project. Staff will return to the Council with an appropriate Resolution of Decision and Findings that document Council’s actions.
NOTE: The documents, listed below, have been separately delivered to the City Council with a cover memo, dated May 31, 2011, for their review as part of the Council reading file and are available for public review in the City Clerk's Office and the Planning Division offices at 630 Garden Street:

- Project Plans date stamped May 31, 2011
- Final EIR dated May, 2011 Volumes I & II

ATTACHMENT(S):
1. Marc Chytilo Appeal Letter, dated April 25, 2011
2. Weinberg, Rodger, Rosenfeld Appeal Letter, dated April 25, 2011
3. Site Plan
4. April 7, 2011 Planning Commission Staff Report
5. April 14, 2011 Planning Commission Minutes
6. April 14, 2011 Planning Commission Resolution 009-11
7. Draft Archeological Condition
8. Resources Analysis

PREPARED BY: Peter Lawson, Associate Planner

SUBMITTED BY: Paul Casey, Assistant City Administrator/Community Development Director

APPROVED BY: City Administrator's Office
LAW OFFICE OF MARC CHYTILO

ENVIRONMENTAL LAW

April 25, 2011

Santa Barbara City Council                 VIA HAND DELIVERY
735 Anacapa Street
Santa Barbara, California 93101

c/o Santa Barbara City Clerk

RE: Appeal of Planning Commission Decision on April 14, 2011, 900 Calle de los Amigos
(MST2005-00742), Valle Verde Retirement Community Project

Mayor Schneider and Members of the City Council:

This office represents Hidden Oaks Homeowners Association which hereby appeals all aspects
of the Planning Commission’s April 14, 2011 decision certifying the Final Environmental Impact
Report (EIR), adopting findings for issuing a Conditional Use Permit (CUP) and approving the
Valle Verde Retirement Community Project (“Project”).

Overview

The Project involves a significant physical expansion, largely at the outer edges of Valle Verde’s
lands. The proposed development at the peripheries intrudes into sensitive oak woodlands and
steep slopes, and imparts substantial and avoidable impacts to surrounding neighborhoods. This
physical expansion could be accommodated in the interior of the lot, as strongly suggested by the
Planning Commission. Other comparable retirement communities in the City, notably
Samarkand, use underground parking lots to provide on-site parking for residents, guest and staff
while preserving open space lands. Although the Planning Commission urged the applicant to
consider revising the Project to include underground parking and thereby reduce Project impacts,
they did not require it. We ask that the City Council direct the Applicant to revise the Project by
including underground parking to avoid new parking lots on steep slopes and liberating space in
the Project interior to accommodate the requested new units, thereby avoiding residential
construction in and near sensitive oak woodlands.

Under existing conditions, the day-to-day operations of Valle Verde cause significant impacts
upon the surrounding neighborhoods, largely from the lack of compliance with and enforcement
of an already-existing City permit condition requiring employees and residents to park on-site.
Unlike the situation with all other retirement facilities in the City, virtually each neighborhood
surrounding the Project has stated objections to the proposed Project. The Planning Commission
made minor adjustments to address a few neighborhood concerns, such as painting one curb red
and enhancing voluntary on-site employee parking incentives, but past experience has shown
these token actions will be inadequate to address existing problems, much less fully mitigate
impacts from the expansion.
City Clerk  
April 25, 2011  
Page 2

The Valle Verde property is zoned for single-family residential use and is surrounded by residential uses and open space, with the intensity and nature of development and use proposed allowable only by Conditional Use Permit ("CUP"). Under the existing A-1 and E-3 zoning, 189 units could be developed on Valle Verde’s 59.75 acre property. FEIR, p. 6-10. The Project proposes 40 new units, for a total of 254 units, exceeding by 65 units the intensity of development allowed under the existing zoning.

Valle Verde borders Arroyo Burro Creek, Hidden Valley Park, and includes one of only two remaining “pristine” stands of Coastal Live Oak woodland in the entire City. Initial Study, page 7. This stand of over 500 trees has already been impacted by the Applicant’s excessive habitat destruction under the guise of wildfire fuel management. These improperly cleared lands, once possessing habitat value that would have limited development, are now proposed for development. No developer should be rewarded for destruction of habitat, regardless of the merit of their services to the City.

Additionally, the proposed development on the Rutherford Parcel will be visible from important public viewing locations including from Torino Drive and the public hiking trail adjacent to Torino Drive. The Project requires an unnecessary modification to site a new residence in the Torino Drive setback.

The Applicant and past City inaction have compromised the integrity of the oak woodland on the site. Although, the 1984 CUP required dedication of a four acre portion of the oak woodland as a condition for approval, the lands were never dedicated. Referring to this 27 year old violation, Steve Amerikaner, the former City attorney who is now the Applicant’s attorney, explained to the Planning Commission, “we just dropped the ball.” The City has not acted in the interim to correct this error, and as noted above, the Applicant’s over-zealous fuel modification have compromised the ecological integrity of a prized oak woodland. Not only must past errors be corrected, but this history demonstrates that enhanced controls are needed to ensure the goal of preserving the oak woodland is achieved. Specifically, we request that a habitat conservation easement be imposed on the 9.8 acre oak woodland, as recommended by the California Department of Fish and Game. FEIR, Vol. II, Letter # 5. Mere dedication of development rights does not ensure preservation of the oak woodland - there must be an affirmative obligation to manage and maintain these lands for oak woodland habitat purposes, with an independent entity possessing the duty to monitor and the right to enforce preservation requirements. As such, the City should impose a condition requiring the Applicant to impose a conservation easement on the 9.8 acres. A habitat conservation easement will include a specific objective for the use of the lands and third party monitoring, and enforcement in the event of non-compliance. That way, we can ensure that this important dedication does not slip through the cracks again and that the oak woodland will be forever preserved for the benefit of Valle Verde residents, the surrounding neighborhood, and the City of Santa Barbara.
Additionally, inadequate and poorly sited on-site parking for employees, residents' guests and event-attending visitors has resulted in parking that overwhelms neighborhood streets. Calle de los Amigos is a relatively narrow curving road with parking on both sides. Valle Verde employees, guests and visitors routinely park this road to capacity in the areas surrounding the Project, congesting the neighborhood and its roadways while imposing substantial hazards and inconvenience upon surrounding neighborhoods.

Appellants support the mission of Valle Verde and recognize both the need for additional senior housing in the Santa Barbara community and Valle Verde's long history of serving those needs. However, we believe the additional 60,000 square feet of building development and 31,000 square feet of pavement and driveways, much of it at the hillside periphery of the site, exceeds appropriate development for the neighborhood and the sensitive site. The Project proposes cutting into the hillside (in several places on slopes greater than 30%), constructing large retaining walls in several locations, removing and impacting over 20 oak trees, one large sycamore and 46 non-native trees.

This is our City's only chance to ensure perpetual preservation of the oak woodland and develop this property in an appropriate way. Underground parking lots have been used at similar facilities in the City and would go a long way to reduce development on the hillside and oak woodland and provide enough parking on-site to minimize the traffic hazards in the neighborhood.

A. Appeal Issues

The issues that serve as the grounds for this appeal are delineated in the two attached letters from our office and are summarized as follows:

1. The project is inconsistent with the City's General Plan, City Charter and Zoning Ordinance regarding density, site area and setbacks and should be downsized.
   
   ➢ The project is inconsistent with the following General Plan Conservation Elements:
     • Remaining Southern Oak Woodlands shall be preserved when feasible (Biological Resources Policy 4.0)
     • New development shall not obstruct scenic view corridors (Visual Resources Policy 3.0)
     • Mature trees should be integrated into project design rather than removed (Visual Resources Policy 4.1)
     • All feasible options should be exhausted prior to the removal of trees (Visual Resources Policy 4.2)
• Development which necessitates grading on hillsides with slopes greater than 30% should not be permitted (Visual Resources Policy 2.1)
• Development on hillsides shall not significantly modify the natural topography and vegetation (Visual Resources Policy 2.0)

➢ The project is inconsistent with the following General Plan Land Use Element language:
  • “In implementing [density controls greater than the General Plan recommends, such as public housing for senior citizens], care must be taken that the regulatory measures adopted are not only designed to permit the beneficial variations from standards desired, but will be effective in preventing inappropriate relationships between neighboring land uses and will provide adequate safeguards against abuse of the privileges.”

➢ The following required Zoning Ordinance Findings cannot be made:
  • New residential care facilities (such as those proposed on the Rutherford lot) “will generate a demand for services equivalent to no more than that which would be demanded by development of the property in accordance with the underlying zone ...”. (Zoning Ordinance §28.94.030.R.2.a)
  • Setbacks and Site area: “The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided. “ (Zoning Ordinance § 28.94.020 (3))
  • Setback modification “is consistent with the purposes and intent of this Title, and is necessary to (i) secure an appropriate improvement on a lot, (ii) prevent unreasonable hardship, (iii) promote uniformity of improvement ...” (Zoning Ordinance § 28.92.110.2)

➢ The Project violates the City Charter § 1507, requiring that “land development shall not exceed its public services ... [including] traffic and transportation capacity.” The Project adds individual and cumulative trips to the over-capacity Las Positas/101 interchanges, exacerbating an impermissible condition.

2. Parking is inadequate.

  • The Project’s proposed parking spaces is insufficient under the Zoning Ordinance;
  • Findings of adequate parking required for CUP approval were not made;
  • The Project’s proposed parking permit system does not adequately address excessive on-street parking.
  • The Project’s development exceeds available public parking capacity in violation of City Charter § 1507.
• The Project does not provide enough parking spaces for each of its residents (as required by the 1984 CUP).

3. The EIR and CEQA compliance is inadequate.

• The EIR project description fails to describe key components of the project including the number of employees and special events information.
• The EIR fails to adequately describe the baseline existing environment regarding biological resources and parking and traffic.
• The EIR fails to require adequate mitigation to avoid or minimize environmental damage regarding aesthetic impacts (woodland views from road and hiking trail), biological resource impacts (oak woodland habitat, wildlife movement corridors, sensitive wildlife species); fire hazard and evacuation impacts; land use impacts (neighborhood compatibility); traffic and parking impacts; and cumulative impacts.
• The Project’s land use impacts were not adequately analyzed in the EIR.
• The EIR did not include adequate assessment and evaluation of the feasibility of alternatives.
• The EIR did not include enough information for meaningful public review and comment and the responses to those comments lacked detail and the requisite analysis.
• The EIR did not adequately assess the Project’s impacts to historical resources, specifically, the City has not consulted with anyone on the Native American Contact List to evaluate whether the project will impact the sacred sites identified by the Native American Heritage Commission. The 2008 study has not been shown to exist, and test methods were ill-suited to actually identify whether resources may be present on these lands whose surface was previously disturbed by agricultural activities.

4. Oak Woodland Protection

The 9.8 acre Oak Woodland habitat dedication condition (Condition B(1)(p)) is inadequate to preserve this threatened habitat and achieve long term protection. A conservation easement is justified and required.

5. Archaeological Resources

The site is part of a complex of village sites and areas of intensive and continuous occupation associated with Arroyo Burro Creek. The City has violated CEQA, the General Plan and the City Code in not adequately evaluating known sensitive archaeological sites.

Archaeological Resources are protected by the following policies, laws and regulations:
City General Plan Conservation Element:
Goal: Sites of significant archaeological ... resources will be preserved and protected wherever feasible in order that historic and prehistoric resources will be preserved.

Policy and Implementation Strategies:
1.0 Activities and Development which could damage or destroy archaeological, historical, or architectural resources are to be avoided.

1.1 In the environmental review process, any proposed project which is in an area indicated on the map as "sensitive" will receive further study to determine if archaeological resources are in jeopardy. A preliminary site survey (or a similar study as part of an environmental impact report) shall be conducted in any case where archaeological resources could be threatened.

Santa Barbara Municipal Code § 22.12.020:
"All new development in the City of Santa Barbara shall be designed and constructed wherever feasible to avoid destruction of archaeological and paleontological resources consistent with the standards outlined ..."

CEQA § 21083.2(a)
"If the lead agency determines that the project may have a significant effect on unique archaeological resources, the environmental impact report shall address the issue of those resources."

The Initial Study (EIR, Appendix A) for the Project concluded that:

A portion of APN 049-040-053 and -054 are within a Prehistoric Sites and Water Courses Sensitivity Zone. Development proposed in these areas involves the construction of residential units, parking areas and various common area facilities, including an addition to the Administration Building. An intensive field survey of the entire property, including shovel scrapes in areas of less ground surface visibility, was performed by Stone Archaeological Consulting. No prehistoric or historic cultural materials were identified.

On September 18, 2010 Katy Sanchez from the Native American Heritage Commission sent a letter to Planner, Peter Lawson commenting on the Notice of Completion. She stated that a Sacred Lands File Check had been completed on 9/27/10 indicating "potential impact to "Lineguitas" and two known archaeological CA-SBA-42 and CA-SBA-60 sites (Goleta USGS Quadrangle, township 4 north, range 28 west). Ms. Sanchez added that the City should "Contact
the NAHC [enclosed list] of the appropriate Native American Contacts for consultation concerning the project site and to assist in the mitigation measures.”

The City has not contacted any of the Native American Contacts on the list. On April 14, 2011, Frank Arredondo (Chumash/Coastanoan and on the NAHC consultation list), sent a lengthy letter to the Planning Commission opposing the project and revealing that the Project is located on “areas known to be once inhabited by prehistoric Chumash.” This Project site could also be a known burial site. Mr. Arredondo also expressed the following concerns:

- The City Planner would not give a copy of the 2008 Archaeological Report referenced in the EIR to Mr. Arredondo. There is no evidence this report even exists.
- The only report filed with the Central Coast Information Report (CCIC) was from 2003 by Stone Archaeological Consulting.
- The 2003 Report is inaccurate: no shovel scrapes had been conducted in the impact area (which have been revised since 2003), the sensitive site is located on the western side of the creek (not the eastern)
- No grading plans have been provided by the applicant – which is a requirement leading to an archaeological study.
- Fill from the walnut orchard may cover subsurface resources. Subsurface resources were not evaluated in the 2003 report.
- The City has not followed their own guidelines delineated in the Master Environmental Assessment: “Guidelines for Archaeological Resources and Historic Structures and Sites.”

Further study and consultation is required, and the Project must be revised in light of cultural resources. Avoidance must be evaluated first, then mitigation considered. The City omitted the avoidance step, does not appear to be relying on accurate testing data, and instead adopted an after the fact mitigation condition. Qualified Native Americans, including Mr. Arredondo, are entitled to a full consultation and the information from more robust site surveying prior to the approval of this project.

B. **Appellants’ Requests**

Based on the issues above and to reduce density, preserve the quality of the neighborhood and oak woodland we request that the Project be revised as follows:

1. On the Rutherford lot, eliminate units 6/7 and 12/13, and the proposed driveway and parking lot, to achieve compliance with General Plan visual resource policies, eliminate the proposed setback modification from Torino Drive, and help reduce the density of development to better conform to the surrounding neighborhoods.

2. Eliminate units 16/17, 18, 31, 32, 33 and 34 and the southern end of the maintenance area parking lot to preserve oak woodland habitat, including hillside development,
and achieve compliance with biological and visual resource policies of the General Plan. Eliminate or modify those elements of the Project necessitating retaining walls as suggested by the Planning Commission.

3. Increase on-site parking by constructing an underground parking facility, then revise the site plan to eliminate parking facilities and residences on steep slopes.

4. Enhance the parking permit condition by: 1) incorporating specific restrictions and an enforcement mechanism mandating that all residents, employees and guests park on campus, and limiting the number of vehicles per unit; and 2) requiring demonstrated compliance with the on-site parking requirements as a precondition to obtaining building permits.

5. Revise condition B(1)(p) to require that the 9.8 acre Oak Woodland habitat preserve be protected through a conservation easement to permanently preserve its habitat values and scenic qualities.

6. Direct compliance with cultural resource requirements including enhanced site analysis, consultation with qualified representatives, and ensure Project redesign to avoid cultural resources on site.

We have not completed our review of the Planning Commission action and investigation of issues in this matter, and reserve the right to supplement our appeal prior to the hearing. As this project involves an issue of considerable public controversy, we request that the City Council hear this matter during an evening session. We also request the opportunity to coordinate the date of the hearing with the City Clerk’s office.

Thank you for your careful attention to this important project.

Respectfully Submitted,

LAW OFFICE OF MARC CHYTIL

Marc Chytilo
Attorney for Hidden Oaks Homeowners Association

Enclosures:

- Letter from Ana Citrin, Law Office of Marc Chytilo, to Planning Commission, April 11, 2011
- Letter from Ana Citrin, Law Office of Marc Chytilo, to Peter Lawson, October 17, 2010
April 11, 2011

By hand delivery and by email

Santa Barbara City Planning Commission
Planning Commission Secretary
P. O. Box 1990
Santa Barbara, California 93102-1990

RE: 900 Calle de los Amigos, Valle Verde Project; April 14, 2011 Agenda, Item II

Dear Chair Jostes and Honorable Planning Commissioners:

This office represents the Hidden Oaks Homeowners Association in this matter. The Valle Verde Retirement Community Project ("Project") proposes a significant expansion in a retirement facility located in a residential neighborhood that under existing conditions has created significant land use challenges for the surrounding area. The Valle Verde property is zoned for single-family residential use and is surrounded by residential uses and open space, with the intensity and nature of development and use proposed allowable only by Conditional Use Permit ("CUP"). Valle Verde boarders Arroyo Burro Creek and Hidden Valley Park, and the open space areas owned by Valle Verde include sensitive habitat and one of only two remaining pristine oak tree stands in the entire City. A portion of this sensitive habitat area, known as the Rutherford Lot, is not part of Valle Verde's existing CUP but is proposed for development by expanded CUP. Proposed development and fuel modification on the Rutherford Lot encroaches into sensitive habitat, and is highly visible from Torino Drive and a public hiking trail adjacent to Torino Drive. Inadequate and poorly sited on-site parking has resulted in the extensive use of public streets for Valle Verde parking, creating various conflicts with neighboring residential uses and compromising the character of the neighborhood. The failure to disclose, analyze, and mitigate parking and circulation related impacts of community activities and special events hosted at Valle Verde in the EIR for the Project renders the EIR, and the conclusions and findings regarding the adequacy of on-site parking wholly unfounded.

To ensure consistency of the proposed conditional use with the requirements of the Zoning Ordinance and General Plan, substantial revisions to the project description and proposed conditions – beyond what City staff has recommended in the staff report - are required. These revisions include: a) eliminating proposed development on and adjacent to sensitive biological habitat; b) eliminating proposed development that impairs the public viewshed; c) reconfiguring and increasing on-site parking; d) incorporating meaningful restrictions and enforceability mechanisms into the proposed parking permit condition; e) phasing construction to minimize construction impacts and ensure the adequacy of on-site parking before constructing new units; f) improving the fuel modification and habitat restoration plans; and g) requiring additional public Architectural Review Board (ARB) review proceedings to review and refine Project architecture and landscaping plans. (Note, our specific requests are listed at the end of this letter).
Without the above revisions to the project description and proposed conditions, the Project is legally vulnerable due to conflicts with the Zoning Ordinance and General Plan, and due to legal flaws in the Environmental Impact Report ("EIR"). This office and individual members of the Hidden Oaks Homeowners Association submitted extensive comments on the draft EIR, most of which remain relevant. Because of their continued relevance and due to inadequacies with many of the responses to those comments, we reiterate the points made in those letters without repeating them here. Additionally, there is recently disclosed information that materially affects the EIR’s adequacy, most notably the disclosure that Valle Verde regularly hosts a variety of activities, classes, and special events attended by members of the surrounding community. The EIR failed entirely to disclose this significant operational component of Valle Verde, and impermissibly failed to take the attendees of these activities and events into consideration either in the environmental baseline for the traffic, parking, and land use compatibility analyses, or as part of the project description.

We respectfully urge the Commission to make the changes to the project description and conditions requested herein, or to require revision and recirculation of the EIR prior to making a decision on the Project.

1. Significant New Information: Community Activities, Classes, Meetings, and Events Hosted at Valle Verde

There is a significant component of Valle Verde’s operations that was just recently disclosed to the public, namely that non-residents routinely attend Valle Verde activities, and that Valle Verde hosts outside community groups at their facilities for classes, meetings, activities, and events. This information is significant because the EIR’s analysis of traffic, parking and land use compatibility all assumed the non-existence of such an operational component. The staff report makes no attempt to quantify the number of community members that attend Valle Verde activities or the number or frequency of Valle Verde activities that may be attended by members of the outside community. The staff report similarly makes no attempt to describe, quantitatively or qualitatively, the outside community events hosted by Valle Verde. A review of public information provided on the American Baptist Homes of the West website however (detailed below) reveals that these events are diverse and numerous. The fact that this information is just being disclosed at the approval stage is shocking given the significant community concern voiced over Valle Verde’s traffic, parking, and land use impacts. Moreover, the fact that this significant information was not analyzed in the EIR renders the EIR wholly inadequate.

With respect to the previously undisclosed activities and events at Valle Verde attended by the outside community, the staff report provides as follows:

Activities at Valle Verde include, but are not limited to art classes, continuing education, seminars and college alumni meetings, which are attended by both Valle Verde residents and
members of the surrounding community. Also, on an intermittent basis, Valle Verde provides meeting rooms to community groups, such as local homeowner associations, or other local groups.

(Staff Report, p. 1 (emphasis added)). The staff report goes on to describe these community activities and events as follows:

In 1976, an arts and crafts building, a lounge and dining facility were added to the Valle Verde campus, and in 1984 a recreation building, along with additions to the dining complex were constructed. All of these facilities are used predominately by the residents, and activities include painting, college alumni gatherings, and other types of meetings. Each of the activities reflect the interests of the residents, and evolve over time as new residents arrive. These interests are also shared by the community outside of Valle Verde, and attendees of the activities include a mixture of Valle Verde residents and members of the public. Finally, on an intermittent basis Valle Verde provides its facilities to groups that need an area large enough to meet. Fees are typically collected only if food service is provided. Use of the facilities by outside groups is self-limiting since the facilities are used on a daily basis by the residents.

(Staff Report, p. 5). This narrative, and the remainder of the staff report, fails to disclose how many community members attend Valle Verde activities, how often facilities are used by outside groups, and how large the groups are that use the facilities. The statement the use of facilities by outside groups is “self-limiting” is meaningless without any quantification of how often the facilities are available and used by outside groups.

The staff report’s discussion of potential parking impacts of community activities and events is so speculative as to be wholly meaningless. Specifically, the staff report provides:

The previous permits approved for Valle Verde do not include a specific prohibition on outside groups using the campus, and a larger facility typically includes some outside activity if the impacts on the neighborhood remain at a minimal level. Currently, the main parking impacts from Valle Verde appear to be generated from employee parking not being provided in specific areas that are large enough to accommodate a number of employees, as opposed to community activities. Finally, based upon recently raised neighbor concerns, Valle Verde has provided valet parking service for some events and used the nearby church parking lot for the community event attendees.

(Staff Report, p. 8). The assumption that the main parking impacts from Valle Verde is from employees is not supported with any evidence whatsoever, and to our knowledge there has been no attempt to quantify the number of community members attending Valle Verde activities and events and utilizing on-street parking. The staff report and EIR provide no data on the number of Valle Verde activities that occur on a daily, weekly, and monthly basis, let alone any information regarding the number of non-Valle Verde community members that travel to Valle Verde specifically for those
activities. The 2010 “Social Accountability Report” for American Baptist Homes of the West identifies specific community meetings, classes, and events hosted by Valle Verde, including:

- Registered nurse and licensed vocational nurse training programs for students from Santa Barbara City College
- Meetings of community organizations including:
  - CFIT (Cognitive Fitness and Innovative Therapies)
  - Retired Doctors of Santa Barbara
  - MIT Alumni
  - National Charity League
  - Visiting Nurses
  - Bereavement groups
  - Alzheimer’s Association
  - Hospice
  - Homeowners associations
  - Local canine chapters for dog training
  - Center for Innovative Therapies (monthly board meeting)
  - Women’s Baptist Circle
  - Aging Services of California Los Padres (regional meetings, four times per year)
- Santa Barbara Jr. Miss Pageant (3-day event)
- Santa Barbara City College continuing education
- Vistas Lifelong Learning program
- Visiting Nurse and Hospice Care (Serenity House) meeting place for staff and families
- Broadway a-la Carte Theater rehearsals


While these community classes, meetings, activities, and events are not specifically part of the proposed Project, the Project includes expanding various facilities that are used for these community activities/classes/meetings/events including the Dining/Multi-Purpose building (see FEIR p. 3-19), which would expand Valle Verde’s capacity to hold additional and larger community activities and events.

The environmental analysis for the Project is fundamentally flawed without including this component of Valle Verde’s operations, both in the existing environmental setting/baseline for impact analysis, and in the project description. One result of this significant omission is that the
Project traffic analysis failed to include trip generation data for these community activities/classes/meetings/events\(^1\). The EIR’s reliance on model trip generation rates instead of quantifying the number of people that come to and from Valle Verde is itself problematic, and the responses to comment do not adequately address this issue (discussed further below). Now with the acknowledgement of non-resident use and the admission that special events involving considerable numbers of non-residents occur at Valle Verde, the importance of quantifying actual trips is even more apparent. The Project parking analysis also failed to consider the additional number of parking spaces necessitated by these uses, and the emergency evacuation analysis does not incorporate the effects of having a large community event taking place, where non-resident attendees of that event would not have gone through Valle Verde’s evacuation/emergency drills. This significant change in baseline conditions caused by including these non-resident activities/classes/meetings/events necessitates revision and recirculation of the EIR. (CEQA Guidelines § 15088.5, Save Our Peninsula Committee v. Monterey County Board of Supervisors (2001) 87 Cal. App. 4th 99, 143 (correcting inaccurate baseline studies triggered CEQA’s requirement for recirculation); see County of Amador v. El Dorado County Water Agency (1999) 76 Cal. App. 4th 931, 952 (“Before the impacts of a project can be assessed and mitigation measures considered, an EIR must describe the existing environment. It is only against this baseline that any significant environmental effects can be determined.”). Significantly, non-resident use is omitted from the Project Description. Its inclusion only at the Staff Report phase belies an unstable Project Description that prevents the interested and

\(^1\) Project Traffic Study, FEIR Appendix D, pp. 18-19 (emphasis added):

“After a review of development types and the uses proposed as part of the Project, the trip rate for Continuing Care Retirement Community (CCRC) was chosen as the development type that most represents the changes proposed for the Valle Verde site. The ITE description for CCRCs is “they are land uses that provide multiple elements of senior adult living. CCRCs combine aspects of independent living with increased care, as lifestyle needs change with time. Housing options may include various combinations of senior adult (detached), senior adult (attached), congregate care, assisted living and skilled nursing care aimed at allowing the residents to live in one community as their medical needs change. The communities may also contain special services such as medical, dining, recreational and some limited, supporting retail facilities. CCRCs are usually self-contained villages.” The trip rate is based on the number of residential units being provided.

Much of the proposed project would result in the expansion of existing uses and/or facilities intended for use by residents or existing staff only. Some of the proposed uses, such as the on-site branch bank office, would be new uses on the site and would reduce the number of off-site trips by new and existing residents by allowing residents to use facilities that are within walking distance rather than having to drive to off-site locations. Therefore, some of the additional trips generated by the proposed project would be offset by the reduced number of off-site trips. Iteris has also reviewed the employment data provided by the project applicant and based on the employee shift times and the FTE staff hours it does not appear that the proposed project will be adding a substantial number of additional staff.”
affected community from understanding the actual scope of the project and impacts on critical infrastructure issues, including parking, circulation and emergency evacuation.

2. A Reduction in the Number of Units Is Required to Achieve Consistency with the City’s General Plan and Zoning Ordinance and Enable the Commission to Make Required Findings

Zoned for single-family residential use and additionally subject to the limitations in the City’s Slope Density Ordinance, the EIR acknowledges that a maximum of only 189 units could be allowed on the 59.75-acre property without a CUP. (EIR p. 6-10). The EIR refers to the General Plan Land Use Element for the proposition that “densities for senior housing can be greater because the number of people per unit is lower for such housing than for non-restricted housing.” (Id.) Reading this discussion in the Land Use Element itself however reveals that it includes an important caveat. Specifically, the Land Use Element provides:

Another technique is the variation in density in relation to the size of a unit and the occupancy potentials. The intent of establishing density controls is to limit the intensity of development and activity on the land. In situations where a dwelling unit may yield fewer persons than a normal or average unit, such as in a public housing project for senior citizens, densities in terms of dwelling units per acre may be allowed to increase beyond those limits recommended by the General Plan without causing an inappropriate increase in the intensity of activities.

In implementing these or other techniques, care must be taken that the regulatory measures adopted are not only designed to permit the beneficial variations from standards desired, but will be effective in preventing inappropriate relationships between neighboring land uses and will provide adequate safeguards against abuse of the privileges.

(Land Use Element, p. 44 (emphasis added)). Here, the density anticipated under Valle Verde’s CUP does not prevent inappropriate relationships between neighborhood land uses or provide adequate safeguards against abuse of the privileges. Accordingly a reduction in density is required, as further detailed below.


The required CUP findings for senior housing (§28.94.030.R.2) help to ensure that additional density is appropriate for the neighborhood and includes adequate safeguards. For example, the Planning Commission must find that
(2) The facility will generate a demand for resources such as water, traffic and parking capacity, and other public services equivalent to no more than that which would be demanded by development of the property in accordance with the underlying zone, or if existing resource use exceeds the underlying zone, then resource use shall be equivalent to no more than that of the existing use.

The staff report’s proposed finding fails to compare the intensity of the proposed development with the “existing use” as required. Rather it compares the proposed use to the peak development of Valle Verde in the 1990’s (254 units). (Staff Report, p. 10). The existing use includes 213 or 208 independent living units (see id.) and thus pursuant to the above finding the Commission must evaluate whether the proposed use of 253 independent living units, plus the other development and operational components of the Valle Verde Project, increase the demand for resources and public services beyond the existing use or beyond the use demanded by development of the property in accordance with the single-family and slope density zoning.

With respect to the Rutherford Lot, there are two problems with making the above finding. First, since the Rutherford Lot is not currently part of the CUP for Valle Verde, the existing use of that parcel is 1 single-family home, with up to two residential units allowed under the A-1 zoning and slope density requirements (see FEIR Appendix A, Initial Study, p. 7 (area: 3.50 acres, slope: 20%)). Accordingly, the proposed development on the Rutherford Lot of 10 residential units vastly increases the demand for all resources and services beyond the existing or allowed use, even taking into consideration the assumptions used in the EIR and staff report regarding the reduced demand for resources and services for senior housing as opposed to single-family housing. The second reason the above finding is problematic with respect to the Rutherford Lot is that it is specific to existing residential care facilities. Again, the Rutherford Lot is not currently part of the Valle Verde CUP. Accordingly, the Planning Commission is required to make findings for new residential care facilities (§28.94.030.R.2.a) before the Rutherford Lot may subjected to the CUP. Specifically, these findings include the following:

(1) The facility will generate a demand for resources such as water, traffic, and other public services equivalent to no more than that which would be demanded by development of the property in accordance with the underlying zone, and such resources are available in amounts adequate to service the proposed facility.
(2) The intensity of use in terms of the number of people, hours of operation, hours of major activities, and other operational aspects of the proposed facility is compatible with any neighboring residential use.

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2 Because the Rutherford Lot includes slopes of 30%, the 2.0 times minimum lot area may in fact be the appropriate standard, reducing the allowed development of the Rutherford Lot to 1.75 units/acre (see Zoning Ordinance § 28.15.080).
(3) The proposed facility shall be able to be converted to a density which conforms to the residential unit density of the underlying zone. Sufficient land area has been shown to be available to meet the parking demand of a future use.

The analysis of finding 1, above, is similar to the analysis of finding §28.94.030.R.2.b.2 discussed previously – 10 units far exceeds the demand for resources and services than development of the property in accordance with the underlying zone and therefore the finding cannot be made. Finding 2 also cannot be made for the 10 units proposed on the Rutherford Lot because the number of people (between 10 and 20 residents on the 3.5 acre lot) far exceeds the intensity of use on the neighboring residential parcels in the adjacent Hidden Oaks PUD. To make the findings required pursuant to §28.94.030.R.2.a and §28.94.030.R.2.b the number of units on the Rutherford parcel must be reduced. Specifically, units 6 and 7, 12 and 13 should be eliminated from the project description, and additional units may need to be removed in order to ensure that the demand for resources and services and intensity of use is equivalent to no more than 2 single-family residences. The removal of units 6, 7, 12, and 13 from the project description would reduce the Project’s impacts to biological resources, bring the Project into closer conformance with General Plan Conservation Element Biological Resources Policy 4 (see below), reduce the Project’s visual impacts from Torino Drive and the adjacent public pedestrian and equestrian trail, and bring the Project into better conformance with General Plan Conservation Element Visual Resources Policy 3 (see below).

b. Findings for CUP Approval Cannot Be Made With Respect to Site Area and Setback Sufficiency

Prior to approving the CUP for Valle Verde, the Commission is required to make the following finding:

*The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided*

(Zoning Ordinance § 28.94.020 (3)). The Rutherford Lot is not adequate to support the level of development proposed, and setbacks for development on the Rutherford Lot is not sufficient in view of the character of the land. Accordingly significant detrimental impacts surrounding properties is not avoided, in violation of this policy. Most notably, proposed units 6/7 obstruct scenic views of the Santa Ynez mountains, and units 6/7 and the proposed driveway and parking lot intrudes into formerly scenic foreground views of the Rutherford Parcel as seen from Torino Drive and the public pedestrian and equestrian trail adjacent to Torino Drive (see FEIR Figures 5.1-5a and b, 5.1-7a and b, 5.1-8a and b). The EIR relies excessively on vegetative screening which is problematic because vegetation takes time to grow, and further is not permanent. Fire, drought, disease, wind, and other natural forces can destroy vegetation, and further there is no prohibition against the future removal of vegetative screening. The Commission therefore must assume no vegetative screening for an accurate assessment of the Project’s potential visual impacts, or a condition imposed to require
maintenance of landscaping for the life of the project. The County BAR practice is simply to eliminate consideration of vegetation as screening of proposed projects in evaluating visual impacts and policy consistency, and this should be the convention employed for Valle Verde unless a permanent condition is imposed. Regardless of screening, the visual impact from blocking of scenic resources by either the development’s structures or its screening vegetation remains a significant inconsistency.

Eliminating units 6/7 and the proposed Rutherford driveway and parking lot from the project description would increase the distance between Torino Drive and Rutherford lot development, reducing the detrimental visual impact on surrounding properties. Moreover eliminating units 6/7 would avoid the need for a setback modification, discussed below.

c. Findings for Requested Setback Modifications along Torino Drive Cannot Be Made

Prior to approving a setback modification, the Zoning Ordinance requires that the Planning Commission find that the modification:

is consistent with the purposes and intent of this Title, and is necessary to (i) secure an appropriate improvement on a lot, (ii) prevent unreasonable hardship, (iii) promote uniformity of improvement, or (iv) the modification is necessary to construct a housing development containing affordable dwelling units rented or owned and occupied in the manner provided for in the City’s Affordable Housing Policies and Procedures as defined in subsection (A) of Section 28.43.020 of this Code.

The Staff Report concludes that this finding can be made for the setback reduction from 35 to 25 feet along Torino Drive for unit 6. The rationale for this is as follows:

The proposed Modification along Torino Drive to reduce the front setback from 35 feet to 25 feet is consistent with the purpose and intent of the Zoning Ordinance and is necessary to promote uniformity of improvement. The reduction of the setback would not be out of character with the existing Valle Verde development or the adjacent Hidden Oaks development, because the unit that would be located in the front setback would be single story, similar to the existing Valle Verde development on Torino Drive.

(Staff Report, p. 17). There is no basis however for a finding that this setback is necessary to promote uniformity of improvement. Units 6/7 would form the western terminus of Valle Verde along Torino Drive, and its proposed location is closer to Torino Dr. than Valle Verde structures to the east, and also closer than Hidden Oaks PUD structures to the west. Simply eliminating units 6 and 7 would avoid the need for any setback modification, reduce the density on the Rutherford Lot as discussed in the previous section, and would reduce the Project’s impacts to biological resources, bring the Project into closer conformance with General Plan Conservation Element Biological Resources Policy 4 (see below), reduce the Project’s visual impacts from Torino Drive and the
adjacent public pedestrian and equestrian trail, and bring the Project into better conformance with General Plan Conservation Element Visual Resources Policy 3 (see below).

d. As Proposed, the Project Is Inconsistent with the General Plan Conservation Element

The general plan is the “constitution for all future developments,” and all land use and development decisions must be consistent with the general plan. (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal. 3d 553, 570). A project is inconsistent with the general plan “if it conflicts with a general plan policy that is fundamental, mandatory and clear.” (Endangered Habitats League, Inc. v. County of Orange (2005) 131 Cal. App. 4th 777, 782). In addition to this state law requirement, the City’s Zoning Ordinance requires that prior to approving the Valle Verde CUP the Commission must find that:

(1) Any such use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan

(Zoning Ordinance §28.94.020).

The Valle Verde Project is inconsistent with various policies in the City’s General Plan Conservation element, including policies that are fundamental, mandatory and clear. Accordingly, the Project as proposed is inconsistent with the General Plan, and the Commission may not make require findings or approve the Project without modifications that resolve the inconsistencies.

Biological Resources Policy 4.0. Remaining Coastal Perennial Grasslands and Southern Oak Woodlands shall be preserved, were feasible.

The western portion of the project site includes a southern oak woodland that contains over 500 trees. Implementation of the proposed project would impact approximately 0.24 acres of the oak woodland due to the development of proposed residences and required long-term fuel management activities. (FEIR p. 6-8). The FEIR finds that the Project is potentially consistent with this policy because mitigation measure BIO-1a requires that new oak woodland habitat be created on the site at a replacement ratio of 2:1, and the project applicant proposed to dedicate or otherwise restrict development rights on the 9.8 acre on-site oak woodland area.3 (Id.). However, the discussion of this policy in the EIR and the Responses to Comment (see response to comment #29), ignore the clear

3 While the current proposal includes the dedication of 9.8 acres of oak woodland, it should be noted that the applicant is already required to dedicate 4 acres pursuant to an existing CUP requirement (see Staff Report Exhibit F, CUP resolution 093-84, amended 7/19/84, (“Prior to the issuance of building permits, the applicant shall complete the following: F. The applicant shall dedicate the development rights of the Oaks woodland containing approximately 4.0 acres to the City for the purposes of protecting the Oaks woodland and maintaining the open space in perpetuity.”))
definition of the word *preserve*, which is “to keep safe from harm, injury” (Shorter Oxford English Dictionary (5th Ed., 2002)). In this context, *preserve* means not to remove or injure the existing oak woodland. Replacing and restoring oak woodland may arguably *mitigate* the Project’s impacts on oak woodland, but does not achieve consistency with this clear policy mandate of the Conservation Element. The dedication of 9.8 acres of oak woodland also does not achieve consistency with this policy insofar as 0.24 acres of the woodland will not be preserved. The EIR and staff report do not make any claim that it is *infeasible* to preserve this additional 0.24 acre area of oak woodland, and indeed it can be accomplished by eliminating proposed units 12, 13, 16, 17, 18, 31, 32, 33, and 34 (see FEIR Figure 5.2-1).

*Visual Resource Policy 3.0. New development shall not obstruct scenic view corridors, including those of the ocean and lower elevations of the City viewed respectively from the shoreline and upper foothills, and of the upper foothills and mountains viewed respectively from the beach and lower elevations of the City.*

Proposed development along Torino Drive (on the Rutherford Lot) clearly obstructs a scenic view corridor of the upper foothills and mountains viewed from lower elevations of the City. (See FEIR Figure 5.1-5a and b; Exhibit 1 (photographs of story poles erected for 4/12/11 Planning Commission site visit). The EIR finds potential consistency with this policy based on conclusions in the EIR aesthetic impact analysis that “existing views of the Santa Ynez Mountains and lower foothill areas as seen from viewpoints along Torino Drive would not be substantially affected (photosimulation 5.1-5b) by the proposed project (FEIR p. 6-3). However Visual Resource Policy 3.0 does not use a “shall not substantially affect” standard; it utilizes a “shall not obstruct” standard. The obstruction of mountain views by Project structures as seen from Torino Drive is a clear and unambiguous conflict with this fundamental visual resources policy.

*Visual Resources Policy 4.1. Mature trees should be integrated into project design rather than removed.*

*Visual Resources Policy 4.2. All feasible options should be exhausted prior to the removal of trees.*

The Project includes the removal of 15 oak trees and six other large specimen trees. (FEIR p. 6-7). The FEIR finds the Project potentially consistent with these policies, however does not discuss whether there are feasible options to removing some or all of these trees including changes to the project design. The FEIR discusses replacement as mitigation, however similar to Biological Resources Policy 4.0, replacement and restoration does not bring the Project into compliance with policies requiring that the trees not be removed in the first place. Several modifications to the project description could reduce the number of trees that would need to be removed, including eliminating the proposed driveway connecting Torino Drive to the Rutherford Lot. The development of this proposed driveway would require the removal of four oak trees that have six- seven-, seven- and 16-inch diameter trunks. (FEIR p. 9-14). The FEIR concludes that the alternative access via Calle
Sastre would require widening to 20 feet, which would result in the removal of only one oak. While the widening could impact 7 oaks, it would require less oak tree removal which is the focus of Visual Resources Policy 4.2. (Id.) Moreover, Calle Sastre could be widened to a lesser degree if, as recommended above, the density of units on the Rutherford Lot is reduced to enable the Commission to make required findings, avoid the requested setback modification from Torino Drive and bring the Project into closer conformance with several applicable policies. (see California Fire Code Development Standards for driveways (12 feet for driveway serving one residential lot or dwelling; 16 feet for driveway serving two residential lots or dwellings)).

Visual Resources Policy 2.1. Development which necessitates grading on hillsides with slopes greater than 30% should not be permitted.

The Project includes development on slopes greater than 30% in several areas including units 16, 17, 18, 31, 33, 34, the driveway accessing units 31-34, and the southern end of the parking lot proposed in the existing maintenance building area. (See FEIR Figure 6.2-1). In accordance with this policy, these units and the southern end of the parking lot should not be permitted. The units should not be permitted for the additional reason that they encroach into oak woodland areas that must be preserved pursuant to Biological Resources Policy 4. There are other areas on campus that are better suited to additional parking including the area proposed for units 28, 29 and 30 which could be the location of a centrally-located parking lot or underground parking facility, and/or the area proposed for units 1-4 which similarly could be a centrally-located of a parking lot or underground facility.

3. Additional On-Site Parking and Enhanced Parking Conditions Are Required to Achieve Consistency with the City’s Zoning Ordinance and Enable the Commission to Make Required Findings

For a variety of reasons, Valle Verde has not accommodated all of its parked vehicles on-site, rather has used Calle de los Amigos and other public streets to accommodate a large number of cars. While the EIR and staff report attribute this problem to staff convenience issues rather than to an insufficiency of on-site parking or parking for community activities and events, there is no evidence to support this claim. Discussed below, there are provisions of the Zoning Ordinance requiring parking for facilities at Valle Verde other than the residential component, and the recent disclosure regarding the community events and activities hosted at Valle Verde further undermines claims by Valle Verde that existing and proposed on-site parking is adequate. To address the insufficiency of on-site parking, the number of units should be reduced as discussed above, and on-site parking should be increased including if necessary by constructing an underground parking facility. Additionally CUP conditions must be strengthened to ensure that Valle Verde residents, staff, guests, and visitors all park on-site, and Project construction should be staged in order to require demonstrated compliance with on-site parking requirements prior to building permit issuance.
a. Proposed Parking Is Insufficient under the Zoning Ordinance Requirements

Off-street parking proposed for the Project is inadequate to meet Zoning Ordinance requirements. Specifically, both the staff report and EIR evaluate the Project's consistency with the Zoning Ordinance's parking requirements under the faulty assumption that Valle Verde includes only independent living, assisted living and skilled nursing, resulting in a total of 312 required parking spaces\(^4\) (see FEIR p. 5.3-25). However, as demonstrated by the description of Valle Verde's facilities in the proposed CUP and elsewhere, Valle Verde includes much more than merely senior living units, including a 6,870 s.f. Administrative Building which includes 4 bed and breakfast units and administrative offices, conference room, and resident bank office, a 13,764 s.f. dining complex which includes a 351 seat multi-purpose/theater/aerobic room, 5,899 s.f. maintenance building which includes staff offices, and additional non-residential uses. When the Zoning Ordinance requirements are applied to these additional facilities, the required number of parking spaces increases as follows:

<table>
<thead>
<tr>
<th>Valle Verde Facility</th>
<th>Zoning Ordinance Requirement</th>
<th>Parking Spaces Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>246 Independent Living Units 7 Studio Units</td>
<td>1 space/residential unit ($§ 28.90.110.G.5, Senior Housing)</td>
<td>253* *assuming Valle Verde is restricted to accepting residents of 62 years of age or older</td>
</tr>
<tr>
<td>80 Skilled Nursing Beds 48 Assisted Living Beds*</td>
<td>0.5 space/bed ($§28.90.100.J.17: Skilled nursing facilities)</td>
<td>64</td>
</tr>
<tr>
<td>*based on CUP figures; if 52 beds are approved, two additional spaces must be provided.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 Bed &amp; Breakfast Units</td>
<td>1 space/sleeping unit ($§28.90.100.J.10: Hotels)</td>
<td>4</td>
</tr>
<tr>
<td>Administrative offices, conference room and bank office: 5,045 s.f.</td>
<td>1 space/250 s.f. (or fraction thereof) ($§28.90.110.I: Office, commercial, and industrial buildings)</td>
<td>44</td>
</tr>
</tbody>
</table>

\(^4\) This number should be 317, not 312, considering that with the proposed expansion Valle Verde will have 246 independent living units, 7 studio units, an 80 bed skilled nursing facility and a 48 bed assisted living facility (253 units requiring 1 parking space and 128 beds requiring 0.5 parking spaces/bed results in 317 required parking spaces)
| Maintenance building including hobby shop, maintenance shop, maintenance staff offices: 5,899 s.f. 5 | 1 space/4 seats  
(§28.90.100.J.10: theaters, auditoriums, similar places of assembly) | 88 |
|---|---|---|
| 351 seat multipurpose/theater/aerobic room | 1 space/250 s.f.  
(§28.90.110.I: Office, commercial, and industrial buildings – note, otherwise food service staff are unaccounted for) | 28 |
| 6,882* s.f. Dining Hall | = 481*  
*483 if 52 assisted living beds are approved | |

Additionally, parking spaces for the social room and other project facilities may also be required under the Zoning Ordinance requirements, particularly because these facilities accommodate the activities, classes, meetings and events that draw community members to the Valle Verde site (see section 1, above). This would increase the number of required parking spaces beyond the 481 spaces indicated above.

The senior housing classification on which the 1 space/unit requirement is derived (§ 28.90.110.G.5, Senior Housing) moreover may not apply even to the residential units onsite because it requires that the housing be “restricted to residential uses by elderly and senior persons, sixty-two (62) years of age or older.” (Zoning Ordinance § 28.90.100.B.2). Valle Verde currently accepts residents 60 years of age or older, and has not consented to increasing this age restriction to 62 as the draft CUP proposes. If Valle Verde will not adhere to the 62 year age limitation, then the parking requirements for general residential use of two spaces per residential unit is required. This would increase the parking required for the residents of the independent living units from 253 to 454 parking spaces (see Zoning Ordinance §§ 28.90.100.G.3.a-c). (See letter submitted on 4/11/11 by Jermaine Chastain for a full breakdown of required parking under this scenario, totaling 750 parking spaces when guests and other Project facilities accounted for).

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5 In the event that some or all of the Maintenance Building is more appropriately considered an industrial use, a revision to this figure would be required considering that general industrial uses require 1 parking space per 500 s.f. of net floor area or fraction thereof.
b. Findings of Adequate Parking Required for CUP Approval Cannot Be Made

Discussed above, the proposed on-site parking does not comply with the Zoning Ordinance requirements. Moreover, the proposed additional employee and guest parking is not sufficient to enable the Commission to make the finding required for CUP approval that:

*Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time.*

One significant impediment to the Commission making this finding is that the proposed CUP allocates 49 spaces to visitors, but none at all to guests. The 253 – 506 residents of the independent living units and the 128 residents of the assisted living and skilled nursing facilities (381 – 634 total residents) will have guests that drive to and must park at Valle Verde. These personal guests of the residents are an entirely distinct group from visitors of Valle Verde, which we now know include members of the community that attend Valle Verde activities. Moreover, the recently disclosed operational component of Valle Verde – the hosting of outside classes/meetings/activities/events – contribute an unknown and potentially significant number of vehicles that also must be accommodated at Valle Verde. Under these circumstances it is not possible for the Commission to find that adequate off-street parking is provided in a manner and amount so that the demands of the development are adequately met without altering the character of public streets.

The proposed CUP condition for an on-site residential and employee permit parking program (CUP Condition 12) is fundamentally inadequate to resolve Valle Verde’s on-street parking problem. One key flaw in the proposed program is that it does not address visitor and guest parking. Discussed above and in section 1, the number of visitors and guests of Valle Verde may be substantial and the record contains no evidence whatsoever that the 49 visitor spots could be sufficient for the guests of residents and visitors of Valle Verde. A second key flaw is that Condition 12 provides that each independent residential living unit will be issued one parking sticker, but does not prohibit residents of the independent living units (and studios) from having more than one car parked in the area. A third, related flaw, is that there is no stated mechanism for limiting on-street parking. The mere fact that a parking sticker will be issued to each residential unit and each staff member does not alone do anything to address the on-street parking problem. The stated intent of the program is that all residents and employees shall park on-site, but much more detail is required to ensure that the condition is actually capable of realizing that goal. A detailed enforcement plan is one missing element for example, that must be incorporated into the CUP for Condition 12 to function as intended. Another key flaw in the parking-related conditions is the failure to address special event attendees. The fact that Valle Verde may have recently began bussing some event attendees to Valle Verde from an off-site location is meaningless unless such a provision is expressly required by the CUP.
Substantial improvement to the CUP’s parking conditions is necessary to ensure Valle Verde residents, staff, visitors, and guests do not park on area streets. Other retirement communities in Santa Barbara including Samarkand have much more stringent CUP requirements that should be evaluated for potential application at Valle Verde. One way of assuring that on-site parking is adequate and that the CUP conditions are effective at eliminating the use of area streets for Valle Verde parking is to stage the approval of building permits such that Valle Verde must demonstrate compliance with the parking conditions as a prerequisite to obtaining approval for each additional increment of development.

4. CEQA Inadequacies

This office, Planner Christina McGinnis, and Biologist David Magney submitted comments on the draft EIR, as well as individual members of the Hidden Oaks community. Notwithstanding the responses to comment, our comments submitted on the draft EIR remain relevant and we generally restate them here for the record. The following addresses CEQA issues that have arisen since the draft EIR release, including the significance of the new information regarding special events the adequacy of the responses to comment.

a. Failure to Describe Existing and Proposed Special Events, and to Analyze and Mitigate their Impacts

The EIR for the Project is wholly silent on the community activities and events described above, misleading the public and decision makers regarding the nature of Valle Verde’s operations the number of visitors to Valle Verde. This problem relates to the broader problem that the draft and final EIRs do not adequately disclose the operational components of the existing or proposed facilities. An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published . . . .” (CEQA Guidelines § 15125(a)). “If the description of the environmental setting of the project site and surrounding area is inaccurate, incomplete or misleading, the EIR does not comply with CEQA.” Cadiz Land Co. v. County of San Bernardino (2000), 83 Cal. App. 4th 74, 87. “Without accurate and complete information pertaining to the setting of the project and surrounding uses, it cannot be found that the FEIR adequately investigated and discussed the environmental impacts of the development project.” (Id., quoting San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal. App. 4th 645, 729). Pursuant to these standards, the EIR’s failure to disclose and describe existing special events that occur at Valle Verde results in an incomplete and misleading environmental setting, and it cannot be found that the EIR adequately investigated and discussed the environmental impacts of the Project. Moreover, the significant revision to the environmental setting required to incorporate these events, alters the baseline conditions such that revision and recirculation of the EIR is required. (See Save Our Peninsula, 87 Cal. App. 4th at 143 (correcting inaccurate baseline studies triggered CEQA’s requirement for recirculation)).
The failure to disclose that events would be an ongoing component of Valle Verde’s operations that may be increased by virtue of the expansion of various campus facilities constitutes a failure to include a complete and accurate project description as required by CEQA. “To fulfill its role of ensuring the lead agency and the public have enough information to ascertain the project’s environmentally significant effects, assess ways of mitigating them, and consider project alternatives, an EIR must provide “[a]n accurate, stable and finite project description ...” (Sierra Club v. City of Orange (2008) 163 Cal.App.4th 523, 533 (quoting Save Round Valley Alliance v. County of Inyo (2007) 157 Cal.App.4th 1437, 1448)). The Project Description in the Valle Verde EIR is flawed and incomplete for failing to describe the operational components of the Project including special events. How many visitors and guests, as well as employees and residents are anticipated to be onsite on a regular basis is necessary to evaluate the environmental impacts of the Project, most notably in the areas of traffic, parking, and land use compatibility. The traffic study’s reliance on published trip generation rates leaves open the question of whether those rates accurately reflect the true traffic generation of the Project. Similarly, the analysis of available and required parking lacks any actual evaluation of the number of people living, working, and visiting Valle Verde that will require parking. Parking and traffic both contribute to the land use compatibility impacts of the project, but the sheer number of people at Valle Verde bears on the analysis of whether the intensity of use of the Project site is consistent with neighboring residential uses.

Due to these serious omissions from both the environmental setting/baseline and the project description, the EIR is fundamentally inadequate and requires recirculation and revision before it may lawfully be certified by the Commission. (See CEQA Guidelines § 15088.5 (a)(4); Save Our Peninsula, 87 Cal. App. 4th at 143).

b. Inadequate Responses to Comment

CEQA Guidelines § 15088 requires that that the City evaluate comments received on the draft EIR and provide a written response that “describes the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections).” “In particular, the major environmental issues raised when the lead agency’s position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted.” (CEQA Guidelines § 15088 (c) (emphasis added)). “There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.” (Id.). The evaluation and response to public comments is an essential part of the CEQA process, and failing to comply with CEQA Guidelines § 15088 can be grounds for the issuance of a writ of mandate to set aside an approval decision. (Remy et al., Guide to CEQA (11th ed., 2007), p. 371; Envtl. Prot. Info. Ctr. v. Johnson (1985) 170 Cal. App. 3d 604, 627). The responses to comments on the draft EIR for the Valle Verde Project fail to meet these basic standards of adequacy. Some specific examples are as follows:
Response to Comment #13-3:

Comment 13-3 raises the important issue that the draft EIR fails to quantify the number of residents and staff expected to be onsite at any given time and during times of peak parking demand for purposes of evaluating the Project’s parking, traffic, and emergency evacuation impacts. The comment clarifies that published trip generation rates rather than actual site usage was used to evaluate the Project’s parking, traffic, and emergency evacuation impacts. The critical link however that the comment response fails to address is that the number of residents and staff (and also visitors and guests) must be disclosed to determine whether they match with the trip generation rates used to evaluate project impacts. As the staff report makes clear (discussed in section 1 above and section 3.b below) the draft EIR’s failure to fully disclose the number of people living, working, and visiting the site and the operational components of Valle Verde including the special events hosted onsite, render the EIR fundamentally inadequate.

Response to Comments #13-12, 13-13, and 13-14:

Comments 13-12 - 14 raises the significant issue of the City’s injection of a new requirement into the visual impact thresholds of significance – specifically the “importance” of the affected public view. The comment response provides several examples of EIRs that emphasized important public viewpoints in the selection of visual simulation locations, however does not address the propriety of introducing the “importance” criteria into the actual thresholds of significance. Torino Drive is a public road, and the EIR and the adjacent pedestrian and equestrian trail is used by members of the public including members of the Hope Ranch Riding & Trails Association (see Hope Ranch Riding & Trails Association Map at http://hrta.com/hoperanchtrailmap.aspx). Discounting impacts from this view location is inappropriate and remains unfounded.

Response to Comments #13-19 and 13-20:

Comments 13-19 & 13-20 raise the issue of deferred selection of restoration sites and site selection criteria in the biological resource mitigation measures. The comment response addresses the deferral of basic goals and objectives, and success criteria, but does not address the fundamental issue of whether it is permissible to defer the selection of restoration site criteria. As we maintain in our draft EIR comments, such an approach constitutes impermissible deferral of mitigation without adequate performance standards.

Response to Comment # 13-29:

Discussed at length in the context of Biological Resources Policy 4, the operative word in this policy is “preserve”, as the comment makes clear. The response to comment refers to replacement and restoration, but does not address the comment’s concern regarding the Project’s failure to preserve oak woodland habitat. In this respect the comment response is unresponsive to the comment and does not support a conclusion that the Project is consistent with this policy.
Response to Comment # 11-4:

The comment states that many spring-flowering rare plants are annual or herbaceous perennial species that are either not detectible or identifiable during the fall or winter (hence rendering the winter surveys inadequate). The comment response (referring to response 11-2) states that the only plants that could be overlooked in winter surveys are annual species. This response does not provide any factual support for this statement, and overlooks the fact that perennial species such as *Sanicula hoffmannii* could sprout following the vegetation clearing that regularly occurs on the Valle Verde campus.

5. Conclusion

For all the reasons stated herein, before the Commission can make legally required findings, the proposed CUP must be modified to reduce the level of development allowed and strengthen the conditions. Specifically, we request that the project description be revised as follows:

- Eliminate units 6/7 and 12/13 to achieve compliance with General Plan visual resource policies, eliminate the proposed setback modification from Torino Drive, and help reduce the density of development on the Rutherford lot to allow the Commission to make findings required for CUP approval.
- Eliminate the proposed driveway and parking lot on the Rutherford lot enable the Commission to make required findings regarding intensity of use and visual compatibility on the Rutherford lot
- Eliminate units 16/17, 18, 31, 32, 33 and 34 to preserve oak woodland habitat and achieve compliance with biological and visual resource policies of the General Plan
- Eliminate the southern end of the maintenance area parking lot to achieve compliance with visual resource policies (grading on 30% slopes), and instead utilizing the areas proposed for units 28, 29, and 30 and/or units 1-4 for parking
- Increase on-site parking by constructing an underground parking facility

We also request that the conditions in the CUP be strengthened in the following ways:

- Enhance the parking permit condition to incorporate specific restrictions and an enforcement mechanism to ensure that it is effective at avoiding on-street parking, including for community members attending Valle Verde activities or special events
- Incorporate a condition making demonstrated compliance with the on-site parking requirements a precondition to obtaining building permits
- Incorporate a condition that additional public ABR hearings will be required prior to the final approval of the landscape plan, including tree plantings proposed as part of the habitat restoration plan
• Incorporate a condition that ABR must consider and may require enhancement of the architecture of existing Valle Verde development prior to final architectural approval
• Enhance the habitat restoration plan to set strict limits on future fuel modification, and require that oak seedlings raised onsite be evaluated for viability prior to planting

We would welcome an opportunity to work with City Staff to help refine the above requests to achieve a Project that is acceptable given the many site constraints present on the Valle Verde property.

Sincerely,

LAW OFFICE OF MARC CHYTILO

Ana Citrin
Marc Chytilo
Attorneys for Hidden Oaks Homeowners Association

Exhibit 1: photographs of story poles erected for 4/12/11 Planning Commission site visit
October 18, 2010

City of Santa Barbara Planning Division
Attn: Peter Lawson, Associate Planner
P. O. Box 1990
Santa Barbara, California 93102-1990

RE: Valle Verde Retirement Community Project Draft EIR Comments

Dear Mr. Lawson:

This office represents the Hidden Oaks Homeowners Association in this matter. We have reviewed the draft EIR ("DEIR") for the Valle Verde Retirement Community Project ("Project") and find that it suffers from numerous material flaws and omissions. A legally adequate EIR "must contain sufficient detail to help insure the integrity of the process of decisionmaking by precluding stubborn problems or serious criticism from being swept under the rug." (Kings County Farm Bureau v. City of Hanford (1999) 221 Cal. App. 3d 692, 733). The DEIR for the Valle Verde Project is inadequate when assessed pursuant to this basic California Environmental Quality Act ("CEQA") standard. Additionally, several of the flaws evident in the Valle Verde DEIR, namely the failure to identify, analyze and mitigate significant impacts resulting from land use incompatibility, and the failure to utilize consistent thresholds of significance, result from flaws in the City's environmental review process and constitute a pattern and practice of violating CEQA.

The impact analysis and conclusions of no Class 1 impact in the areas of biological resources and parking is undermined by flawed baseline studies, and an entire category of impacts is missing from the DEIR as a result of the City's failure to address land use incompatibility. These and other flaws are so substantial that the City has deprived the public of the required opportunity to provide meaningful comment on the draft EIR. Moreover, correcting these flaws and filling in gaps in the impact disclosure and analysis will introduce significant new information. In light of this, recirculation of a revised draft EIR is required by CEQA to allow the public to meaningfully review and comment on a legally adequate draft EIR. (See Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal. App. 4th 1184).

The Valle Verde Retirement Community currently includes 213 residential units, 11 studio units, a 45-room 48-bed Assisted Living Facility, 36-room, 80-bed Skilled Nursing Facility, as well as other facilities, on a 59.75 acre site zoned for single family residential use. Valle Verde is allowed to exist in this single-family residential zone district only with a Conditional Use Permit ("CUP"), and by many accounts is currently operating in violation of its existing CUP. The Project will add 33
net new units to the site, the majority of which are proposed adjacent to established single-family residential neighborhoods and/or sensitive oak woodland habitat. To accommodate this increased development, not only is a CUP Amendment required, but also modifications allowing for reduced distance between buildings, reduced front yard setbacks, reduced interior yard setbacks, and a Lot Line Adjustment ("LLA"). An accurate and thorough DEIR is necessary to ensure that this Project does not have significant unmitigated impacts on the environment, including on surrounding single-family residential uses, visual resources, and sensitive biological habitat.

1. Project Description

An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR. (San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27 Cal. App. 4th 713, 730 (quoting County of Inyo v. City of Los Angeles (1977) 71 Cal. App. 3d 185, 193)). Furthermore, “[a]n accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity.” (San Joaquin Raptor/Wildlife Rescue, 27 Cal. App. 4th 713, 730). An EIR must describe and analyze “the whole of an action” that may result in either a direct or reasonably foreseeable indirect physical change in the environment. (CEQA Guidelines § 15378 (a)).

The Project Description in the Valle Verde DEIR is defective because it fails to describe several key components of the Project. First, it fails to identify the number of employees that would be hired, and whether new employees would be full-time or part time. The DEIR vaguely concludes that “[b]ased on the employee shift times and the FTE staff hours it does not appear that the proposed project would add a substantial number of additional staff.” (DEIR p. 5.3-13). However actual data is required to substantiate this claim. (Santiago Water District v. County of Orange (1981) 118 Cal. App. 3d 818, 831 (“The EIR must contain facts and analysis, not just the bare conclusions of a public agency”)). Also, the DEIR fails to identify how many new residents are anticipated after the proposed expansion. While the numbers given for the existing residents demonstrate that on average more than one resident would occupy each residential unit (199 people living in 250 apartment units as of 2009 (DEIR p. 4-8)), the DEIR fails to provide any estimate whatsoever of the range of anticipated new residents. Additionally, the DEIR fails to disclose any information regarding employee shifts, and how many employees would be onsite at any given time, or during times of peak parking demand or peak hour traffic, either under current or post-Project conditions. Without this crucial information regarding the number of people anticipated to reside on-site, and the number of employees onsite at any given time and at peak parking demand and peak hour traffic, not only the Project Description but also the parking, traffic, and emergency evacuation impact analyses are fundamentally defective.

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1 The DEIR fails to specify how many part-time employees currently work at Valle Verde, specifying only that 153 full time equivalent employees worked at Valle Verde in 2009 (DEIR p. 4-8).
2. Environmental Baseline

Baseline studies establish the existing physical conditions by which a lead agency determines whether an impact is significant. (CEQA Guidelines § 15125). The “baseline determination is the first rather than the last step in the environmental review process.” (Save Our Peninsula Committee v. Monterey County Board of Supervisors (2001) 87 Cal. App. 4th 99, 124-125). An inaccurate environmental baseline taints entire impact analysis. (County of Amador v. El Dorado County Water Agency (1999) 76 Cal. App. 4th 931, 952 (“Before the impacts of a project can be assessed and mitigation measures considered, an EIR must describe the existing environment. It is only against this baseline that any significant environmental effects can be determined.”) Additionally, correcting inaccurate baseline studies triggers CEQA’s requirement for recirculation. (CEQA Guidelines § 15088.5, Save Our Peninsula, 87 Cal. App. 4th at 143 (EIR recirculation required where water supply baseline inaccurate)).

a. Biological Resources

Baseline studies that determined which plants occur on the Project site were conducted on December 15, 2009, and January 26 and February 26, 2010. (DEIR p. 5.2-2). As explained and documented in the comment letter submitted by biologist David Magney (October 13, 2010), very few plants are flowering or fruiting during these months. According to Mr. Magney’s expert opinion and based on a review of applicable guidelines, “many plants cannot be fully or accurately identified without examining either the flowers or fruit, [and therefore] surveying for them outside their flowering period will result in negative findings.” (Magney Letter, p. 2). Accordingly, Table 5.2-1 which lists the vegetation observed within the Valle Verde expansion project area is not an accurate characterization of special status plants that are known or likely to be present on the site.

Baseline studies with respect to wildlife are also flawed. The DEIR provides that “[d]uring the performance of field surveys for this EIR, no evidence was observed, such as a game trail with animal tracks, scat, or trampled vegetation, which would indicate that this open non-native grassland habitat [on the Rutherford parcel] was used by wildlife as a movement corridor.” (DEIR p. 5.2-8). However, according to accounts of adjacent residents, a large portion of the grassland area on the Rutherford parcel was mowed just prior to the wildlife surveys conducted by Watershed Environmental. Evidence such as trampled vegetation, showing that the grassland area is used as a wildlife movement corridor would not have been apparent, and according to Mr. Magney, “would almost certainly skew the findings of any biological resources survey of the site.” (Magney Letter, p. 3).

Section 3 (c), infra, discusses how these flawed baseline studies affects the biological resources impact analysis.
b. Parking and Traffic

The DEIR states that Valle Verde currently has 331 existing parking spaces, however public testimony at the DEIR hearing provided that only 292 parking spaces exist on-site based on actual visual inspection of Valle Verde’s parking facilities. Members of the public as well as the Planning Commissioners specifically requested clarification regarding this discrepancy, and if further investigation determines that fewer than 331 spaces exist, the environmental baseline, impact analysis and proposed new parking must be modified accordingly.

The DEIR bases its traffic impact analysis upon trip generation studies performed in 2006. With the ever-increasing mobility of today’s more active seniors, the City must conduct more current studies to ensure a robust and accurate traffic impact analysis.

3. Impact Analysis and Mitigation

An EIR must effectuate the fundamental purpose of CEQA: to “inform the public and responsible officials of the environmental consequences of their decisions before they are made.” (*Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.* (1993) 6 Cal.4th at 1112, 1123). The EIR must reflect the analytic route the agency traveled from evidence to action and may not consist of bare conclusions. (*Kings County Farm Bureau, 221 Cal. App. 3d at 733; Santiago Water District, 118 Cal. App. at 831*). The EIR’s analysis must be sufficiently detailed to foster informed public participation and enable the decision makers to consider the environmental factors necessary to make a reasoned judgment. (*Berkeley Keep Jets Over the Bay Com. v. Board of Port Commissioners* (2001) 91 Cal. App. 4th 1344, 1355). The environmental analysis in the DEIR fails to fulfill CEQA’s informational goal and is therefore inadequate.

“CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible.” (CEQA Guidelines § 15021 (a)). Accordingly, an EIR must identify feasible alternatives and mitigation measures that avoid or mitigate the significant environmental impacts. (CEQA Guidelines §§ 15126.4, 15126.6 (b)). Deferring the formulation of mitigation measures until after project approval is inadequate, unless specific performance standards are identified. (CEQA Guidelines § 15126.4(a)(1)(B), *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307-309). The DEIR fails to require adequate mitigation to avoid or minimize environmental damage, and impermissibly defers mitigation for biological and aesthetic impacts without adequate performance standards. For the City to fulfill its duty under CEQA, more robust mitigation measures must be required or project impacts must be avoided with an alternative.

a. Pattern and Practice: Failure to Adopt Thresholds of Significance

CEQA encourages each public agency to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. (CEQA Guidelines
§ 15064.7). By adopting thresholds of significance, a lead agency “promotes consistency, efficiency, and predictability” in the environmental review process. (Office of Planning and Research, *Thresholds of Significance: Criteria for Defining Environmental Significance* (CEQA Technical Advice Series, 1994), p. 4). The City of Santa Barbara to date has no adopted CEQA thresholds of significance. Rather, thresholds used for individual projects derive in part from the antiquated Master Environmental Assessment (MEA), from the CEQA Guidelines, from Staff memoranda, and other unknown sources in an *ad hoc* manner. The Valle Verde DEIR, like many other City environmental documents, fails to identify the source of the specific thresholds used for individual impact categories. This creates inconsistency and unpredictability in the City’s environmental review of each project, deprives the public of the ability to verify the source of a given threshold, and creates the potential for each environmental document to utilize the threshold that best achieves the desired outcome (*see* Aesthetic Impacts, below for further discussion). This failure to adopt thresholds of significance, undermining the consistency and legitimacy of City environmental documents, constitutes a pattern and practice of violating the requirements of CEQA.

b. Aesthetic Impacts

i. Omitted Impact Analysis

The aesthetic impact analysis focuses almost exclusively on vegetation changes, and fails to meaningfully analyze impacts associated with new built elements of the Project including retaining walls, new buildings, and parking lots. Additionally, the DEIR acknowledges that “[c]ars parked along the east and west sides of Calle de los Amigos are . . . a dominant visual feature” (p. 5.1-3), however it fails to analyze the visual impact associated with increasing the number of parked cars resulting from the proposed expansion. The DEIR also fails to disclose significant aesthetic impacts caused by the removal of oak woodland and coastal sage scrub habitat, and furthermore the mitigation proposed to mitigate the significant biological impacts associated with this vegetation removal (BIO-1) is not only legally inadequate to mitigate the biological impacts (*see* discussion in section 3 (c)(ii), *infra*) but is also legally inadequate to mitigate significant aesthetic impacts because key aspects of the restoration including the location of the restoration areas is deferred to the postapproval stage without any performance standards regarding location and mitigation of aesthetic impacts (DEIR p. 5.2-34). These omissions result in an incomplete impact analysis.

ii. Omission of Applicable Threshold of Significance

To assess the Project’s aesthetic impacts the DEIR utilizes thresholds of significance that differ substantially from the thresholds utilized in other City environmental review documents including the DEIR for the Elings Park Project, another institutional use in the same geographic area, produced by the same consultant just last year. (*Cf.* DEIR p. 5.1-17 and Elings Park DEIR, p. 5.1-25). One threshold included in the Elings Park DEIR that is lacking from the Valle Verde DEIR is that the project would result in a significant aesthetic impact if it would result in a “substantial negative aesthetic effect or incompatibility with surrounding land uses or structures due to project
size, massing, scale, density, architecture, signage, or other design features." (Elings Park DEIR p. 5.1-25). There is no stated or apparent basis for including this threshold in the Elings Park DEIR and not the Valle Verde DEIR, and the disparity between the density of Valle Verde with the density of the surrounding single family neighborhood makes clear that this threshold must be applied to the Valle Verde Project. When evaluated pursuant to this threshold, the addition of substantially more density onsite results in a significant new aesthetic impact.

iii. Flawed Analysis of Impacts to Public Scenic Vistas

The DEIR’s analysis of impacts resulting from new development visible from the public hiking/pedestrian trail is deeply flawed. The visual simulation provided in Figure 5.1-8a demonstrates a dramatic alteration in the scenic vista caused by the introduction of new dwelling units and a driveway into what was previously grassland. The DEIR admits that the “conversion of foreground views of the small non-native grassland/open area to a developed condition would be an adverse impact, but is not considered significant because views would not be from important public scenic viewpoints.” The City’s pattern and practice of failing to adopt CEQA thresholds also manifests itself in the analysis of this impact. Specifically, the DEIR defines “important public scenic views” differently from the Elings Park DEIR, specifically including a new qualifier “and are viewed by a substantial number of citizens.” (Cf. DEIR p. 5.1-1 and Elings Park DEIR p. 5.1-1). This new qualifying factor for “important public scenic view” is expressly used in the impact analysis to reach a finding of no significant impact as described above, because the DEIR states that “views from the trail are not considered to be an important public scenic view due to very low use.” (DEIR p. 5.1-34). Not only is the use of these inconsistent thresholds and definitions suggestive of ad-hoc rationalization of impact insignificance as opposed to good faith analysis, the DEIR also provides no information whatsoever substantiating its claim that the trail experiences very low use. Moreover, the City may not rely exclusively on a given threshold of significance in determining whether an impact is significant, but must consider all substantial evidence supporting a fair argument of a significant impact. (Mejia v. City of Los Angeles (2005) 130 Cal. App. 4th 322). With respect to visual impacts from the hiking/pedestrian trail, the DEIR itself provides substantial evidence of the significance of the visual impact, and the only basis for the conclusion of no significant impact is the DEIR’s reliance on the contrived definition of “important public view location” to discount the importance of the trail (see also fn. 2). Such an approach is fundamentally contrary to CEQA, and demonstrates that a significant unmitigated impact exists that requires identification, analysis, and the adoption of mitigation measures and/or alternatives. One clear alternative that the revised DEIR should consider is removing the proposed dwelling units and driveway that encroach into the foreground views from the trail.

2 The DEIR also explains that the grassland area is a relatively small feature and foreground views of open area located between the project site and the Hidden Oaks neighborhood would remain, however it is the introduction of the new development between the trail and the panoramic views of the mountains, more than the loss of grassland or open area that accounts for the significance of the impact.
The same infirmities that affect the visual impact analysis from the public hiking trail also affect the adequacy of the impact analysis with respect to views from Torino Drive Evaluation Location No. 1. The DEIR provides for example that although the “view is considered to be somewhat unique because mountain views from many public locations in the Hidden Valley neighborhood are obscured or diminished by intervening vegetation and structures. . . . the views from this location are not experienced from a heavily visited public viewpoint as there is a very limited amount of traffic and pedestrian use along this segment of Torino Drive. (DEIR pp. 5.1-20, -21).

These substantial defects in the visual impact analysis demonstrate that significant unmitigated impacts to aesthetics remain, and substantial revision of the EIR, including the development of new mitigation measures and alternatives is required.

c. Biological Resource Impacts

i. Impacts to Special Status Plant Species

Because the baseline with respect to vegetation present in the expansion area is inaccurate, there is no substantial evidence supporting the EIR’s conclusion that no sensitive plants are located within the areas where development and/or fuel modification are proposed (DEIR p. 5.2-12), and accordingly no substantial evidence that the proposed development and/or proposed fuel modification will not have a “substantial effect on protected plant . . . species listed or otherwise identified or protected as endangered, threatened or rare” (Impact Evaluation Significance Threshold B, DEIR p. 5.2-23). Proposed mitigation to address the two perennial sensitive plants that potentially occur on the site (DEIR p. 5.2-31) is inadequate to address impacts to unidentified annual plants that would have been overlooked because of the untimely surveys. New surveys must be conducted at the proper time of year (spring and summer months, see Magney Letter, p. 2), and if those surveys demonstrate that protected plants are indeed present in the area proposed for development and/or fuel modification, then mitigation measures and/or alternatives must be developed to avoid or protect populations of those species.

Additionally, MM BIO-4a proposed to mitigate impacts on Santa Barbara honeysuckle and/or Mesa Horkelia is inadequate because it defers mitigation to the creation of a habitat restoration/mitigation plan, that in turn will determine the selection of restoration sites, the site selection criteria, site preparation and planting methods, planting pallet, maintenance schedule, and mitigation goals, objectives, and success criteria. (DEIR pp. 5.2-38, -39). CEQA does not permit the deferral of mitigation measures without performance standards (CEQA Guidelines § 15126.4(a)(1)(B)) and courts have invalidated mitigation measures like MM BIO-4a that defer mitigation goals, objectives, and success criteria (Defend the Bay v. City of Irvine (2004) 119 Cal. App. 4th 1261, 1275 (deferral impermissible when the agency “simply requires a project applicant to obtain a biological report and then comply with any recommendations that may be made in that report”).
Because unidentified special status plant species may be present in the development and/or fuel modification area, and because the mitigation measure proposed to mitigate impacts to special status plant species fails to mitigate any loss of unidentified species and further represents impermissibly deferred mitigation without performance standards, the DEIR lacks substantial evidence supporting its conclusion that the Project will not have significant unmitigated impacts to special status species.

ii. Impacts to Oak Woodland and Coastal Sage Scrub Habitat

Similar to the above deficiency in MM Bio-4a, MM Bio-1a also defers mitigation to the creation of a habitat restoration plan without adequate performance standards. Specifically the habitat restoration plan, to be prepared following Project approval (at the grading or building permit stage), defers the identification of restoration site selection criteria, where restoration/mitigation will occur, site preparation and planting methods, planting pallet specifics, maintenance schedule, mitigation goals, objectives, and success criteria, and a description of the monitoring methods and reporting that will be used to document and measure the progress of the restoration/mitigation effort. (DEIR p. 5.2-34). This approach violates CEQA prohibition on deferring mitigation measures without performance standards (CEQA Guidelines § 15126.4(a)(1)(B); Defend the Bay, 119 Cal. App. 4th 1261) and moreover the DEIR lacks substantial evidence supporting its conclusion that the Project will not have significant unmitigated impacts to oak woodland and coastal sage scrub habitat.

iii. Impacts to Wildlife Movement Corridors

Because the baseline with respect to wildlife activity in the expansion area is inaccurate, there is no substantial evidence that the proposed development and/or proposed fuel modification will not cause the “elimination or substantial reduction or disruption of . . . wildlife habitat or migration corridors” (Impact Evaluation Significance Threshold A, DEIR p. 5.2-23). New surveys must be conducted with sufficient time following any vegetation clearing to identify any wildlife movement corridors, and if those surveys demonstrate that wildlife movement corridors are present in the area proposed for development and/or fuel modification, then mitigation measures and/or alternatives must be developed to protect those corridors.

iv. Impacts to Sensitive Status Wildlife

According to the DEIR, 16 sensitive wildlife species have a moderate to high potential to occur in the project area including silvery legless lizards and coast horned lizards, both California Department of Fish and Game (CDFG) Species of Special Concern. The soil type underlying the non-native grassland habitat in the proposed development areas (sandy loam) is suitable for both these species. While the DEIR concludes that impacts to these species would be significant but mitigable (DEIR pp. 5.2-25, -31), proposed mitigation is inadequate to reduce impacts to these species below significance. Specifically, proposed mitigation does not include avoidance of the areas
where these species are likely to occur, but rather monitoring during vegetation removal and grading, and the relocation of any lizards encountered. The DEIR provides no performance standards for judging the success of relocation efforts, or even provide any specifics regarding where encountered reptiles would be relocated to. A paper in the scientific journal Herpetologica surveyed the success of repatriation and translocation programs for amphibians and reptiles and concluded that the overall success rate is “considerably lower than for birds and mammals” (birds and mammals programs having an overall project success rate of 44%). (See Exhibit 1 (K. Dodd and R. Seigel, Relocation, Repatriation, and Relocation of Amphibians and Reptiles: Are They Conservation Strategies that Work? Herpetologica, 47 (3) 1991, 336-350)). Dodd and Seigel conclude that amphibian and reptile relocation programs “should be considered experimental unless long-term studies document the feasibility of the movement on the same or a related species.” Because of the uncertainty associated with the success of reptile relocation, there is no substantial evidence that MM BIO-3 (3) will actually mitigate potentially significant impacts to silvery legless lizards and coast horned lizards below significance. (Sunstrom v. County of Mendocino (1988) 202 Cal. App. 3d 296, 306-308 (because the success of mitigation was uncertain, the agency could not have reasonably determined that significant effects would not occur)).

d. Fire Risk and Emergency Evacuation Impacts

The Project site is located in an area of High and Extreme Fire Hazard (Exhibit 2). The Painted Cave fire which burned from the Painted Cave area down to Hope Ranch in one evening, provided a vivid example of how wildfire can sweep down through this area, leaving residents little time to evacuate. The DEIR’s emergency evacuation analysis is entirely inadequate and the conclusion of no significant impact is not supported by substantial evidence (see DEIR p. 5.3-29). One glaring defect in the evacuation impact analysis is that the DEIR only considers the number of residential units needing to evacuate (however fails to disclose the maximum number of residents and staff that could be onsite at any given time), and does not discuss the impact associated with the large number of street parked vehicles needing to evacuate at the same time. (See DEIR p. 5.3-28). Because these streets have only one traffic lane in each direction, and each are completely lined with parked vehicles that would need to pull out of those parking spaces, on-street parking severely impacts the evacuation capacity of Calle de los Amigos and Torino Drive. Residents of Valle Verde and also neighbors of the Project attempting to turn onto Calle de los Amigos or Torino Drive would face a veritable deadlock caused by the extensive amount of street-parked vehicles vacating the street parking spots all in a short period of time. The traffic impact analysis that precedes the evacuation analysis acknowledges the impact to freeflow travel along these streets caused by on-street parking, stating

the use of on-street parking along the project site frontages reduces the perceived lane width by providing “friction” against freeflow travel along the street. Several comments presented during the EIR Scoping public hearing for the project held in June 2009 indicated that drivers were slowed by vehicles moving into and out of the on-street parking spaces. Without the on-
street parking vehicle speeds would increase, which could increase the severity of possible collisions.

(DEIR p. 5.3-25).

The DEIR states that the area may “experience limited periods of congestion as these roadways are not designed to move the population of entire neighborhoods at a single time” (DEIR p. 5.3-29), however does not consider the effects of numerous plausible scenarios such as a broken down vehicle or accident blocking lanes, emergency access vehicles needing to travel towards Valle Verde on the primary evacuation routes, or one of the primary routes being unavailable due to fire conditions in the immediate area such as a fire or explosion originating from the high pressure gas line adjacent to the facility.

Particularly because many residents are in assisted living facilities, experience limited mobility, and are unable to drive or even run or walk out to safety, the level of detail provided in the DEIR with respect to evacuation of the community is woefully inadequate. The DEIR proposes no mitigation whatsoever to address emergency evacuation impacts, relying exclusively on existing protocol at Valle Verde including regularly scheduled fire drills and the bussing of residents of staff to an undisclosed facility. The DEIR neither discloses how many busses are available for evacuation, how many individuals can be transported at one time, or how Valle Verde would conduct an evacuation if a quick-moving fire and/or lane closures precluded busses from returning to gather more residents. The DEIR also fails to provide any estimates of time required to evacuate the facility, even under a “best case” fire scenario. Adding a considerable number of residents without articulating how the existing population could feasibly be evacuated results in a significant unmitigated impact in the area of emergency evacuation. A revised EIR must analyze all plausible fire hazards and evacuation scenarios and provide a detailed and robust evacuation plan that accommodates all existing and proposed residents and staff. Absent these changes there is no substantial evidence supporting a conclusion that the Project’s emergency evacuation impacts are insignificant.

e. Land Use Impacts

One class of environmental impacts recognized under CEQA are land use impacts. (See CEQA Guidelines Appendix G § IX; see also City of Santee v. County of San Diego (1989) 214 Cal. App. 3d 1438). The City’s own MEA discuss how land use impacts should be evaluated in City environmental review documents, including a delineation of impacts anticipated as a result of project implementation including change in use type, change in population density, and potential for incompatibility with surrounding uses, etc., and the specification of site specific mitigation measures or alternatives which could serve to lessen potential project impacts. (MEA, p. 49 (Environmental Review Guidelines: Land Use)). Rather than adhere to these guidelines, the DEIR addresses only a subset of land use impacts, namely consistency with plans and policies, and completely omits any analysis or mitigation of the Project’s land use compatibility/neighborhood compatibility.
The City’s approach to analyzing the potential land use impacts of this project is problematic in several respects. First, it is contrary to the approach contemplated both by the CEQA Guidelines and by the City’s CEQA Land Use Guidelines. (See CEQA Guidelines Appendix G § IX, MEA, p. 49 (Environmental Review Guidelines: Land Use)). Second and more importantly, by failing to analyze land use impacts in a comprehensive manner, the DEIR results in an understatement of the Project’s incompatibility with surrounding land uses. Because the Project involves the expansion of a substantial retirement community permitted only as a “conditional use” in a residential neighborhood, an evaluation of the Project’s land use impacts is imperative, and in particular the compatibility of this conditional use with other surrounding land uses (aka neighborhood compatibility). The surrounding residential neighborhood is not merely affected by aesthetics, traffic, or parking, but rather it is the combination of these effects that determines the Project’s compatibility with the surrounding neighborhood. The DEIR’s piecemeal approach to analyzing the Project’s land use impacts also hinders the identification of mitigation measures that comprehensively address the Project’s compatibility with the surrounding neighborhood.

i. Pattern and Practice: Failure to Analyze Land Use Impacts

Not only does the DEIR’s failure to include a land use impact discussion including analysis and mitigation for neighborhood incompatibility impacts constitute a serious flaw in the DEIR, it is also a serious flaw in the City’s environmental review process in general. All or nearly all of the City’s environmental documents improperly lack separate consideration of land use impacts, including neighborhood incompatibility and conflicts with policies, zoning ordinances and regulations. At the DEIR hearing for the Elings Park Project, City Staff stated that it is the City’s practice to address land use impacts in the context of other impact areas, and not to include a separate land use section in the environmental document. This omission of a fundamental element of an adequate EIR constitutes a pattern and practice of overlooking, ignoring or avoiding the identification and consideration of these issues in all environmental review documents in systematic violation of CEQA.

ii. Neighborhood Incompatibility

The common theme that has been expressed over and over in scoping comments, comments on the DEIR, and a recent zoning complaint, is that Valle Verde already causes severe, sustained, and unreasonable impacts on the quiet enjoyment of adjoining and surrounding residences and thus are incompatible with the surrounding residential uses. The Project proposes additional growth that will further increase and exacerbate these conflicts with residential land uses, without adequate mitigation. The DEIR’s failure to accurately characterize the environmental baseline, discussed herein, results in the understatement of Project impacts in the areas of traffic and parking, and consequently neighborhood compatibility as well. When accurately characterized, the Project’s incompatibility with the surrounding neighborhood is a significant impact.
The proximity of proposed Project components to residential neighborhoods adds to the severity of the conflict between residential and Valle Verde uses. The failure to recognize the significant land use conflicts associated with locating parking and other facilities adjacent to residences contributed to the DEIR’s failure to meaningfully consider Project alternatives that would reduce the Project’s land use impacts. Planner Christina McGinnen submitted a letter dated October 11, 2010 that details the various aspects of the Project that result in neighborhood incompatibility.

iii. Inconsistency with Plans and Policies

CEQA recognizes that a Project has potentially significant environmental effects where it conflicts with applicable plans or policies designed at least in part to protect the environment. (See CEQA Guidelines App. G § IX (b); Pocket Protectors v. City of Sacramento (2004) 124 Cal.App.4th 903, 930). The Project is inconsistent with a number of applicable policies designed to protect the environment, resulting in potentially significant impacts that are not disclosed or mitigated in the DEIR. Letters submitted by Planner Christina McGinnen dated October 11, 2010 and March 12, 2009 detail many of these conflicts including zoning conflicts, and several additional examples are as follows.

Biological Resource Policy 4.0 in the City’s General Plan (Conservation Element) provides that “[r]emaining Coastal Perennial Grasslands and Southern Oak Woodlands shall be preserved, where feasible.” The Project will result in the removal of Southern Oak Woodland habitat by virtue of new development including residential units and parking lots encroaching into existing habitat areas, and from expanded fuel management areas. The DEIR concludes that the Project is ‘potentially consistent’ with this policy due to mitigation BIO-1a requiring replacement of oak woodland habitat (DEIR p. 6-8), however BIO-1a is flawed as discussed in section 3, supra. More importantly, Policy 4.0 requires ‘preservation’. Removal and revegetation does not constitute ‘preservation’ and the DEIR does not include any evidence even suggesting that preserving these habitat areas is infeasible. The two Reduced Biological Resource Impacts alternatives identified in the DEIR appear feasible, and the DEIR offers no evidence to the contrary. Additionally a reduced development alternative could feasibly avoid removal of Southern Oak Woodland habitat. As such, the Project is inconsistent with this Conservation Element Policy, resulting in a significant Land Use impact and adding to the significance of the Project’s significant biological impacts. Adoption of a feasible alternative to “preserve” this critical habitat is therefore required. (See Pub. Res. Code § 21002.1).‘

City Charter section 1507 is an important provision requiring that land development not exceed available services and resources. Specifically section 1507 provides:

It is hereby declared to be the policy of the City that its land development shall not exceed its public services and physical and natural resources. These include, but are not limited to, water, air quality, wastewater treatment capacity, and traffic and transportation capacity. . . In making land use decisions, the City shall be guided by the policies set forth in this section.
Discussed in the Traffic and Parking section, *infra*, the Project exceeds physical resources including evacuation capacity and parking availability. The DEIR is defective for failing to identify a potential inconsistency with this section of the City Charter, and for analyzing and mitigating the significant land use impacts resulting from the inconsistency.

In sum, neighborhood incompatibility, and inconsistency with plans and policies designed to protect the environment, are significant land use impacts of the Project and must be recognized as such. The DEIR’s failure to recognize these impacts precludes the DEIR from devising mitigation measures and alternatives that treat these impacts in a comprehensive manner. The Project’s significant land use impacts, discussed above, constitute significant new information requiring recirculation of the DEIR. (*See CEQA Guidelines § 15088.5 (a) (1)).

f. Traffic and Parking Impacts

i. Traffic

Discussed in the Project Description section, *supra*, the DEIR provides insufficient information regarding the number of employees onsite at any given time, number of new employees, and employee shift times, and number of new residents, to support any conclusions regarding the significance of the Project’s traffic impacts. Moreover, the trip distribution assumptions (*see DEIR p. 5.3-13*) are questionable and a full disclosure of the methodology used should be provided.

The EIR specifically fails to address the cumulative effects of Project traffic to the City’s Las Positas 101 interchange, and other intersections that area operating beyond capacity. Intersections associated with this interchange are beyond design and operational capacity, operating at LOS D & E (AM and PM respectively) for Southbound 101 on ramp. (*Exhibit 3*). The City admits adding any additional trips would exceed the traffic threshold, and so has adopted an informal convention to consider only projects adding 5 or more PHT to any such intersection to qualify as a significant impact. In the past 12 months, this convention was used in this project, for the BevMo! project, and for Elings Park’s expansion plan’s traffic analysis - all finding insignificant impacts, and likely many others. CEQA requires that this project’s DEIR examine the cumulative impacts of serial projects, and the incremental and cumulative effect of adding more trips on top of other project’s “insignificant” additional trips. The Project’s cumulative impacts to this intersection, considered in conjunction with the multitude of other projects that have been approved or in consideration by the City, are clearly significant.

ii. Parking

Discussed in the Environmental Baseline section, *supra*, the baseline with respect to on-site parking is under dispute and if proven incorrect would affect the whole parking impact analysis in the DEIR and require revised analysis, and new mitigation measures and/or alternatives. Moreover, as
discussed above in the context of traffic, the DEIR fails to disclose how many new residents and staff will be added with the proposed expansion, and therefore the DEIR cannot meaningfully assess the adequacy of proposed on-site parking.

On-street parking was a dominant concern expressed at public hearings for this Project, however the DEIR fails to provide adequate analysis or mitigation measures to address this significant impact. The DEIR states that “[o]n-street parking is allowed along both Calle de los Amigos and Torino Drive near the project site and along most of the length of both roads.” (DEIR p. 5.3-24) However while on-street parking is allowed for members of the public in general, the DEIR fails to clarify whether the prior CUP for Valle Verde allowed residents, staff, and/or visitors of Valle Verde to use on-street parking. In the event that the prior CUP did not specifically disallow on-street parking, it did provide that adequate on-site parking must be provided. A full discussion of Valle Verde’s compliance with its existing CUP must be included in the DEIR to provide the information necessary for the public to assess the adequacy of newly proposed mitigation measures that will be incorporated as conditions in the new CUP.

The currently extensive amount of on-street parking generated by Valle Verde demonstrates there is not currently adequate on-site parking, or even if there are underutilized spaces on-site, residents, visitors and staff of Valle Verde continue to park along Calle de los Amigos and Torino Drive (“parking surveys found that 60 project-related cars were parked along the adjacent streets throughout the day (DEIR p. 5.3-24). The impacts associated with excessive on-street parking include visual impacts, emergency evacuation impacts, and land use incompatibility impacts (discussed in the context of each impact category, supra). Additional analysis and mitigation is required to address these impacts flowing from the patent inadequacy of parking facilities on the Valle Verde site, and without this additional analysis the DEIR lacks substantial evidence to support a conclusion that the Project does not have Class I impacts.

1. Proposed Parking Mitigation Measures:

Underground parking facility. Constructing an underground parking facility at a centrally located portion of the Project site could provide sufficient parking spaces at a convenient location to mitigate the existing overflow parking problem experienced on Calle de los Amigos and Torino Drive, while also reducing the need for additional on-site parking lots that encroach into sensitive Oak Woodland areas and abut residential neighborhoods. An underground parking facility would also allow for the preservation of green spaces currently accessible to residents, and may permit the relocation of new residential units to existing parking lots away from the site periphery. Underground parking was employed by the City in the Sandman Inn Project. In this respect an underground parking facility offers the benefits of the Relocate Proposed Units Alternative without the loss of open space in the heart of Valle Verde.

Enforced requirement that employees park on-site. Use of on-street parking by Valle Verde employees is an ongoing problem recognized in the DEIR. A clear prohibition on employee street
parking would help alleviate the significant impacts resulting from excessive on-street parking including aesthetic and emergency evacuation impacts. One potential mechanism for enforcing such a requirement would be requiring all employees to post employee stickers on their vehicles, and for Valle Verde to be required to randomly conduct inspections of parked vehicles along Calle de los Amigos and Torino Drive to determine whether employees are impermissibly utilizing street parking. This condition was imposed by the City upon BevMo! to address on-street employee parking. Together with providing on-site employee parking sufficient for the maximum number of employees on site at one time, this mitigation measure could all but eliminate on-street employee parking impacts.

g. Cumulative Impacts

To be legally adequate the EIR must include a “list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency”. (CEQA Guidelines § 15130 (b)(1)(A)). The City has a duty to use reasonable efforts to discover, disclose, and discuss related projects. (See San Franciscans for Reasonable Growth v. City & County of San Francisco (1984) 151 Cal. App. 3d 61, 74 (public agency abused its discretion by omitting other closely related projects that could have been easily ascertained)). The cumulative impact analysis in the DEIR is artificially limited to a 1 mile radius that excludes many related projects, without any explanation (see DEIR p. 4-11, figure 4.3-1). This limitation truncates the cumulative impact analysis, excluding other projects that together with Valle Verde, could result in cumulative impacts in each impact category. A thorough revision of the cumulative impact discussion is required to account for all projects that when considered in conjunction with Valle Verde could result in significant cumulative impacts.

4. Alternatives

An EIR must describe a range of alternatives to the proposed project, and to its location, that would feasibly attain the project’s basic objectives while avoiding or substantially lessening the project’s significant impacts. (Pub. Res. Code § 21100(b)(4); CEQA Guidelines § 15126.6(a)). A proper analysis of alternatives is essential for the City to comply with CEQA’s mandate that significant environmental damage be avoided or substantially lessened where feasible. (Pub. Res. Code § 21002; CEQA Guidelines §§ 15002(a)(3), 15021(a)(2), 15126.6(a); Citizens for Quality Growth v. City of Mount Shasta (1988), 198 Cal.App.3d 433, 443-45). As stated by the California Supreme Court, “[w]ithout meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process. . . . [Courts will not] countenance a result that would require blind trust by the public, especially in light of CEQA’s fundamental goal that the public be fully informed as to the consequences of action by their public officials.” (Laurel Heights Improvement Assn., Inc. v. Regents of the Univ. of Cal. (1988) 47 Cal.3d 375, 404 (“Laurel Heights I”)). The DEIR’s discussion of alternatives does not meet these standards.
The DEIR’s alternatives analysis is fatally flawed due to the failure to include any assessment and evaluation of the feasibility of alternatives. The City appears to want to obscure this critical element of the environmental review process from the public and provide no information on the feasibility of alternatives, claiming to defer this to the political process. Without explanation of the relevance or significance, the EIR declares: “It is the public agency (Planning Commission), not an EIR, that bears the responsibility for making definitive findings as to whether specific economic, legal, housing, social, technological, or other considerations make infeasible or feasible the ‘potentially feasible mitigation measures or alternatives identified in an EIR’” DEIR 9-1. The apparent purpose of this language is to attempt to give decisionmakers broad latitude to impose other, non-environmental factors in the final environmental analysis. A core problem with this approach is that it deprives the public of the opportunity to review and comment on the feasibility of alternatives during the DEIR process when formal agency responses are required. Justifications regarding the infeasibility of alternatives arising for the first time at the approval hearing, will not allow the public to verify the accuracy of those justifications, and provide meaningful comment to decisionmakers. The City is required to make a good-faith attempt at full disclosure in the DEIR, and does not do so by concealing information regarding the feasibility of alternatives to the approval stage. (See CEQA Guidelines § 15151). This has been another City pattern and practice violating CEQA that divorces the public from the CEQA process.

The DEIR’s failure to analyze the reduced development alternative is also a serious flaw in the alternatives analysis, indicating that the DEIR failed to analyze a reasonable range of alternatives. The DEIR’s explanation for failing to include this standard Project alternative, that it is not required because all the Project’s significant impacts are adequately mitigated, is wholly unsupported by substantial evidence as discussed throughout these comments. Significant unmitigated impacts remain in the areas of aesthetics, biological resources, emergency evacuation, land use, and parking, such that the consideration of a reduced development alternative is required.

5. Public Trust Issues

The City has obligations under the public trust doctrine that would be violated by approving the project as proposed. (See generally Center for Biological Diversity v. FPL Group, Inc. (2008) 166 Cal. App. 4th 588). Further, those obligations and the Project’s impacts to Public Trust resources must be articulated in the DEIR as applicable authority and guiding principles. (See Pocket Protectors, 124 Cal.App.4th at 930). Specifically, the City has an obligation to protect state wildlife under the public trust doctrine. The DEIR relies on legally inadequate mitigation measures to address Project’s impacts to biological resources, including state trust wildlife. Additionally, the Project proposes development on habitat for State protected wildlife species. (See DEIR p. 5.3-22). The City would breach its trust responsibilities were it to approve a project that caused harm to state wildlife and sanctioned the take of rare, sensitive or endangered plant or animal populations. (Center for Biological Diversity, 166 Cal. App. 4th 588). Without mitigation that is demonstrated effective in protecting special status species for example, the City cannot ensure that its public trust responsibilities are being fulfilled. Based on the information relied on in these comments, it has not.
The Project’s inconsistency with resources protected by the public trust doctrine is an independent potential significant project impact that was not identified and considered in the DEIR. (Cf Pocket Protectors 124 Cal.App.4th at 930). These CEQA defects must be cured through recirculation of a revised DEIR that addresses the public trust doctrine as another source of authority controlling the City’s consideration of this project.

6. Recirculation of the EIR Is Required

A lead agency is required to recirculate an EIR when significant new information is added to the EIR after the draft EIR has been made available to the public but before certification. (CEQA Guidelines § 15088.5 (a)). Some examples of significant new information requiring recirculation listed in this section of the Guidelines, include a disclosure that

1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented

2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project proponents decline to adopt it.

4) The draft EIR was so fundamentally and basically inadequate and conclusory meaningful public review and comment were precluded.

The draft EIR for the Valle Verde Project will require recirculation for numerous reasons, and each example provided in the Guidelines of disclosures that would require recirculation apply here. Significant new impacts that were omitted from the DEIR include significant aesthetic impacts concealed with the use of constrained significance thresholds and land use impacts associated both with neighborhood incompatibility and inconsistency with applicable plans and policies. Additional baseline studies in areas including parking and biological resources will involve disclosures that will significantly increase the severity of the Project’s significant environmental impacts. Constructing an underground parking facility is a significantly different mitigation measure that would clearly lessen the Project’s significant environmental impacts, has been raised in public comment at both the scoping and draft EIR phases, and yet has not been incorporated into the EIR. Finally, the overall draft is so fundamentally and basically inadequate and conclusory that meaningful public review and comment were precluded. Each of these triggers for recirculation, and others, are discussed in more detail in the following sections.
7. Conclusion

For the reasons stated herein, the DEIR is inadequate and requires substantial revision and recirculation for public review.

Sincerely,

LAW OFFICE OF MARC CHYTILIO

Ana Citrin
Attorneys for Hidden Oaks Homeowners Association

Exhibits:


Exhibit 2: City of Santa Barbara Fire Department Wildfire Plan, January 2004, Figures 4 and 5

Exhibit 3: Transportation Existing Conditions Report, Plan Santa Barbara (August 2008)

CC: Julie Rodriguez, Planning Commission Secretary
RELOCATIONS, REPATRIATIONS, AND TRANSLOCATIONS OF AMPHIBIANS AND REPTILES: TAKING A BROADER VIEW

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The review of "relocation, repatriation and translocation" (RRT's) of amphibians and reptiles by Dodd and Seigel (1991) provides a summary of the literature on the use of these techniques for conservation purposes. Their recommendations are generally sound, and apply not only to these conservation practices, but equally well to any of the myriad possible techniques used to help insure the preservation of a species. However, I believe that the evidence they use for support is weak, that their dissatisfaction with past efforts is only partially justified, and thus their conclusions extreme. Basically, the question that they attempt to answer is: given that conservation dollars are always limited, are RRT's cost effective and appropriate procedures for amphibian and reptile conservation programs? They find that these techniques have been successful in only a few cases, and thus they propose a rigid set of criteria to be addressed before any future attempts are begun. My comments on their work focus on two main points: whether amphibians and reptiles are generally poor candidates for RRT's, and how success should be determined.

REPTILES AND AMPHIBIANS AS RRT CANDIDATES

As Griffith et al. (1989) did for a much larger number of studies of birds and mammals, Dodd and Seigel reviewed RRT programs for 25 species of amphibians and reptiles and found that of the 11 projects that could be defined as successful or unsuccessful by their standards, five (45%) were successful. This is slightly higher than the success rate reported for 198 RRT's reviewed by Griffith et al. Even so, the use of this type of analysis is exceedingly crude, because it assumes that snakes, lizards, turtles, crocodilians, salamanders, and anurans have comparable potential for successful RRT. Certainly there is wide variation within each order as well as between them, and anyone considering an
RRT for a particular species should be mainly interested in experiences from similar species. For example, Griffith et al. (1989) found that RRT success varied dramatically between taxa in different trophic levels, and also that life-cycle stage when relocated was important. Dodd and Seigel also treat as similar those RRT programs that differ greatly in operating budgets, number of animals released, and origin of released animals (wild-caught or captive raised). Griffith et al. (1989) found all of these factors relevant to the success rate of RRT’s for birds and mammals.

Because Dodd and Seigel did not control for important variables, their 25-study analysis is clearly a case of comparing apples to oranges. However, doing the comparison properly would be difficult, because the sample size is so small. Some additional studies to add to the list for anyone interested in attempting such an analysis are listed in Comly et al. (1991) [especially the 13 described by Cook (1989), but see also Humphrey et al. (1985), Stout et al. (1989a), Tom (1988), and additional references below]

Dodd and Seigel were unable to find any examples of successful RRT’s for any species of snakes, turtles, anurans, or salamanders, despite the fact that the literature is replete with them [see Wilson and Porras (1983) for one recent relevant review]. Some of the examples that I cite below are “translocations” under the definition given by Dodd and Seigel, but because they involve species not recently native to the release area, they may also be called “invasions”. I anticipate the objection that the deliberate or accidental release of a species that is later considered an invader is somehow different from the release of a species for conservation purposes. However, the distinction is important only in terms of human intentions and values (Price, 1989), and the theoretical and empirical studies on biological invasions are directly relevant to RRT’s (Griffith et al., 1989; Konstant and Mittermeier, 1982; Pimm et al., 1988; Roughgarden, 1986a). Both involve the establishment of a species through the release of a small number of individuals into an area inhabited by few or no conspecifics. Attempts to identify the general life history and genetic characteristics of species that are either successful colonizers or extinction-prone have found little empirical support; for each generalization there are numerous exceptions (Burke and Humphrey, 1987; Ehrlich, 1986; Newsome and Noble, 1986). For example, elephants exhibit most of the traits commonly attributed to poor invaders and extinction-prone species, yet are pests in some areas. The main trait clearly shown to be useful in identifying extinction-prone species is initial rarity (Pimm et al., 1988; see references in Burke and Humphrey, 1987), which similarly characterizes both deliberate and accidental RRT’s. Furthermore, conservationists may learn from a study of relevant invasions, because most invasions involve few individuals, released with a minimum of care in a strange environment, and as such are excellent examples of what can be done on a tight budget.

For snakes, the now 10 yr-old repatriation of Nerodia sipedon into a national park in New York (Cook, 1989) and Boiga irregularis in Guam (Savidge, 1987) are two examples of highly successful RRT’s. The current discontinuous range of Elaphe longissima longissima is a result of multiple RRT’s by the Romans some 2000 yr ago for rodent control in their temples (Mehrtens, 1987). For turtles, in California alone Chelydra serpentina, Apalone spinifera, and Trachemys scripta have populations clearly established by RRT’s (Mooney et al., 1986). Similarly, Trachemys scripta has been firmly established through relocations to a variety of sites throughout the eastern United States (Conant, 1975). The tortoise Geochelone pardalis has been translocated into two nature reserves in South Africa, the first pre-1930 and the second pre-1966, and both populations are “flourishing” (Brooke et al., 1986). Geochelone elephantopus hoodensis has apparently been successfully repatriated now 15 yr after the initial release (Anonymous, 1986). For anurans Rana catesbiana in the American southwest (Schwalbe and Rosen, 1988), Xenopus laevis in California (Mooney et al., 1986),
Dendrobates auratus in Hawaii (McKeown, 1978), the repatriation of Bufo calamita into a British reserve (Raw and Pilkington, 1988), and the remarkable success of Bufo marinus (e.g., Eastal and Floyd, 1986) in numerous countries and habitats throughout the world are but a few of the many examples of successful RRT’s. Examples of salamanders include Ambystoma tigrinum in the American southwest (Collins, 1981), Necturus maculosus in New England and apparently Desmognathus quadramaculatus into parts of Georgia (Conant, 1975). Finally, to add to Dodd and Seigel’s list of successful lizard and crocodylian RRT’s: Chameleo jacksonii and Iguana iguana in Hawaii (McKeown, 1978), Anolis sp. in numerous Caribbean Islands (Roughgarden, 1986b) and Florida (Wilson and Porras, 1983), Anolis grahami released in Bermuda to control mosquitos (Simmonds et al., 1976), Hemidactyulus turcicus and H. frenatus into many tropical, sub-tropical, and even some temperate habitats all over the world, and Caiman crocodilus in Florida (Ellis, 1980) are just a few of the possible examples.

Finally on this topic, I agree with Griffith et al. (1989) that researchers and conservationists interested in understanding why some species under some conditions may be promising candidates for RRT, and others not, should investigate the literature on biological invasions, which has had several recent and thorough reviews (e.g., Castri et al., 1990; Drake et al., 1989; MacDonald et al., 1986; Mooney and Drake, 1986; Wilson and Porras, 1983). This body of literature reviews the data on successful and unsuccessful invasions by a number of species from a variety of taxa, and has a body of theory relevant to conservation issues (i.e., Ritcher-Dyn and Goel, 1972).

**What Should We Call “Success”?**

A second major thrust of Dodd and Seigel’s essay is that some workers, particularly Burke (1989), have been premature in calling their efforts a “success”. For their analysis of 25 RRT’s reported in the literature, they defined a project as a success only if “evidence is presented that a self-sustaining population has been established”, and that “the population is at least stable”. It is not clear how they applied these criteria in the cases that they reviewed. For example, at what point can one call a population “self-sustaining”, and how does one determine stability? They suggest that mere successful reproduction is insufficient. However, no population, “natural” or otherwise, can be defined as indefinitely, invariably stable, and the longer a population is monitored, the less stable it appears to be (Pimm and Redfern, 1988). Later, they suggest that a monitoring program of 10–15 yr for anurans and >20 yr for tortoises would be appropriate for determination of success. Again, it is not clear if they applied these criteria to the studies that they reviewed. Obviously, few RRT studies of this duration have been completed.

I welcome Dodd and Seigel’s definitions of success for RRT’s, and I encourage other interested workers to air their views on how to define success (e.g., Phillips, 1990). For example, rather than simply declaring a particular RRT a success, I stated that “the usefulness of relocation for tortoise conservation is unclear” (Burke, 1989: p. 295) and, later, that I had shown that “it is possible to relocate and reintroduce gopher tortoises fairly successfully” (Burke, 1989: p. 295, italics added here). These results were further presented in quantitative terms. Generally, I called the project “fairly successful” because the same 31 individual tortoises stayed at the release site (from which tortoises were extirpated before it became a county park) for 2 yr after release, they reproduced both years, and their offspring survived and grew. In addition, the release site was public land with a legal commitment to manage for maintenance of natural habitat in perpetuity, predator-control programs were in place, and the tortoise population exceeded the size that population simulation models suggested to be the minimum necessary for survival for at least 200 yr with a >90% probability under these conditions (Cox et al., 1987). This tortoise population
continues to thrive, now 5 yr after release. I plan to write the 20 yr evaluation in due time.

Other than deliberate attempts to mislead readers, authors are not responsible for misinterpretations of their work, and I am unaware of any evidence that my results have encouraged the use of RRT's for gopher tortoise or any other amphibian or reptile. On the contrary, the appropriate regulatory agency, the Florida Game and Fresh Water Fish Commission, recently proposed making Florida tortoise RRT's obsolete with the consideration of an incidental take law which would allow the destruction of tortoises and habitat in exchange for fees. Few developers will go to the expense of a tortoise RRT unless legally required to do so.

**ERRORS**

Dodd and Seigel's essay has four additional problems that bear correction; the first three are relatively minor, but the fourth is more serious. First, Dodd and Seigel recommend that populations released as RRT's should mimic the demographic characteristics of "natural" populations. This is a point of some contention, and other views have been presented by Berry (1986) and Landers (1981). Based on the limited data available, these authors suggested that RRT's may be more successful if various manipulations, such as releasing female tortoises first or releasing fewer adult males, are used. My work (1989) addressed this in part, but this issue is not resolved and is likely to have different solutions for different species and release program combinations.

Next, they misquoted Burke (1989) as "claiming relocation had no effect on existing social structure of resident tortoises . . . despite data to the contrary on related species (Berry, 1986)." Both points are incorrect. There were no tortoises resident on the release site before that project, and I have never released tortoises into an area where there were resident tortoises. Apparently they misunderstood my research and results on the impact of social structure of the released population. Also, Berry (1986) did not present data on this specific point, but instead she postulated, from existing data on social behavior and movements, possible impacts on RRT success.

Later, they criticize the studies of Burke (1989), Fucigna and Nickerson (1989), Godley (1989) and Stout et al. (1989b) as being of too short a duration to justify claims of "long-term relocation success". I agree, but also point out that none of these studies claimed long-term success.

The fourth issue is that of population genetics and minimum viable population (MVP) analysis for RRT's. Dodd and Seigel focus on one small aspect of MVP analysis, that of population genetics, and point out that it has rarely been discussed in the RRT literature for amphibians or reptiles (but see Burke, 1989). I suggest that over the time frame relevant to most of these types of conservation efforts, population genetics is instead more important to another concern not addressed by Dodd and Seigel: the risk of mixing distinct gene pools through careless RRT's, as pointed out and documented by Greig (1979) and Templeton et al. (1986). Not only could such mixing threaten the survival of locally adapted populations, but current and future evolutionary studies on the species could be rendered impossible or misleading by careless RRT's. This reason alone is sufficient to recommend strongly that genetic studies be undertaken prior to RRT's (see, for example, Lamb et al., 1989), and that RRT's be carefully documented in the literature. It is also important to recognize that if a population is on lands scheduled for extensive alteration, any individuals that are not moved, but are killed instead, may represent genetic material lost forever.

Simberloff (1988), Shaffer (1987), and Lande (1988a) pointed out that MVP analysis (and its modern descendant, population viability analysis: Gilpin and Soulé, 1986) is based on more than population genetics, as genetic concerns are only likely to be important to a small population of a normally outbreeding species going through an extended, multi-generational bottleneck. They predict that under the
100–200 yr time frame considered by most conservation efforts, demographic and environmental factors will be more important, and thus most MVP and PV analyses do not take genetics into account (e.g., Burke et al., 1991; Cox, 1989; Cox et al., 1987; Grier, 1980; Lande, 1988b; Shaffer, 1988); thus the use of any sort of 50/500 rule is superseded. Population simulation for realistic and useful MVP analysis or PVA requires advanced computer programming skills and detailed knowledge of both the species’ biology and the important environmental factors that impact populations. Current development of new PVA’s, involving analysis of meta-populations subdivided into many sub-populations, promises to be particularly applicable to small, RRT-established populations. While a MVP analysis or PVA can be a useful component of a species recovery plan, it is not a trivial endeavor (Burke et al., 1991). Few have been completed for amphibians or reptiles (but see Cox, 1989; Cox et al., 1987; Soulé, 1989).

RECOMMENDATIONS

Dodd and Seigel’s recommendations for future RRT’s are generally sound, and I shall only comment on a few of them. Readers interested in reviewing these points in greater detail should see Price (1989). I agree that for no species of amphibian or reptile do we have a thorough knowledge of conditions that maximize chances for a successful RRT. I also agree that each RRT should have an experimental design allowing appropriate statistical tests of manipulations hypothesized to increase success. For species likely to be subject to many RRT’s, a coordinated research program should be established to allow standardization of basic technique with replication and testing of suggested improvements. For example, the Florida Game and Fresh Water Fish Commission has permitted over 75 relocations (Dodd and Seigel, 1991), but it required only that applicants adhere to a general protocol, and did not recommend investigation of potential improvements. Funding for such programs should be available from the development forces that make them necessary.

Dodd and Seigel appropriately call for longer monitoring of RRT’s, to insure that initial indications of success are borne out. They point out that this involves a substantial commitment of resources that in many cases may not be feasible. For example, when the proposal for tortoise relocation described in Burke (1989) was reviewed, the funding agency refused to fund more than 2 yr of follow-up, because current legal restrictions did not require more. This does not lessen the importance of long-term monitoring, only its likelihood. However, I would not draw the conclusion that further turtle RRT’s should not be considered until 20 yr has passed to allow judgment on the success of those already done, for two reasons. First, extinctions of RRT populations must be considered against the baseline extinction rates of similarly sized unaltered populations. Thus, if 10% of the RRT’s of a particular species fail, this may not be because of the RRT itself, but may be a rate characteristic of subpopulations of the species in general (Diamond, 1984; Karr, 1990). Secondly, conservation biology is correctly described as a “crisis science” (Soule, 1985), and as such may not always be subject to the same statistical standards as most other scientific fields. In some cases, it may be necessary to accept higher than normal risk of Type I errors and to make decisions based on preliminary trends in data that may not reach the \( P = 0.05 \) level of significance, but are strongly suggestive of the value of a technique.

Dodd and Seigel also review criteria for choosing release sites, and thus generalize the example and discussion presented in Burke (1989). For example, there may be numerous appropriate sites for gopher tortoise re-introductions in Florida, areas from which tortoises have been extirpated, but are now relatively safe, and have low probability of natural recolonization (Burke, 1989). In a perfect world, potential RRT organizers would have sufficient time to study the biology of the species concerned, investigate a variety of potential release
sites, and choose the best candidates. Inability to do this should be fit into the cost/benefit analysis for the RRT project; for example, if no good release sites are available, obviously an RRT is inappropriate.

CONCLUSION

Discussions of RRT's are important and useful, because RRT's may form an expensive part of the conservation program for a vulnerable species. For example, discussion between relevant agencies is underway on plans for a reintroduction of the endangered tortoise *Cophurus flavomarginatus* from Mexico into Big Bend National Park Texas (Morafka, personal communication), and for the captive-bred offspring of the world's rarest tortoise (*Geochelone yniphora*) to be used for both an introduction into entirely new habitat and to bolster extant populations (Burke, 1989). Several re-introductions are also being planned for *Sphenodon guntheri* (Daugherty, personal communication). The principal question remains as to whether RRT's are a cost effective method of improving a species' chances of survival. I suggest that generalization based on comparisons of results from a broad mixture of species and RRT techniques is not an appropriate way to resolve this question. Instead, relevant literature for the species under consideration should be reviewed, and the potential for success of an RRT should be considered in a cost/benefit or risk analysis (Price, 1989; Soulé, 1989). No one claims that RRT's are a panacea, but they should be considered an option in any recovery program.

Acknowledgments.—I thank T. R. Jones, D. J. Morafka, G. E. Schneider, and especially J. Tasse for helpful suggestions.

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SIMMONS, F. J., J. M. FRANZ, AND R. I. SAILER.


Accepted: 26 March 1991

Associate Editor: David Cundall
Figure 5

HIGH FIRE HAZARD AND NON-HIGH FIRE HAZARD AREA

Legend

- City Limit
- High Fire Hazard Area
- Non-High Fire Hazard Area
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[a] Intersection is controlled by signal and uses ICU methodology
[b] Intersection is controlled by stop signs and uses HCM unsignalized methodology
[c] Intersection is controlled by roundabout and uses HCM roundabout methodology
April 25, 2011

VIA HAND DELIVERY TO THE CITY CLERK’S OFFICE

Santa Barbara City Council  
c/o Santa Barbara City Clerk’s Office, City Hall  
De la Guerra Plaza  
735 Anacapa Street  
Santa Barbara, CA 93101

Re: Appeal of Planning Commission’s Certification of the Final EIR for the Vallee Verde Retirement Community Project (900 Calle de los Amigos) and of its Subsequent Approval of the Project on April 14, 2011

Dear Mayor and Members of the City Council:

On behalf of Service Employees International Union-United Healthcare Workers West (“UHW”) and Friends of Vallee Verde (“FVV”), we herewith appeal both above-referenced actions taken by the Planning Commission on April 14, 2011. If allowed to stand, the certification of the Final EIR (EIR) for the proposed Vallee Verde Retirement Community Project (“Project”) could have major unpredictable consequences which have not been adequately disclosed, analyzed, or mitigated by the EIR. If allowed to stand, the project’s approval would lack legitimacy until the present challenge to the EIR is settled.

Although UHW and FVV recognize the importance of expanding retirement community facilities to meet the needs of our growing elderly population, there are serious deficiencies in the EIR and its responses to public and expert comments. As a labor organization that represents workers in retirement communities throughout the state, UHW takes the long view that such expansion must be approached in each instance in a way that is environmentally sound and respectful of valid concerns voiced by the larger community in order to pave the way for acceptance and cooperation, rather than backlash, when such projects are proposed in the future. As a coalition of labor, environmentalists, and community members, FVV advocates a careful approach to development that builds community.

We urge members of the City Council to grant the appeal and order revision and recirculation of the EIR in light of the substantial evidence provided by many commenters including UHW and FVV identifying potentially significant environmental impacts that will be caused by the construction and operation of this Project.
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In preparing our comments and this appeal, our office reviewed the EIR, comments, and responses, and consulted planning and biology experts. Based on our research and review of the EIR, it is our opinion that the Project is likely to have significant environmental impacts on biological resources, cultural resources, environmental hazards, public services, transportation and circulation, and land use, which the EIR has failed to either adequately disclose, analyze, or mitigate.

Some of the environmental impacts could potentially be mitigated, but because the EIR deemphasized likely impacts, feasible mitigation has not been identified. Even where mitigation measures are proposed, they are often inadequate, unrealistic or the EIR defers definition to a future, uncertain date and individuals. Mitigation measures that are deferred or ill-defined do not meet the requirements of CEQA.

Any approval of the EIR without addressing the EIR’s deficiencies subjects the City to legal challenge under CEQA. We urge members of the City Council to reassess the impact analysis as provided herein and recirculate the EIR once the flaws are corrected and all feasible mitigation measures evaluated.

PROJECT HISTORY AND CURRENT PROPOSAL

The Valle Verde Retirement Community (“VVRC”), located in the Hidden Valley neighborhood in the southwestern portion of the City of Santa Barbara, is approximately 59.75 acres in size, comprised of five legal parcels. It is bordered by residential areas to the south and west; the La Cumbre Country Club to the north; and Hidden Valley Park, Arroyo Burro Creek and residential uses to the east. Current residential facilities include 213 apartments; 11 studio units; a 45-room, 48-bed assisted living facility; a 36-room, 80 bed skilled nursing facility; and a six-bed hospice facility. VVRC also includes an administration building, dining/multi-purpose building, maintenance building, salon/staff lounge, recreation building; gazebo structures, and a two-unit/four room bed & breakfast for visitors. VVRC has been allowed to exist in the midst of a single-family residential zone based on a conditional use permit (“CUP”).

The proposed project would add 33 net new residential units, the majority proposed adjacent to established single-family residential neighborhoods and/or sensitive oak woodland habitat. It would also result in additions, remodels or demolition and reconstruction of the assisted living facility, administration building, dining/multi-purpose building, maintenance facility, and parking areas. This increased development would require a CUP amendment, a lot line adjustment; and several zoning ordinance modifications to reduce required street and yard setbacks and building separation distance.

As a preliminary matter, VVRC’s track record on expansion and oak woodland preservation casts a shadow over VVRC’s request for environmental approval of the current proposed expansion.

VVRC was originally constructed under a 1960 CUP allowing development of 182 independent care units and a 15-bed skilled nursing facility. Among other requirements, the CUP specified that a maximum of 350 residents including resident staff could be located on the project site.
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Though other CUPs and variances have been approved throughout the years, it remained a condition of use in the current 1984 CUP to limit residency to 350. According to the EIR, VVRC is currently far out of compliance with this limit, housing 356 residents plus 153 full-time equivalent (meaning a greater number when part-time are counted as individuals) staff.¹

Moreover, the 1984 Expansion CUP EIR stated in its project description that the “proposed expansion would be the final phase of development of existing Valle Verde lands, that has been taking place over the past 17 years.”² Yet VVRC now proposes significant additional development. Approval of these incremental but substantial expansions over the years has created a creeping effect where a large and inconsistent land use now shakily co-exists within an area originally designated as single family homes and natural woodland habitat.³

As a condition of approval for the 1984 Conditional Use Permit, the City required that four (4) acres of on-site oak woodland area be dedicated to the City. However, the dedication was never implemented. Though the current EIR proposes to dedicate or otherwise restrict development rights on this original four-acre area, plus an additional 5.8-acre area, it begs the question why the original dedication, an express condition of approval for the 1984 CUP, was never implemented.⁴

LEGAL FRAMEWORK

CEQA requires that an agency prepare and certify an EIR analyzing the potential environmental impacts of any project it proposes to approve that “may have a significant effect on the environment.” (Pub. Res. Code § 21100.) The EIR is the very heart of CEQA.⁵ “The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the Act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.”⁶

CEQA has two basic purposes, neither of which the EIR satisfies. First, CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project.⁷ “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’”⁸ The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.”⁹

¹ See Valle Verde Residents and Staffing, EIR §4.2.3
² See Letter # 10, pp. 55-56.
³ See Valle Verde Development History, EIR §4.2.2
⁴ See EIR §3.3.10
⁸ Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 564.
Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to “identify ways that environmental damage can be avoided or significantly reduced.” Public agencies must deny approval of a project with significant adverse effects when feasible alternatives and mitigation measures can substantially lessen such effects. CEQA section 21002 requires agencies to adopt feasible mitigation measures in order to substantially lessen or avoid otherwise significant adverse environmental impacts of a proposed project. To effectuate this requirement, EIRs must set forth mitigation measures that decision-makers can adopt at the findings stage of the process. For each significant effect, the EIR must identify specific mitigation measures. Where several potential mitigation measures are available, each should be discussed separately and the reasons for choosing one over the other should be stated. Mitigation measures should be capable of “avoiding the impact altogether,” “minimizing impacts,” “rectifying the impact,” or “reducing the impact.” An EIR must respond to specific suggestions for mitigating a significant impact unless the suggested mitigation is “facially infeasible.” The response need not be exhaustive, but it should evince good faith and a reasoned analysis.

Decision-makers must fulfill the state’s policy that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen the significant environmental effects of such projects.” Each public agency is required to “mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so.”

The remainder of this appeal provides an analysis of the Draft and Final EIR’s failure to meet these basic requirements of CEQA for the Valle Verde project, its failure to adequately respond to public and expert comments, and its failure to propose adequate mitigation. It is our opinion that the Planning Commission is legally required to revise the Final EIR to address these issues and recirculate the document for public review.

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10 CEQA Guidelines § 15002(a)(2) and (3). See also, Berkeley Jets, supra, 91 Cal. App. 4th at p. 1354; Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 564; Laurel Heights Improvement Ass’n v. Regents of the University of California (1988) 47 Cal.3d 376, 400.
11 CEQA Guidelines § 15002(a)(2)
13 See also, Pub. Res. Code § 21081(a); CEQA Guidelines § 15370.
14 CEQA Guidelines § 15126(c).
15 CEQA Guidelines § 15126(c).
16 CEQA Guidelines § 15370.
17 Los Angeles Unified School Dist. V. City of Los Angeles (1997) 58 Cal.App.4th 1019, 1029 (“Under the CEQA statute and guidelines a mitigation measure is ‘feasible’ if it is ‘capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (citations).’”)
18 Ibid.
20 Pub. Res. Code § 21002.1(b)
I. THE PROJECT DESCRIPTION IS INADEQUATE UNDER CEQA.

An accurate and complete project description is the foundation of an EIR and is necessary for an intelligent evaluation of the potential environmental impacts of a project. As explained in the discussion following Section 15124 of the CEQA Guidelines, an EIR must describe the proposed project "in a way that will be meaningful to the public, to the other reviewing agencies, and to the decision-makers." The state court of appeal has declared that "[a]n accurate, stable and finite project description is the sine qua non of an informative and legally adequate EIR."22 In contrast, "[a] curtailed, enigmatic or unstable project description draws a red herring across the path of public input." The court further concluded that "[o]nly through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental costs, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the "no project" alternative) and weigh other alternatives in the balance." 23 As the leading treatise on California environmental law has noted:

The adequacy of an EIR's project description is closely linked to the adequacy of the EIR's analysis of the project's environmental effects. If the description is inadequate because it fails to discuss the complete project, the environmental analysis will probably reflect the same mistake. 24

Here, the EIR fails to provide an adequate and complete project description, and therefore fails to meet the requirements of CEQA. In particular, the proposed project fails to adequately address landscape design for replacement trees; construction schedule, equipment, and workforce; staffing, visitor and even resident schedules that would affect parking and traffic issues; use of major hubs such as Modoc/Las Positas/101 interchange; details on commercial use and expansion; baseline biological analysis, and adequate safety information regarding the high pressure gas line and the high fire designation of the area along Arroyo Burro Creek.

We will discuss each of these issues in more detail below; however, as an example, without knowledge of the number and type of construction equipment (including horsepower, loading factor, hours of operation per day, etc.) and the number of construction workers employed during each of these stages, it is impossible to accurately determine emissions of fugitive dust and criteria pollutant emissions from construction equipment and vehicle exhaust.

Without detailed description of staffing, resident, and visitor use, routing, and hours of use, it is not possible to evaluate parking, traffic, occupancy, and evacuation routes. The fact that staff are described in terms of "full-time-equivalents" does not provide an accurate account of the actual number of staff who need to travel to and from the development, and on what routes and at what hours, where they park, or who lives on site.

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21 California Code of Regulations, Title 14, Secs. 15000 et seq. ("CEQA Guidelines").
22 County of Inyo v. City of Los Angeles (1977) 71 Cal. App. 3d 185, 192.
23 Id., at 197–98; see also, CEQA § 15124; City of Santee v. County of San Diego (1989) 263 Cal. Rptr. 340.
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The EIR completely fails to take into account special waste, toxicity and hazard issues such as disposal of medical waste or a salon on-site. Increasing the number of residents at a facility that provides medical services will no doubt cause an increase in medical waste. Offering salon services comes with toxic dyes and other products that must be safely disposed of. There is no mention of potential increased disposal of diapers for incontinence, unused medicines or other medical and hazardous waste. This in turn creates an increased burden on city services, and could contaminate ground water or adjacent pristine environments if improperly disposed of.

Because of the absence of biological surveys conducted during seasons appropriate to the determination of species presence, biological baselines are essentially non-existent.

Without this information about the Project, the public and decision-makers will not be able to balance the Project’s benefits against its environmental cost and evaluate feasible alternatives and mitigation measures. An adequate project description, including the information listed above, must be the basis for any revised environmental document. Based on the huge voids in the Project Description, the EIR does not adequately inform the Planning Commission about the Project in order to make a reasonably informed determination of the Project’s potential impacts.

II. THE ENVIRONMENTAL IMPACTS OF THE PROJECT ARE NOT ADEQUATELY DISCLOSED, ADDRESSED OR MITIGATED.

In addition to providing an accurate project description, an EIR must disclose all potentially significant adverse environmental impacts of a project.26 CEQA requires that an EIR not only identify the impacts, but also provide “information about how adverse the impacts will be.”26 The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding.27 In the absence of adequate disclosure, the public agency cannot fulfill its obligations under CEQA. “[T]he ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if based upon an EIR that does not provide the decision-makers and the public with the information about the project that is required by CEQA.”28

Here, the disclosures regarding environmental impacts are wholly inadequate. Moreover, the responses to public and expert comment, and the proposed mitigations warrant re-analysis, revision, and recirculation of the EIR, as follows:

A. Biological Resources

Biological Impacts

The EIR claims there are no significant and unavoidable impacts, but there are four significant impacts that can be mitigated. Those potential significant impacts include: (1) removal or disturbance of .24 acres of oak woodland and .12 acres of coastal sage scrub; (2) removal of 15 coast live oak trees and one Monterey pine, as well as significant impact to other coast live oaks, redwoods, Monterey pine and western sycamore by encroachment of more than 20% of the critical root zone; (3) impact on active bird nests, silvery legless lizards and coast horned lizards; and (4) impact on Santa Barbara honeysuckle and mesa horkelia, which are considered “sensitive” plant species. No other significant impacts to biological resources or conditions were identified. The EIR also concludes that all significant and potentially significant biological impacts will be reduced to less than significant with mitigation. The conclusions reached in the EIR are based on incomplete analysis, inadequate baselines, unsupported assumptions, and unproven and deferred mitigation.

As a preliminary matter, encroachment by the Project on one of the last two remaining pristine oak woodlands in Santa Barbara renders mitigation in this realm inadequate. Viable alternatives to construction adjacent to the Oak Woodland region seem to have been rejected out of hand. Frankly, the EIR seems to have addressed these significant biological impacts piecemeal. This alone creates an inadequate assessment. Native plants and animals, and migratory birds, are dependent on habitat. Evaluating and mitigating impact to the oak woodland, birds, reptiles, plant species and grasslands separately creates an incomplete and inadequate picture of an ecosystem that must be protected as a whole. The woodland, for instance, is treated as if ornamental and not the rare intact, relatively undisturbed habitat from understory to canopy that it is. Neither is there any analysis of the permanently reduced food supply for predatory birds who nest in the “Rutherford parcel” due to loss of foraging area.

Human habitation adjacent to many species and encroachment by structures that reduce the size of an ecosystem threaten to eliminate the conditions necessary for species survival. Shade, sun, condensation, water runoff, seepage, noise, light, parking lot run-off of oil or gas, movement and other less tangible effects come with this insidious type of encroachment, all of which endanger this ecosystem that comprises one of the last two remaining oak woodland stands to exist in Santa Barbara and is designated as sensitive by the California Department of Fish and Game, as is the coastal sage scrub habitat. The EIR fails to analyze the ecosystem holistically, and thus provides no assurance that the smaller and smaller remaining native habitats and the species dependent on them will indeed survive. This inadequate treatment of biologically sensitive lands, plants and wildlife not only threatens compliance with CEQA, but the City toys with breach of its duty to adequately protect sensitive, rare or endangered species under the public trust doctrine.

39 See EIR table 2.3-1
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Species of Concern

The EIR claims to have completed botanical surveys\textsuperscript{31} consistent with Botanical Survey Guidelines of the California Native Plant Society (CNPS 2001)\textsuperscript{32} and US Fish and Wildlife Service’s Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed, and Candidate Plants (USFWS 2001).\textsuperscript{33}

This representation is not true. The CNPS Botanical Survey Guidelines state at paragraph 4.a. that botanical surveys should be “conducted in the field at the proper times of year when special status and locally significant plants are both evident and identifiable.” Similarly, the USFWS botanical survey guidelines state that the field investigator should “conduct inventories at the appropriate times of year when target species are present and identifiable. Inventories will include all potential habitats. Multiple site visits during a field season may be necessary to make observations during the appropriate phonological stage of all target species.”\textsuperscript{34}

Here, surveys were conducted in December, January and February—the winter months alone. Winter is not the flowering or fruiting period for most plants, and thus it is highly likely that findings were inaccurate. CNPS’s Inventory of Rare and Endangered Plants in California provided in Letter #11 from biologist D. Magney shows that October through February are in fact the months with the smallest number of taxa in bloom in Santa Barbara. California Department of Fish and Game Guidelines for assessing the Effects of Proposed Projects on Rare, Threatened, and Endangered Plants and Natural Communities (revised May 8, 2000)\textsuperscript{35} also states field surveys should be conducted in the field “at the proper time of year when rare, threatened, or endangered species are both evident and identifiable. Usually, this is when the plants are flowering.” Because the surveys were conducted at a time unlikely to accurately show sensitive plants, meaning that other unnamed sensitive plant species may indeed be present, the survey does not provide reliable data and must be re-done.

Similarly, though the Project potentially affects habitat for several species of bird, including migratory birds, wildlife surveys were also conducted in winter months. California Department of Fish and Game considers migratory bird breeding season to generally occur between March 1 and September 1.\textsuperscript{36} In order to evaluate potential danger to birds, nests and bird habitat, surveys should be conducted during breeding months. Because the surveys were conducted at a time unlikely to realistically reveal sensitive wildlife, the survey does not provide reliable data and must be re-done.

Furthermore, the assumption that the steepness of the Arroyo Burro Creek embankment made it unlikely that certain species were present on the parcel is also unsupported. A recognized vertebrate specialist at the Santa Barbara Natural History Museum maintains that a high, steep

\textsuperscript{31} See EIR §5.2.1
\textsuperscript{32} Attached to Letter #11 at Vol. II pp. 79-81
\textsuperscript{33} Attached to Letter #11 at Vol. II pp. 82-83
\textsuperscript{34} USFWS Botanical Survey guidelines can be found at http://www.fws.gov/.
\textsuperscript{35} Attached to Letter #11 at Vol. II pp. 77-78
\textsuperscript{36} See DFG Letter #1
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creekside bank that is natural and not made of concrete is not a deterrent to a wildlife corridor for animals. As such, the presence of animals accessing the Oak Grove through the Rutherford parcel needs to be reassessed. The EIR also offers unsupported assertions that wildlife species likely to move through the project would be “common species that are frequently found in urbanized areas.” Until the site tampering that occurred shortly before the survey, Oak Grove to Arroyo Burro Creek corridor has historically been a vibrant wildlife corridor; this assertion rings untrue.

Incorrect Baselines

Because inventories were conducted at inappropriate times to assess habitat and population, the baseline for sensitive plants, animals and their habitat were never established. In addition, the baseline at the Rutherford parcel was disturbed prior to field survey.\textsuperscript{37} Based on testimony of neighbors, the parcel was mowed just prior to the assessment.\textsuperscript{38}

Carrying out the surveys at a time unlikely to provide necessary data and disturbance of the area under assessment renders worthless the EIRs subsequent conclusions: It invalidates the EIR’s claim that, during the field surveys, “no evidence was observed, such as a game trail with animal tracks, scat, or trampled vegetation, which would indicate that this open non-native grassland habitat was used by wildlife as a movement corridor.”\textsuperscript{39} It means that Table 5.2-1 listing observed vegetation provides an inaccurate account of special status plants known or likely to be present on the site. It also means the EIR’s conclusion that no sensitive plants are located within the areas designated for development and/or fuel modification and thus there is no substantial evidence of significant impact on endangered threatened or rare plant species, is unreliable.\textsuperscript{40} Nor can the EIR’s conclusion that the project will not cause the elimination or substantial disruption of … wildlife habitat or migration corridors” be trusted.\textsuperscript{41}

Before approval of an EIR can be considered, population and habitat surveys of flora and fauna must be conducted correctly. The correction of baseline studies necessitates not only revision of the EIR but recirculation under CEQA.\textsuperscript{42} Here too, the claim that surveys were conducted in line with agency requirements, when they clearly were not, causes concern.

Inadequate and Deferred Mitigation

CEQA requires the decisionmakers and the public to be informed of what it is they are adopting, but the EIR is evasive. Public agencies must deny approval of a project with significant adverse effects when feasible alternatives and mitigation measures can substantially lessen such effects.\textsuperscript{43}

\textsuperscript{37} See photographs and other information posted on Save Hidden Valley’s website, http://savehiddenvalley.org/
\textsuperscript{38} See Letter #13, p. 97; see also Letter #42, p. 278.
\textsuperscript{39} EIR p. 5.2-8
\textsuperscript{40} EIR p.5.2-12; 5.2-23
\textsuperscript{41} EIR p. 5.2-23
\textsuperscript{43} Sierra Club v. Gilroy City Council (1990) 222 Cal.App.3d 30, 41.
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CEQA section 21002 requires agencies to adopt feasible mitigation measures in order to substantially lessen or avoid otherwise significant adverse environmental impacts of a proposed project.\textsuperscript{44} To effectuate this requirement, EIRs must set forth specific mitigation measures that decision-makers can adopt at the findings stage of the process.\textsuperscript{45} Mitigation measures that are optional or are deferred to a date after approval do not meet the requirements under CEQA. Indeed, courts will not countenance mitigation measures that defer goals, objects and criteria for success.\textsuperscript{46}

Compounding the problem that baseline biological data are not accurate, the EIR proposes to address mitigation of impact to biological resources including but not limited to special status plant species and oak woodland and coastal sage scrub habitat through creation of habitat restoration plans. Deferral of mitigation to a habitat restoration plan, without adequately identifying who will conduct the plan, how restoration sites will be determined, planting methods, and other necessary details, constitutes deferred mitigation.\textsuperscript{47}

Those details that are provided for the habitat restoration plans are similarly inadequate. For instance, the replanting of oak and coastal sage scrub is to be performed on the site “in non-native and/or disturbed habitat”; oak saplings are to be planted in “areas between the new structures on the west side of the property and the oak woodland”; and, “should removal of any sensitive plant be unavoidable,” replacement shall be implemented at a yet-to-be determined site.\textsuperscript{48} These “mitigation” measures and others do not insure that plants species, habitat and wildlife will actually be able to survive in new-found habitats. Absent specific performance standards, deferral of mitigation measures until after project approval is inadequate.\textsuperscript{49}

Aside from possible nests, the only sensitive wildlife the EIR deemed to potentially be substantially impacted by the Project are the silvery legless lizards and coast horned lizards. Yet, the mitigation plan for the silvery legless lizards and coast horned lizards is not viable. The EIR proposes an unnamed biologist will “direct the equipment operator to slowly remove vegetation and the top 12 inches of topsoil while the biologist scans the soil for lizards. Any and all reptiles founds shall be relocated to appropriate microhabitats in adjacent, undisturbed habitat out of harm’s way.”\textsuperscript{50} Unless dirt removal will be done by hand, rather than with heavy machinery, this appears to be a pie-in-the-sky scenario for protection.

In addition, there is no showing that the wildlife native to this habitat can just be “relocated” and survive in a different “microhabitat.” Since replacement habitat is not identified, it is impossible to determine the viability of introducing a species into a new habitat. Native species live where they live because the total conditions of a particular ecosystem coalesce to allow their survival.

\textsuperscript{44}See also, Pub.Res.Code § 21081(a); CEQA Guidelines § 15370.
\textsuperscript{45} CEQA Guidelines § 15126(c).
\textsuperscript{47} See Letter #13 for further detail.
\textsuperscript{48} See table 2.3-1
\textsuperscript{50} See table 2.3-1
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There has been no showing that these sensitive species can just be relocated and survive. Again, potential relocation sites need to be identified in advance so that the public has time to verify adequacy of site and provide input, or proposed relocation is not a meaningful mitigation measure.

Because the EIR fails to identify and disclose all significant impacts, fails to create accurate baselines to adequately analyze impacts and potential mitigation, fails to realistically assess impacts and potential mitigation, fails to consider the feasibility of more environmentally sound alternatives, and relies on deferred mitigation, the EIR’s assessment of biological impacts fails.

B. Transportation/Circulation

The EIR concludes that the only potential significant impact on transportation and circulation would occur because of increased vehicle trips. The assessment that safety hazards, emergency access, parking and pedestrian/bike concerns would not be significantly impacted is unsupported by fact.

Traffic Sighting

Concerns raised in comment letters regarding corner sight distance at the proposed Torino Drive driveway and other entrances to the site were dismissed in part with the statement that “driveways to the Valle Verde complex are in effect residential driveways as they serve a residential facility.”\(^{51}\) This statement appears intended to equate a driveway to a single family home with an entrance to a 59-acre residential facility; it does not adequately address the concern raised.

The EIR also seems to have evaluated parking density on adjacent streets where residents complain of crowded street parking after staff hours. According to the EIR, parking studies were conducted on Calle de los Amigos at 4:00 p.m., whereas most employees apparently leave work at 3 p.m.\(^{52}\) Again, this creates an inadequate baseline, incorrect data, and fails to address community concerns and provide a stepping off point from which to determine impact and feasibility of mitigation.

Traffic Speed

The EIR’s evaluation of speed and level of traffic seems to be at odds with concerns raised in comment letters. Neighbors raised concerns of the “high level of traffic” and “excessive speed” along the Calle de los Amigos access road creating a “risky situation” in simply exiting a driveway, as well as creating safety concerns for children, bicyclists, and the numerous elderly pedestrians. The Response simply states that the EIR provided a comprehensive evaluation of traffic impacts and that that speed is an “existing condition.”\(^{53}\) Such a response is inadequate to

\(^{51}\) See Response 6-3.

\(^{52}\) See 5.3-25 and comment letter #52 at Vol. II pp. 333-334

\(^{53}\) See Response 7-3, 9-2.
address legitimate concerns regarding traffic density, flow, speed and potential traffic dangers that render mitigation measures necessary.

Traffic Congestion

The EIR analysis was not actually based on trip rates from this site: “Because of the mix of uses currently on the site and the difficulty in identifying which trips are generated by each individual use, it was not possible to develop a specific trip rate that would replicate each individual use on the site. Therefore, an aggregate rate developed from several similar projects was used.” The EIR then surveyed VVRC employees to “confirm distribution patterns” of the project-generated vehicle traffic. These survey results were “very close to” trip distribution assumptions.\(^{54}\)

However, the employee survey does not include resident trips and visitor trips generated by special events open to the public and thus underestimates actual project-generated increases. The EIR claims that special events are minimal, yet a portion of American Baptist Homes of the West’s tax-exempt status is predicated on public events held at VVRC.

Evacuation

The EIR claims there is a less than significant level of impact on emergency access. This statement is unsupported by evidence. The EIR does not adequately address evacuation in the event of a fire, gas line explosion, or other event necessitating evacuation. Because the region has suffered two fires including the Painted Cave Fire in the last two years necessitating evacuation, the EIR needs to provide more detailed evacuation analysis. Yet the Response simply states that the EIR concluded that the Project “would not result in significant evacuation-related impacts.”\(^{55}\) This conclusion is inadequate in light of the two recent fires, its location in a high hazard fire area, the high pressure gas pipeline adjacent to the project, the elderly, dense population, narrow streets with dense parking, and limited escape routes.

The EIR’s emergency evacuation analysis in case of fire addresses neither the number of individuals nor the impact of densely parked streets on egress through Calle de los Amigos and Tornio Drive.\(^{56}\) Neither does it seem to take into account potential blockage of routes caused by vehicle collision during panic, parked vehicles, and closure of roads attributable to fire, as occurred during the Painted Cave Fire. The EIR’s conclusion that the proposed project will not result in significant evacuation-related impacts is contrary to fact. The EIR seems to rely on the Santa Barbara County Fire Department’s “no comment” letter. But the “no comment” letter does not constitute approval of the fire plan. In fact, it appears that the fire map relied on by the EIR is not the same fire map on file with the fire department, or perhaps there are two such maps, as the fire map attached to Letter #13 appears to show more severe fire danger.\(^{57}\)

Completely absent is analysis of evacuation should a San Bruno-type pipeline failure occur.

\(^{54}\) See EIR 5.3-12; 9-18.11-46

\(^{55}\) See Response 7-4

\(^{56}\) See EIR p. 5.3-28

\(^{57}\) Attached to Letter #13 at pp. 123-124
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The EIR’s conclusions that transportation/circulation is not significantly impacted other than increased vehicle trips is without support. The EIR needs to reassess the impact of the proposed project on emergency egress, in light of the location adjacent to a high pressure pipeline and location within a high fire hazard zone. The EIR needs to reassess impact on traffic (including during construction phase, by number of actual employees, and including visitors for special events), parking (at actual peak times) and sighting (especially at dangerous corners) in light of numerous facts raised in public comment contrary to assertions in the EIR. Realistic mitigation measures must then be assessed for feasibility. For some unknown reason, these very real transportation concerns seem to have been undervalued and thus inadequately addressed by the EIR.

C. Hazard/Public Services

The EIR claims the only potentially significant hazard is increased fire hazard in areas with flammable brush, grass and trees, but that this can be mitigated to insignificance. The EIR proposes to mitigate fire hazard by providing a landscape plan to the fire department prior to submission to the environmental analyst for review. Risk of accidental explosion or release of hazardous substances, creation of health hazard or potential health hazard, and exposure to existing health hazard are deemed less than significant. The designation that hazard from explosion is less than significant is unsupported by fact, in light of the siting adjacent to a high power gas pipeline. Moreover, mitigation for fire danger is inadequate.

High Fire Hazard Area

The Project is located in a High Fire Hazard Area, adjacent to the Arroyo Burro Creek, as designated by Santa Barbara County Building Code Ordinance 4683. Within the past two years, two fires have erupted in the Arroyo Burro Creek area, including the Painted Cave Fire, which burned clear down to Hope Ranch, necessitating evacuation. The EIR’s conclusion of no significant impact is not supported by substantial evidence.

Obviously, were fire to threaten the VVRC, it could have catastrophic consequences for the residents, visitors, staff and adjacent communities. Because the elderly population may suffer from mobility problems, because the region is a dry wood and brush area, because of the limited egress, fire danger would most certainly become more significant with the proposed project, yet this was not adequately addressed in the EIR or in responses to comments. The increased danger would affect not only VVRC, but also surrounding communities limited to the same few roads of escape. As Citizens pointed out in Letter No. 12, during the Painted Cave fire, Modoc was impassable.

High Pressure Gas Pipeline

Apparently in response to comments that the adjacent high pressure gas pipeline was not even mentioned in the draft EIR, the final EIR added a single sentence stating: “A high pressure gas

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58 See EIR p. 2-12 and Appendix A at p. 29
59 See EIR p. 5.3-29
pipeline is located south of and adjacent to Torino Drive in the vicinity of the Rutherford parcel portion of the project site.”60 The EIR does not provide any information that would enable public officials or the public to evaluate the risks involved in increasing population near the pipeline such as the age of the pipeline, its construction, the leak history of the pipe, the geography, whether the pipeline has automatic shut-off valves, the status of inspections, whether a robotic device called a “smart pig” can be and is used to evaluate corrosion, and other precautions adopted by the pipeline’s owner.

The EIR later dismissed concerns about the pipeline because pipeline explosions are relatively rare:

Recent events in the City of San Bruno have demonstrated that an accident involving a high pressure natural gas pipeline can have a catastrophic effect. However, the likelihood of such an event occurring is extremely low. Such a high consequence but low probability event is not considered to have a significant impact on the proposed project because the project would not increase the potential for an accident to occur and would not substantially increase the effects of an accident should one occur during the lifetime of the proposed project. 61

This response is inadequate and untrue. The EIR offers no evidentiary support or any analysis for the statement that the likelihood of such an event is extremely low. The news media have been rife with recent stories highlighting the increasing likelihood of fatal explosions because many utilities have “resisted implementing recommended safety measures.”62 Similarly, the assertion that the project would not substantially increase the effects of an accident should one occur is nonsensical. Should such an accident occur, the increased danger to the residents, visitors and staff at Valle Verde and in surrounding communities would be exacerbated by the increased numbers of people and vehicles trying to evacuate. The fact of a large elderly population which would likely include people with mobility limitations or who were unable to react swiftly in a time of danger would increase danger to themselves and those around them.

In light of recent events at San Bruno, declaring this hazard insignificant without further analysis undermines the entire purpose of CEQA, which is to analyze and, where feasible, mitigate environmental impacts before a project is built. The City has only to look to recent events in Japan to realize that planners must consider not merely the most predictable consequences of project approval, but also unlikely yet catastrophic events that may happen with little warning and severe consequences. Certainly prior to March 27, the likelihood of an earthquake, tsunami and resultant damage to the Fukushima Daiichi nuclear power plant were considered unlikely. The City cannot so easily claim that expansion of a facility for elderly citizens with very limited access in the hills of Santa Barbara adjacent to a high pressure gasoline and wood and grassland area does not substantially increase the effects should such an accident occur. This potentially

60 See EIR §4.1
61 See EIR § 8.1.2
62 See “Recent major natural gas explosions could have been prevented,” Homeland Security News Wire (Apr. 4, 2011), attached as Exhibit A to this comment letter.
catastrophic environmental hazard must be better analyzed, accurate information must be provided, and mitigation measures must be addressed before project approval.

Because the EIR underestimated the significance of both fire and explosion hazards, it also underestimated the significance of impact on public services for fire, paramedic, and other emergency vehicles. The EIR should reassess actual impact of the Project in light of actual fire danger, proximity to a high power gas pipeline, limited access, and the elderly population. Once the actual significance of impact is reassessed, feasible mitigation must be re-evaluated.

D. Land Use Impacts/Compatibility

Numerous comments have already addressed the noticeable problem in this EIR that land use impacts such as compatibility with the surrounding area appear to be inadequately assessed. The EIR acknowledges that the VVRC has been operating since its inception pursuant to a conditional use permit, and that in order to construct the proposed project several waivers of zoning ordinances must be approved. Yet land use considerations appear to be addressed, if at all, under other impact areas rather than identified and addressed separately, as required by CEQA and the City.

Letter #13, points out several inconsistencies: with Zoning Ordinances (setbacks and density); Biological Resource Policy 4.0 in the City's General Plan ("Remaining Coastal Perennial Grasslands and Southern Oak Woodlands shall be preserved, where feasible."); City Charter section 1507 (land development shall not exceed available services and resources). Other comments have pointed out the inconsistency of an ever-growing mixed use facility spreading through a single-family residential neighborhood abutting parkland and sensitive open space as well as grading of hillsides with slopes greater than 30% in conflict with the Visual Resources Policy 2.1.

A project that conflicts with applicable plans or policies designed in whole or part to protect the environment has a potentially significant environmental impact under CEQA, yet these inconsistencies have been inadequately addressed by the EIR and its responses to comments.63

E. Cultural Resources

Prior to European contact, Santa Barbara was occupied by the Chumash. Evidence points to occupation by these Native Americans for the past 9,000 years or possibly more. Archaeological evidence of Chumash civilization has been found in numerous locations in Santa Barbara, including burial sites with human remains.

In accordance with CEQA and City environmental review guidelines (City of Santa Barbara Master Environmental Assessment ("MEA"), Guidelines for Archaeological Resources and Historic Sites and Structures) a proposed project would have a significant impact on cultural resources if it would cause a substantial adverse change to an important archaeological resources or disturb any human remains. Further, a significant effect on the environment may occur when

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an important or unique archaeological resource is physically demolished, destroyed, relocated, or altered.

Under the MEA Guidelines, archaeological resources must be evaluated qualitatively by archaeologists. First, existing conditions on a site must be assessed to identify whether important or unique archaeological resources exists. If important archaeological resources exist on the site, project changes must be evaluated to determine whether they would substantially affect these important resources. As with other significant impacts, an EIR must analyze significant impacts to archaeological resources.

Here, the City appears to have cut corners in approving the Project which will affect previously undeveloped land, the type of land on which it is most likely that archaeological resources may be found which have been relatively unaffected by the long history of development.

The comment letter of Frank Arredondo submitted to the Planning Commission on April 14, 2011, highlights serious deficiencies in the EIR and City’s process dealing with potential impacts on archaeological resources. Mr. Arredondo (Ksen-Sku-Mu) is an active member of the Coastal Band of the Chumash Nation, a former director of its board, and he is listed on the Most Likely Descendant (MLD) list for the Chumash Territory and the Native American Contact list with the Native American Heritage Commission.

Mr. Arredondo’s letter notes that the Project is located in areas known to be once inhabited by prehistoric Chumash and several village sites and settlements have been found in areas nearby. Burial grounds have been found at similar sites. This information triggers, at minimum, a duty on the part of the City to investigate whether the Project may affect subsurface burial sites.

According to the FEIR:

Archaeological Resources: A portion of APN 049-040-053 and -054 are within a Prehistoric Sites and Water Courses Sensitivity Zone. Development proposed in these areas involves the construction of residential units, parking areas and various common area facilities, including an addition to the Administration Building. An intensive field survey of the entire property, including shovel scrapes in areas of less ground surface visibility, was performed by Stone Archaeological Consulting. No prehistoric or historic cultural materials were identified.

As detailed by Mr. Arredondo, the City’s inquiry was inadequate. Although the FEIR stated that an intensive field survey was conducted on December 20, 2008, the City failed to provide a copy of the 2008 survey upon request and no such survey could be found in the City’s administrative file. The City referred Mr. Arredondo to the Central Coast Information Center (CCIC). CCIC maintains the California Archaeological Inventory for San Luis Obispo and Santa Barbara Counties and is situated at the Department of Anthropology, University of California, Santa Barbara. However, the 2008 report was not in CCIC’s files either. All Mr. Arredondo was able to review was a 2003 report that was in the City’s project file as well as in the records of CCIC.
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The City’s failure to provide a document for public review upon request undermined and invalidated the CEQA process by preventing informed public comment on the findings of the 2008 study upon which the EIR relied.

Mr. Arredondo examined the 2003 archeological report and found it wanting for several reasons. The 2003 study was prepared before the development proposal took its current shape and did not survey the same building footprints in the current project. No phase 1 archeological resources report (or report confirming the nonexistence of archeological resources) was prepared for the southern parcel of the Project where new building footprints were proposed when project plans were revised in 2007.

The shovel scrapes conducted for the 2003 report took place in an area that is now defined as open space. The most that the 2003 report could conclude from these shovel scrapes was that no prehistoric or historic cultural materials were found in what is now projected to be open space, but not whether the same conclusion would apply to the areas where construction will now take place.

Mr. Arredondo’s letter details the runaround he received when he attempted to obtain access to whatever more recent archaeological reports the City had in its possession. Local agencies, such as the City, are required to cooperate with the state Native American Heritage Commission (NAHC) and must furnish appropriate sections of their EIRs to the Commission. 64 Ironically, the FEIR includes a comment from NAHC, identifying Mr. Arredondo as an interested Native American who wished to be contacted when development projects took place within areas of identified and documented archaeological sites. This Project is located in the boundaries of CASBA-1530 and on the City’s MEA Cultural Resources Sensitivity Map and identifies a portion of APN 049-040-053 and 054 within a Prehistoric Sites and Water Course Sensitivity Zone, and should have qualified for consultation with Mr. Arredondo as NAHC advised. Further, under the MEA Guidelines, “copies of archaeological report are available for review to Local Native Americans who have concerns about the physical remains of their heritage.” Although Mr. Arredondo has credentials that establish he is an appropriate person to receive access to sensitive archaeological documents regarding this Project, the City did not cooperate, effectively and inappropriately evading review by any representative of the Chumash Nation.

The City’s failure to permit Mr. Arredondo to review the archaeological reports upon which the City relied was ill-considered. The result is an EIR that cannot be certified without violation of the MEA Guidelines as well as CEQA.

III. Revision and Recirculation of the EIR Is Required

The substantial deficiencies in the EIR and responses to comments explained above, in addition to others submitted by concerned experts and public, warrant re-analysis and revision of the EIR. Once revision occurs, the Planning Commission should recirculate the EIR.

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The agency in charge is required to recirculate an EIR when significant new information is added to the EIR after the draft EIR has been provided to the public but before certification.\(^{65}\) Examples of significant new information requiring recirculation:

1) A new significant environmental impact would result from the project or from a new proposed mitigation measure;

2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to insignificant;

3) A feasible project alternative or mitigation measure considerably different from those previously analyzed would clearly lessen the significant environmental impacts of the project, but the project proponents declines to adopt it;

4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that public review and comment were essentially meaningless.

The Project will have numerous highly significant impacts that are not adequately disclosed, analyzed, or mitigated in the EIR. Based on the severity of the EIR’s errors and omissions, the EIR should be supplemented to address the issues identified above and re-circulated to allow for public review.\(^{66}\) Without these revisions, the EIR is inadequate under CEQA and should not be relied upon by the Planning Commission for approval of the Project.

IV. Conclusion

As illustrated above, inadequacies in the EIR are substantial; left unchanged, this Project could create significant adverse environmental impacts to the City of Santa Barbara, and its human, plant and animal inhabitants. The residents and the City of Santa Barbara will have little opportunity for recourse if this appeal is denied. As such, UHW and FVV respectfully request the City Council grant the appeal and require revision and recirculation of the EIR to address our concerns and those raised by other experts and community members.

Thank you for considering our appeal.

Sincerely,

[Signature]

Theodore Franklin

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\(^{65}\) CEQA Guidelines § 15088.5 (a)).

Four Hundred Thirty and 00/100

SANTA BARBARA CITY CLERK
CITY HALL, DE LA GUERRA PLAZA
735 ANACAPA STREET
SANTA BARBARA, CA 93101

CITY OF SANTA BARBARA
CALIFORNIA

DIVISION: CITY CLERK'S OFFICE

Date April 25, 2011

Received from SEIU United Healthcare Workers - West

Four Hundred Thirty and 00/100 Dollars

for \\

Acct. No. 

Tran Code 

By Brenda Aleman
Title Deputy City Clerk
City of Santa Barbara
California

PLANNING COMMISSION
STAFF REPORT

REPORT DATE: April 7, 2010
AGENDA DATE: April 14, 2011
PROJECT ADDRESS: 900 Calle de los Amigos (MST2005-00742)
Valle Verde Retirement Community
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
Danny Kato, Senior Planner, and
Peter Lawson, Associate Planner

I. INTRODUCTION

The Valle Verde Retirement facility is licensed by the State both as a Residential Care Facility for the Elderly and a Skilled Nursing Facility. Since 1965, when the first phase was constructed, the use of the site has included independent living and 24-hour care for seniors. The approved development consists of up to 254 independent living units (defined as each independent unit with kitchens or studios sharing a common kitchen), a skilled nursing building with 80 beds, an assisted living building, common dining areas, recreational common rooms, bed and breakfast, and administrative and maintenance buildings. All of the development was approved through four permits. Other uses and services include but are not limited to: recreational activities, a beauty salon, a wellness clinic, a library and crafts areas. Activities at Valle Verde include, but are not limited to art classes, continuing education, seminars and college alumni meetings, which are attended by both Valle Verde residents and members of the surrounding community. Also, on an intermittent basis, Valle Verde provides meeting rooms to community groups, such as local homeowner associations, or other local groups.

The proposed Conditional Use Permit Amendment will not only include the development described below in Section II, Project Description, but will also incorporate all of the existing development and uses in this permit. The existing development is defined as all of the development that currently exists on the site. The attached conditions of approval include a project description that is the sum total of all of the existing development and the proposed development in this amendment.

II. PROJECT DESCRIPTION

The proposed project would be for an amended Conditional Use Permit (CUP) for additions and remodeling to the facilities at the Valle Verde Retirement Community facility. The CUP would also expand to encompass an adjacent parcel, known as the Rutherford Lot. The project would involve the demolition of 3 independent living residential units (defined as each unit containing a kitchen), and the construction of 40 new independent living residential units for a net increase of 37 new independent residential units. The existing 11 studio units (defined as a shared kitchen among the units per
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building) would be reduced to 7 units with the demolition of 4 units. When combined with the existing on-site residential development, the project would result in 246 independent living units (each with kitchens) and 7 studios (shared kitchens) for a total of 253 units.¹

Project components involving the support facilities for the residents would include a two-story addition to the Administration building, where a 4-room bed and breakfast and a small banking office would be located. The existing 2-room bed and breakfast, currently located in a former independent living unit would be demolished. The Assisted Living facility would include an addition for four new beds, and the Dining & Multi-Purpose Building would be remodeled along with minor additions totaling 1,300 square feet. The existing 4,348 square foot Maintenance Building would be demolished and a 5,642 square foot new maintenance facility would be constructed. A total of 15,172 square feet of support facility additions would be constructed among four buildings.

Several of the existing parking areas on the project site would be reconfigured for dedicated residential, visitor and employee parking, and would provide a total of 83 new parking spaces. A parking permit program would be implemented to track the residential and employee parking. After project implementation, a total of 414 parking spaces would be provided on the project site. A new driveway from the Rutherford Lot would provide access to eight of the proposed residential units proposed on that lot. The project would include a development restriction of a 9.8-acre oak woodland area on the western portion of the project site. The project also includes a minor Lot Line Adjustment between two parcels owned by Valle Verde. See Attachment E for description of existing square footage, demolition, additions and total new square footage.

III. REQUIRED APPLICATIONS

The discretionary applications (see Attachment D for a detailed description of Modifications) required for this project are:

1. **Modifications** to allow less than the required front setback for proposed Unit 6 along Torino Drive, and for proposed development along Valle Verde's private roads (SBMC § 28.92.110.2):
   - Unit number 6 would be located within the required 30 feet setback from Torino Drive, a public road.
   - All other reduction of front setbacks would be from Valle Verde private streets.

2. **Modifications** to allow less than the required distance between buildings for some of the proposed development (SBMC § 28.92.110.2)

3. **Modifications** to allow less than the required interior yard setback for some of the proposed development (SBMC § 28.92.110.2).

4. An **Amended Conditional Use Permit** to allow additional dwelling units and additions to support buildings for a retirement community (SBMC §28.94.030.R); and

¹ The baseline number of existing independent living units has decreased since preparation of the EIR. A Substantial Conformance Determination was approved in 2000 that allowed units to be combined, but did not specify a time limit to complete the project. Thus, units were combined during the environmental review process which reduced the unit count.
5. Approval of a Lot Line Adjustment to allow an exchange of land between APNs 049-440-015 and -016, which would result in a decrease of APN 049-440-015 from 3.6 acres to 3.4 acres and a corresponding increase of APN 049-440-016 from 11.5 to 11.7 acres (SBMC §27.40).

IV. RECOMMENDATION

With approval of the Modifications, the proposed project conforms to the City’s Zoning and Building Ordinances and policies of the General Plan. In addition, the size and massing of the project are consistent with the surrounding neighborhood. Therefore, Staff recommends that the Planning Commission certify the Environmental Impact Report and approve the project, making the findings outlined in Section VII of this report, and subject to the conditions of approval in Exhibit A.
V. SITE INFORMATION

A. SITE INFORMATION

<table>
<thead>
<tr>
<th>Applicant: Cameron Carey, Tynan Group, Inc</th>
<th>Property Owner: American Baptist Homes of the West</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parcel Number: 049-040-050, -053, -054, 049-440-015, -016</td>
<td>Lot Area: 59.75 acres</td>
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<tr>
<td>General Plan: Residential, 1 Unit/Acre, 5 Units/Acre</td>
<td>Zoning: A-1, E-1, and E-3</td>
</tr>
<tr>
<td>Existing Use: Retirement Community Facility (skilled nursing &amp; independent living)</td>
<td>Topography: 3% - 32%</td>
</tr>
<tr>
<td>Adjacent Land Uses: North - La Cumbre Country Club, South - Residential</td>
<td>East - Hidden Valley Park, Arroyo Burro Creek, Residential, West - Vacant, Residential</td>
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</table>

VI. ZONING ORDINANCE CONSISTENCY

<table>
<thead>
<tr>
<th>Standard</th>
<th>Requirement/ Allowance</th>
<th>Existing</th>
<th>Proposed</th>
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<tr>
<td>Setbacks</td>
<td>A-1</td>
<td>E-1</td>
<td>A-1</td>
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<tr>
<td>-Front</td>
<td>- 35'</td>
<td>- 30'</td>
<td>- 200'</td>
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<tr>
<td>-Interior</td>
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<td>- 10'</td>
<td>- 130'</td>
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<tr>
<td>-Rear</td>
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<tr>
<td>Building Height</td>
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Parking

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<th>Requirement/ Allowance</th>
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<tbody>
<tr>
<td>Independent Living – 1/unit Skilled Nursing – 0.5/unit</td>
<td>331 total</td>
<td>414</td>
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</table>

Lot Coverage:

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<tr>
<th>Requirement/ Allowance</th>
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<th>Proposed</th>
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</thead>
<tbody>
<tr>
<td>-Building</td>
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</tr>
<tr>
<td>-Paving/Driveway</td>
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<tr>
<td>-Landscaping</td>
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<td>829,129 s.f.</td>
</tr>
<tr>
<td>-Open Space</td>
<td>N/A</td>
<td>1,014,514 s.f.</td>
</tr>
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</table>

Note: Because the site is developed with multiple buildings, all numbers are an average. There are two anomalies: 1) The existing A-1 area is developed with a single-family residence in the middle of a 3 acre parcel, there is no other development. 2) The administration building is proposed to be two stories and a height of 25 feet. All other development would average between 15 and 17 feet.

The retirement facility is allowed with the residential zone districts with the approval of a Conditional Uses Permit. The proposed project would meet the requirements of the A-1 & E-1 Zone, with the exception of Modifications for a front setback along Torino Drive, interior setback for three units and building separations.
VII. **ISSUES**

A. **PERMIT HISTORY**

One of the overarching issues associated with the Valle Verde project is the lack of clarity in the permits issued for each phase of development (Exhibit F). Valle Verde was constructed within a former walnut orchard in mid-1960. Permits at that time were very general, and there were very few conditions for each permit. The first permit was based upon a prescribed number of residents and staff, and not the number of units. Subsequent permits assisted staff in determining the number of units originally permitted. The first phase of development included a mix of independent living units and a skilled nursing care facility.

Through the ensuing years, some of the independent units were converted to other uses, such as storage facilities for records or a wellness clinic. In the past decade, several one-bedroom living units were combined to create two bedroom units through a Substantial Conformance Determination; however, not all of the approved conversions have been completed. The definition of a studio has also changed over time. The first permits described living units as one-bedroom, two-bedroom or studios, implying that all would have kitchens. The current configuration of the studio units is one bedroom, one-bath efficiency units where the units share a common kitchen area. In some cases a few of the studios were combined, creating larger studios, which would result in some buildings containing three units.

Additionally, the layout and use of the common buildings has evolved over time. A few rooms in the assisted living area were converted to: dining area expansion, offices or storage units, thereby reducing the number of beds below the maximum allowed under the permit. Activities for the residents have evolved over the years. In the past, the residents left the campus to attend events; however, with the addition of common facilities, more events now occur on the campus, which include both the residents and the community.

In 1976, an arts and crafts building, a lounge and dining facility were added to the Valle Verde campus, and in 1984 a recreation building, along with additions to the dining complex were constructed. All of these facilities are used predominately by the residents, and activities include painting, college alumni gatherings, and other types of meetings. Each of the activities reflect the interests of the residents, and evolve over time as new residents arrive. These interests are also shared by the community outside of Valle Verde, and attendees of the activities include a mixture of Valle Verde residents and members of the public. Finally, on an intermittent basis Valle Verde provides its facilities to groups that need an area large enough to meet. Fees are typically collected only if food service is provided. Use of the facilities by outside groups is self-limiting since the facilities are used on a daily basis by the residents.

What is certain is that the number of independent units constructed on the campus has declined, as have the number of beds in the assisted living and skilled nursing facilities. The goal of the amended CUP is to clearly quantify both the existing and proposed number of living units, skilled nursing beds, assisted living beds, number of parking spaces and community activities. Additionally, conditions are included in the amended CUP that assist in defining the responsibilities of Valle Verde to minimize impacts on the neighborhood.
B. DESIGN REVIEW

This project was reviewed by the ABR on three separate occasions (meeting minutes are attached as (Exhibit G). On January 26, 2009, the ABR stated that the project is headed in the right direction. The Board appreciated the increased setback of the development from the common lot line with Hidden Oaks, beyond the requirement of the Ordinance. The Board supported the Modifications between the buildings and the Modification to reduce the setback from Torino Drive for unit number 6 (located on the Rutherford Lot). The ABR also felt that the location of unit number 6 would provide more room for the wildlife corridor between Hidden Oaks and the proposed development. The Board wanted the reconfigured parking lot in front of the Administration Building to comply with the Zoning Ordinance for finger planting. The Board reserved the right to review more closely the architectural design during the next review phase.

C. COMPLIANCE WITH THE GENERAL PLAN

Land Use Element

The proposed project is located within the Hidden Valley neighborhood, which is bounded by the 101 Freeway on the north, Hope Ranch and Arroyo Burro Creek on the south and west and Veronica Springs on the east. The Land Use Element describes this area as mostly built out with single-family residences and duplexes. The description acknowledges the two retirement facilities, Vista del Monte and Valle Verde, in this neighborhood, but makes no further comment.

Open Space Element

The Open Space Element neither designates nor discusses this site as open space or open land. The Major Hillside Designation boundary is located south-west of the project site and does not extend onto the project site. Hidden Valley Park is located along the northeastern boundary of the project site. This 15-acre park is partially developed with a lawn, barbeque facilities and children's play area, and partially left in its natural state of creek side habitat. Valle Verde dedicated land for this park in 1965 as part of the first phase approvals of the development. The project would be consistent with this Element because there would be minimal development within the vicinity of the park and the project would include a development restriction of open space along the steeper slopes of the project site.

Conservation Element

The proposed project would be consistent with the Conservation Element. As discussed under the environmental review section, an archeological survey was conducted of the site and no resources were discovered. Also discussed in the environmental review section, the additional development would not greatly affect visual resources. The project would include preserving open space\(^2\) comprised of an oak forest on the steeper slopes of the site, consistent with the policies of this element.

\(^2\) The open space includes both open space that was previously required to be dedicated under a previous permit but was not recorded, and the development restricted open space proposed as part of the current project.
Noise Element

The project would be consistent with the goals and policies of the Noise Element. The area of greatest concern to the neighborhood is the Rutherford Lot. The proposed development of that lot is residential and located further from the interior lot line than required by the Zoning Ordinance. Because the site is proposed to be developed as part of a retirement community, there will not be typical early morning noise of traffic leaving the site. Construction operations would be limited to certain days of the week and daytime hours consistent the EIR mitigations, which are included with the conditions of approval.

Seismic-Safety Element

A soil report prepared for the proposed project, examined the areas of development on the Rutherford Lot, the service building and the residential units near the adjacent golf course. The report determined that the site is adequate for the proposed existing development. The majority of the development would not be located on steep slopes. The areas where development would occur on slopes greater than 20% are typically disturbed with development or were graded in the past. The Rutherford Lot includes fill material contributed partly by the development of the existing residence on this lot and the extension of Torino Drive. Per Building Code requirements, this material would either be removed or re-compacted as recommended by the soils report. Finally, as part of the building permit process the project will demonstrate compliance with the provisions of the Storm Water Management Plan requirements, which requires both treatment and control of runoff from additional impervious surfaces.

Valle Verde is not located within a mapped high fire hazard area. The brush and other natural vegetation on site are defined generally in the fire code as a hazard. Valle Verde currently manages the on site brush by clearing 100 feet or more from structures. As part of the project, a fuel management program was prepared, and is similar to the type of program prepared for a high fire hazard area, which includes clearance based upon zones measured from the edge of structures.

A high-pressure distribution gas line is located on a lot adjacent to Valle Verde and within the Torino Drive right-of-way. No development is proposed near this line. Any utility development within the right-of-way would require compliance with current State and local regulations, such as contacting DigAlert.

D. PARKING

Existing Development

A consistent concern raised by the neighbors is the lack of parking on site, and the impact to the adjacent street, Calle de los Amigos. Since the close of the comment period for the EIR, the applicant provided an existing parking plan, which staff verified by counting all of the parking spaces with the applicant during a site visit. Staff has verified that 331 parking spaces are currently provided on the site; and those spaces do not include the eight parking spaces provided for Valle Verde service vehicles and electric carts.
The amount of parking on site exceeds the 269 parking spaces required by Ordinance. The amount of parking required by the permits is less clear. The 1974 CUP did not specify the number of parking spaces. However, when adding up all of the parking spaces required by the approved permits (328 parking spaces), it appears that the current number of parking spaces meets or exceeds the total estimated number of parking spaces required for each of the phases. It should be noted that 254 independent units were constructed on site under all of the permits, but that number now stands at 208 units. The reduction in units resulted from some single bedroom units being combined, and units being converted to record and archive storage, a hospice, a bed and breakfast and other uses. For some of these uses, such as hospice, the parking demand is lower, or no parking is necessary.

Based upon staff’s site visit to verify the number of parking spaces, as well as previous site visits, all during the weekdays, it is apparent that the parking layout does not promote employee parking on site. During each of the site visits, staff found that, while there were a number of vacant parking spaces throughout the campus, there was no specific employee parking area. None of the previous Valle Verde permits specified the designation of employee parking, only that an aggregate number of residents, staff, and visitor parking spaces shall be provided. The result is the employee seeking a parking space where they are comfortable to park their vehicle based on factors such as distance from their destination. Many of the employees work in the center of the campus. The on-street parking on Calle de los Amigos is unrestricted and somewhat near the center of campus. In many cases, the employee will park on the street, which is not prohibited by the previous permits.

Finally, another issue raised by the neighbors is the use of the site by outside organizations for public events. Documentation provided to staff by the neighbors, which was acknowledged by the Valle Verde director, states that organizations use Valle Verde facilities to hold meetings. The previous permits approved for Valle Verde do not include a specific prohibition on outside groups using the campus, and a larger facility typically includes some outside activity if the impacts on the neighborhood remain at a minimal level. Currently, the main parking impacts from Valle Verde appear to be generated from employee parking not being provided in specific areas that are large enough to accommodate a number of employees, as opposed to community activities. Finally, based upon recently raised neighbor concerns, Valle Verde has provided valet parking service for some events and used the nearby church parking lot for the community event attendees.

**Proposed Development**

Concerns were raised that not enough parking is being provided for the proposed project and that they need to address the existing parking concerns. The project, as proposed, would add independent living units, skilled nursing beds, and increases to the square footage of the support facilities. Parking is provided for all of these additional uses, including the five additional employees, which is not required by the Zoning Ordinance.

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3 Since the start of environmental review, the number of units was further reduced from the 213 units stated in the EIR. This reduction was allowed under a previously approved substantial conformity determination.
In addition to the proposed new development of the site, the project also includes reconfiguring the existing parking areas to provide specific employee and visitor parking lots. The employee lots would be centered around the areas where the employees check in, and also where the majority of the employees work, which is the skilled nursing facility and the dining areas. Visitor parking areas would be provided in small clusters throughout the entire campus, including on the Rutherford Lot. These visitor spaces would also allow room for the campus service vehicles to park while working on, around, or in one of the independent living units. The parking reconfiguration should provide a noticeable decrease on street parking.

This amended CUP also includes a requirement that a parking sticker program shall be implemented, and defines how the common buildings are used. Each independent unit shall be assigned one parking space and a parking sticker would be provided. Additionally, every employee that drives to the campus shall also be assigned a parking sticker. Valle Verde would maintain the program. With the parking sticker program and reconfigured parking areas, visitors to community activities would be able to park on site the majority of the time.

Community-based events that would not be fully accommodated on the project site would include memorial events for residents, emergency evacuation and elections. Both Calle de los Amigos and Torino Drive are both a total of 60 feet wide, designed to accommodate parking on both sides of the street, and have adequate travel lanes consistent with current street design standards. Historically Valle Verde is a designated polling place, which provides a service to not only the residents, but also the immediate neighborhood. Because elections average twice a year and with the increase in vote by mail, the inconvenience to the neighborhood would be minor. In regard to the emergency evacuations, local retirement facilities provide mutual shelter during emergencies, which are few and far between. One example is the residents of Wood Glen Hall were evacuated to Valle Verde for a few days during the Jesusita Fire.

E. NEIGHBORHOOD COMPATIBILITY & LAND USE

Valle Verde and the Hidden Oaks development comprise the neighborhood for purpose of compatibility determination. There are two access roads into this neighborhood, Calle de los Amigos and Torino Drive and each cross Arroyo Burro Creek. These two roads terminate in this neighborhood. Hope Ranch and La Cumbre Country Club, located the west and south of the neighborhood, is not accessed from these roads, but from Las Palmas Drive and Modoc Road, respectively.

Valle Verde began construction on the first phase off the campus approximately the same time the Plaza Marina Tract, located between Modoc and the eastern bank of Arroyo Burro Creek, was being built. Up until the mid 1980's there was no other residential development adjacent to Valle Verde common lot lines. La Cumbre Country Club borders the site to the north. Arroyo Burro Creek along with the park is located to the east and creates a buffer of more than 100 feet from the nearest residential development. To the west and north were open lands with agricultural remnants. In mid-1980, the Hidden Oaks PUD was constructed to the west of the project site and is comprised of two story, approximate 2,500 square foot homes, with three-car garages.
The development pattern of the Valle Verde campus has resulted in all of the residential units located around the edge of the property and the support facilities located within the interior. This layout has created an additional buffer for non-residential development from the adjacent residential development. The proposed development would continue to follow this pattern, with the new residential units located among the existing units, as well as located along the southern edge of the existing development. Further, the hospice building would be demolished and would be moved off site and the bed and breakfast units would be relocated to above the administration building. This would further consolidate the nonresidential uses to the interior of the site.

The proposed development on the Rutherford Lot has generated the majority of the comments. Ten units are proposed for the Rutherford Lot, and eight of the units would access Torino Drive through a new driveway. Neighboring property owners do not support the amount of development, the proximity of the development to their properties, view impacts to their property, and the new access to Torino Drive.

The Rutherford Lot is zoned A-1, one acre per dwelling unit. A Conditional Use Permit (CUP) could allow the additional units. However, as discussed in the CUP findings, the development would have to be equal to or less than the intensity of a single-family residence development or equal to or less than the intensity of the existing development. The peak development of Valle Verde was 254 units in the 1990's. Since that time, a number of units were combined or converted to other uses. Additionally, a 2002 Substantial Conformance Determination allowed up to 30 units to be combined, which could reduce the count by another 15 units. At the beginning of the environmental review for the current proposal, 213 independent living units were on site. Since that time additional units were combined, further reducing the number of units to 208. The additional 40 units would not exceed the intensity of the previously approved development.

The closest portion of the proposed development on Rutherford to the Hidden Oaks common lot line is the guest parking area, and it is 60 feet from the lot line, which is greater than the interior setback ordinance requirement of 35 feet. Additionally, the orientation of the guest parking area and most of the proposed units is toward Torino Drive and the existing Valle Verde development to the east rather than towards the Hidden Oaks development. Additionally, the finished floor elevation of the proposed development is lower than the adjacent development to the west by five feet or more and would not exceed one story. Since the development would be similar to the existing Valle Verde development and smaller in square footage and height than the Hidden Oaks development, and is residential in character, it is compatible with the neighborhood.

F. ENVIRONMENTAL REVIEW

As part of the scoping process for the Environmental Impact Report (EIR), an Initial Study was prepared, which determined the project impacts that rose to a level of significance that required further study in an EIR. While the scope of the EIR was limited to three impact areas, the initial study identified other project specific impacts that could be reduced to a less than significant
level through mitigation measures. Those mitigation measures are included in the conditions of approval.

A Draft EIR was prepared and circulated beginning on Monday, August 30, 2010, closing on October 18, 2010. The Draft EIR focused on three issues: Aesthetics, Biology and Transportation (traffic trips). All impacts were found to be significant, mitigable; less than significant; or not significant. No Class I impacts (significant, unmitigable impacts) were identified. All comments on the Draft EIR received during the comment period were evaluated and no issues were raised that resulted in amendments in the Draft EIR. The following is a brief discussion of each issue area analyzed in the EIR:

Aesthetics

Impacts to public views were evaluated for the Rutherford Lot. The proposed project would place ten units independent living units on this lot currently that is currently developed with a single-family residence. Photo simulations of the proposed development were provided, which viewed the site from different public viewing points. The analysis concluded that given the low number of potential viewers on Torino Drive, and the scale of the single story development, impacts were less than significant. The project must return to ABR for further review, which would include consideration the architecture of the adjacent development.

Biology

Biological impacts were the principle reason that the EIR was prepared. A fair argument was raised by a biologist regarding the boundary of the oak woodland habitat on the Rutherford Lot. The EIR evaluated all of the biological information submitted for the project, including the original biological report, and no Class I impacts were identified. The majority of the development would be located among the existing campus development. The development on the Rutherford Lot would occupy most of the former walnut orchard area and the rest of the development would be located at least 10 to 20 feet from the edge of the oak woodland. The project includes recordation of a development exclusion area for the majority of the oak woodland habitat, which also incorporates an exclusion area that was required under a previous permit, but was never recorded. Impacts on an existing oak woodland would be reduced to less than significant level.

Transportation (traffic trips)

For purposes of traffic analysis, the proposed project would add 33 net new senior independent residential units and additional skilled nursing beds. Five additional employees would staff the skilled nursing and dining facilities. Because of the type of housing being provided and the low number of new employees, no Class I impacts were identified.

The traffic study evaluated eleven intersections within the vicinity of the project site, including Los Positas Road/101 intersections. The preliminary analysis concluded that, due to the low traffic generation characteristics of the proposed project, the project would not have the potential to result in significant project-specific or cumulative impacts to seven (including Las Positas/101) of the intersections. Therefore, no further analysis of those seven intersections was required. The detailed analysis of the four remaining intersections identified in the traffic study
concluded that the project would not result in significant (Class I or Class II) impacts to those intersections

A number of concerns were raised during the public comment period that a one-mile radius around the project determined which intersections would be studied. The one-mile radius actually determined projects under development, recently approved or currently in the planning process for purposes of analyzing cumulative traffic impacts. This radius included projects such as the Sandman Inn, Hillside House and Elings Park, as well as smaller projects. The one-mile radius was only a starting point to identify cumulative development projects. Eleven of the fourteen projects are located beyond a one-mile radius of the project site but were determined to have the potential to send traffic trips to the intersections potentially affected by the Valle Verde project.

In addition to traffic impacts, other transportation related issues were examined which included sight distance from driveways and parking lots, emergency evacuation plans, short-term construction parking and facility parking. While the sight distances from all ingress and egress points were found to be adequate, a recommended mitigation to provide five feet of red curb on either side of the driveways was included. Valle Verde conducts emergency evacuation drills at least twice a year, consistent with State licensing agreements. Recommended mitigations address short-term impacts from construction and standard conditions of approval would address all other construction related impacts. The overall improvements to the parking facility for Valle Verde would not result in significant environmental impacts.

G. MODIFICATION – FRONT SETBACK

The proposed project includes a Modification to the front setback along Torino Drive. One unit proposed on the Rutherford Lot would be located in the front setback. The required setback is 35 feet and as proposed, the closest portion of the building would be 20 feet from the right-of-way. The Modification can be supported since the setback is similar to other existing development in the area. The proposed development would be single storey, also similar to the existing development.

The proposed project also includes reducing front setbacks from the private streets located within the Valle Verde campus. On the Rutherford parcel, three units would be located within 7 feet of the new private road (Mesa Verde), instead of the required 35 feet. Mesa Verde is considered a road since it serves more than four residences. This reduction would be appropriate since this private road functions more as a driveway than a road, it is not a through road, there would be no development on the opposite side of road and the road would be located further from the adjacent Hidden Oaks development. The remaining front setback reductions would occur within the existing Valle Verde development and would follow the development pattern that was established over the four decades.

H. MODIFICATION – BUILDING SEPARATIONS

The project includes Modifications to the required building separation of 20 feet between main buildings. The separation between buildings varies based upon the configuration of the unit, with some portions of the buildings being approximately 10 feet apart, and others further apart.
On the Rutherford Lot, there are two units that are less than 20 feet apart. The scale of the proposed development is similar to the existing development, with the majority of the existing independent units being separated by less than 20 feet. Therefore, these Modifications would be appropriate.

I. MODIFICATION – INTERIOR SETBACK

The project site is comprised of five parcels. The existing private roads serving Valle Verde development follow most of the parcel lines. Under the proposed project, part of the proposed development would be located adjacent to the lot lines located along the sloped area of the parcel. Three units would be located with the required fifteen-foot interior setback. The encroachments would range from one to three feet. All Modifications to interior setbacks would reduce the setback from adjacent parcels owned by Valle Verde and therefore would be appropriate.

J. LOT LINE ADJUSTMENT

The proposed lot line adjustment would be between the Rutherford Lot (3.5 acres) and the adjacent, developed, Valle Verde owned parcel (10.77 acres). Based on the existing configuration of the lot lines, units 16 and 17 would straddle the lot line and unit 18 would be located immediately adjacent to the lot line. The reduction of the Rutherford Lot by 8,709 square feet would be minor, and would accommodate three units in the interior of the campus without requiring a Modification request. The Rutherford Lot would continue to comply with the Municipal Code requirement of 1 acre and the slope density requirement of 1.5 acres. The Lot Line Adjustment would not affect the required lot frontage of the parcels.

K. AMENDED CONDITIONAL USE PERMIT

The proposed project is requesting an amended Conditional Use Permit. The amendment would not only include the additional development being proposed, but would address issues with the current development. The amended CUP will incorporate all previous permits into one permit to provide more clarity.

The proposed parking configuration would alleviate a number of neighborhood concerns regarding impacts to surrounding public streets for both the existing and proposed development. The common buildings would be remodeled, and include small additions, but would continue to be buffered from neighboring residential parcels by the on site residential units. The proposed new residential units would comply with all current building codes to reduce demand on City resources and the existing units are being upgraded to comply with ADA requirements and more efficient utilities.

As discussed in this staff report, the primary neighbor concern is the development of the Rutherford Lot. Neighbors are concerned with the proximity of proposed development to their residences. The project includes components to buffer the new development from the adjacent residential development, such as orientation of the development toward the existing campus, using low level lighting, screening the private outdoor patios closest to the neighbors, greater than required setbacks, and limiting the development to one story.
VIII. FINDINGS

The Planning Commission finds the following:

A. FINAL ENVIRONMENTAL IMPACT REPORT (EIR) CERTIFICATION

Consistent with the California Environmental Quality Act Section 15090, Certification of the Final EIR, prior to approving a project the lead agency shall certify that:

1. The Final Environmental Impact Report for the Valle Verde project was presented to the Planning Commission of the City of Santa Barbara. The Planning Commission reviewed and considered the information contained in the Final Environmental Impact Report, along with public comment and responses to comments, and determined that the document constitutes a complete, accurate, and good faith effort toward full disclosure of the project’s impacts and is an adequate environmental analysis of the project.

2. The Final Environmental Impact Report, dated February 2011, prepared for the Valle Verde project has been completed in compliance with CEQA.

3. The Final Environmental Impact Report for the Valle Verde Project reflects City of Santa Barbara Planning Commission’s independent judgment and analysis.

4. The location and custodian of documents and materials that constitute the record of proceedings upon which this decision is based, is the City of Santa Barbara Community Development Department, Planning Division, 630 Garden Street, Santa Barbara, CA, which is also the Lead Agency.

5. A mitigation monitoring and reporting program (MMRP) is hereby adopted. Mitigation measures have been made enforceable through incorporation into the project description or are included as conditions of project approval.

Class II Impacts (Potentially Significant and Mitigated). Project elements incorporated as part of the project description and mitigation measures applied as conditions of project approval would result in the avoidance or substantial lessening of the following environmental impacts to less than significant levels. These findings are supported by substantial evidence in the record including the Final EIR.

a. Visual Aesthetics. Removal of existing mature trees and additional development would affect the site’s visual appearance. This impact would be reduced to a less than significant level by replacing each mature tree removed with an appropriate replacement tree, as determined by the City's Architectural Board of Review.

b. Biological. Short-term impacts to wildlife could occur as a result of the project construction. Mitigations include survey for nests prior to construction, construction fencing, and designated equipment parking, which would reduce impacts to a less than significant level. Long-term impacts to the Oak Woodland habitat from the new development and
associated fuel management requirements could also occur. The project includes a revised fuel management program, an oak woodland restoration plan and standard conditions for lighting that manage lighting and direct it toward the ground, which would reduce impacts to a less than significant level.

c. **Geophysical Conditions.** Components of the project are proposed to be located on steeper slopes and could be impacted by slope stability. This impact would be reduced to a less than significant level with the implementation of the recommendations in the Soils Engineering Report for grading the site, directing drainage, as well as compliance with building code requirements that would minimize potential hazards associated with slope stability.

d. **Hazards.** The project is not located within a high fire hazard area. However, there is heavy vegetation and non-native grasses within close proximity of the proposed development. Implementation of the revised fuel management program would reduce impacts to less than significant levels by reducing the fuel load and using a fire resistant construction techniques.

e. **Noise.** Construction noise has the potential to impact adjacent residents. Mitigation measures to address construction hours, construction equipment sound, and noise barriers have been included and would reduce impacts to a less than significant level.

f. **Public Services.** Construction and demolition activities required to implement the proposed project would generate a substantial amount of solid waste. This impact would be reduced to a less than significant level with the implementation of a waste management plan that would recycle the majority of the waste.

**Class III Impacts (Less than Significant).** The proposed project would result in a less than significant impact in the following environmental issue areas, as identified in the Final EIR. As applicable, Mitigation measures are incorporated as conditions of project approval to further reduce the level of impact, consistent with City policies. These findings are supported by substantial evidence in the record including the Final EIR.

a. **Air Quality.** Long-term impacts were considered less than significant. Short-term project-related grading and construction activities would result in fugitive dust and emissions from construction equipment that would be well below the established threshold of significance. Standard dust and emissions control measures to further reduce potential impacts are included as recommended mitigation measures and in the Conditions of Approval. Therefore, the project is anticipated to have a less than significant short-term air quality impact.
b. **Cultural Resources.** The project involves ground-disturbing activities, which means there is a remote possibility of encountering unknown buried archeological deposits. The project site was surveyed to detect the presence of prehistoric and historic cultural materials. The survey did not detect the presence of any resources. Standard mitigation requiring contractor notification if resources are excavated would further reduce potential impacts.

c. **Population and Housing.** The proposed project would provide 40 new dwelling units, resulting in a net gain of 33 dwelling units in the City and would have no significant housing- or population-related impacts.

d. **Recreation.** The Valle Verde campus includes various on-site passive and active recreation opportunities for residents. Increases in park and recreation demand associated with the proposed project would be less than significant.

e. **Transportation/Circulation.** Short-term construction related impacts could occur during construction. Recommended mitigations and standard conditions of approval for construction traffic and construction parking would further reduce impacts. The project would result in approximately five new employees and new senior housing. No long-term significant traffic impacts would result from the project. A recommended mitigation to prevent parking within five feet of all driveways would further reduce impacts.

f. **Water Environment.** Through the recommended mitigations, which would be incorporated into the conditions of approval, less than significant short-term construction-related water quality impact would be further reduced to a less than significant level. All new development would be required to comply with the provisions of the Storm Water Management Program, which mandate that post construction runoff is equal to pre-construction runoff and runoff is treated prior to leaving the site, thus long term impacts would be less than significant.

**Findings for the Fish & Game Code**

An Environmental Impact Report has been prepared by the lead agency (City of Santa Barbara), which has evaluated the potential for the proposed project to result in adverse effects, either individually or cumulatively, on wildlife resources. For this purpose, wildlife is defined as "all wild animals, bird, plants, fish, amphibians, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability." The proposed project has the potential for adverse effects on trees and mature vegetation and associated wildlife during project construction. Mitigation measures have been applied such that any less than significant impacts would be further reduced. The project does not qualify for a waiver and is subject to payment of the California Department of Fish and Game fee.
B. **Modification Front Setback (SBMC §28.92.110.2)**

The proposed Modification along Torino Drive to reduce the front setback from 35 feet to 25 feet is consistent with the purpose and intent of the Zoning Ordinance and is necessary to promote uniformity of improvement. The reduction of the setback would not be out of character with the existing Valle Verde development or the adjacent Hidden Oaks development, because the unit that would be located in the front setback would be single story, similar to the existing Valle Verde development on Torino Drive.

The proposed Modification from the private streets with Valle Verde can also be found consistent the purpose and intent of the Zoning Ordinance. The proposed development along the private streets would follow a similar development pattern established over the four phases of the site development.

C. **Modification Distance Between Buildings (SBMC §28.92.110.2)**

The Modification to reduce the distance between buildings requirements is consistent with the purpose and intent of the Zoning Ordinance and is necessary to promote uniformity of improvement. The existing development of the site includes reduced distances between buildings. The typical existing development is comprised of single story duplexes and triplexes, which does not create a crowded feel. The proposed Modifications between the buildings would be similar in nature. Typically, some of the buildings are at an angle to other buildings and only part of the building is closer than required to the other buildings.

D. **Modification Interior Yard Setback (SBMC §28.92.110.2)**

The Modification to reduce the interior setback is consistent with the purpose and intent of the Zoning Ordinance and is necessary to promote uniformity of improvement. Two units on the Rutherford parcel would encroach within one to two feet of the interior setback and place the development closer to the existing Valle Verde development. A third unit, located on the hillside above Sende Verde, would be placed three feet into the required setback. This location is appropriate since the unit would be located further from the Oak Woodland habitat and only affects Valle Verde interior lots.

E. **Lot Line Adjustment Modification (SBMC §27.40.040)**

The parcels resulting from the lot line adjustment conform to the General Plan, and zoning ordinance and building code, and specifically satisfy all lot area, street frontage and setback requirements as described in Section VI of the staff report.

F. **Conditional Use Permit**

In keeping therewith, the Planning Commission may permit, by issuance of a conditional use permit, any of the uses specifically enumerated in Section 28.94.030 upon a finding that:

1. Any such use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the
Comprehensive General Plan; The improvements and updated conditions of approval for the amended CUP will clarify the uses of the campus and improve the parking on site, thereby reducing parking on the public street. The project is consistent with the General Plan Elements, because it will not cause a significant traffic impact, the buildings will be a similar design to the existing development, and will provide an updated facility consistent with both local building code and state code for licensed retirement facilities.

2. Such uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved; The project site is located in an area that is somewhat buffered from the majority of the neighboring properties. Hope Ranch is adjacent to the site on two sides, Hidden Valley Park is on the eastern side and a dedicated open space is on the southern side. Hidden Oaks subdivision, a Planned Urban Development (PUD) is located immediately west of the Rutherford Lot, where ten of the proposed units will be located. Of the ten parcels, eight would have direct access onto Torino Drive. This public street was constructed in the mid-1980’s and has a low traffic volume, since it only serves Hidden Oaks. The proposed units would be set further back from the common lot line than required by Ordinance and the clustering would be similar to the Hidden Oaks development.

3. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided. The development of the Rutherford Lot includes one unit encroaching closer to the front setback line through a Modification request. However, the location of this development would be consistent with the front setbacks of the existing Valle Verde development of the project site and would not be adjacent to existing off-site neighborhood development.

4. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time. The applicant is providing additional parking for the proposed development. The project includes a reconfiguration of the existing parking lots and designating specific parking lots for employees, residents, and visitors. A parking program is proposed to be implemented to track the number of residents and visitors to ensure that vehicles are parked on site and not on the surrounding streets.

5. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area. The Planning Commission shall have the authority to approve the design of open space. Design shall mean size, shape, location and usability for proposed private,
public, or quasi-public purposes and development. Approval of such open spaces may be expressly conditioned upon an offer of conveyance by the owner to the City of Santa Barbara of the development rights, the right to prohibit the construction of additional buildings, or other property rights, necessary to achieve the purpose set forth in this title. *The proposed development is all single story, similar to the existing development, except for the addition to the administration building. The additions to the administration building would include a second story element for the four bed and breakfast units; however this second floor element would be in the center of the campus away from the public roads or off-site development. Open space is being dedicated as part of the project and along with a previously required, but unrecorded dedicated open space, a total of 9.8 acres of oak woodland would be provided. Finally, the project was reviewed on several occasions by the Architectural Board of Review and the Board found the project was moving in the right direction.*

Compliance with any additional specific requirements for a conditional use permit:

Section 28.94.030.R.2 states that for existing State-licensed residential care facilities for the elderly, community care facility or hospice as of the effective date of this Ordinance requesting an alteration or modification, in addition to the findings required under Section 28.94.020 (stated above), the Planning Commission or City Council on appeal must find upon a showing of adequate information that:

6. The proposal has been reviewed and approved by the City Fire Marshall and the City Building Official. *The proposed project was reviewed as part of the application process. The project will be required to apply for a building permit and representatives of the Fire Department and the Building Department will review the project for consistency with the applicable codes. The review will encompass all aspects of the project, including emergency access, ingress and egress of the parking areas and location of parking spaces.*

7. The facility will generate a demand for resources such as water, traffic and parking capacity, and other public services equivalent to no more than that which would be demanded by development of the property in accordance with the underlying zone, or if existing resource use exceeds the underlying zone, then resource use shall be equivalent to no more than that of the existing use. *The project would be consistent with both scenarios of this finding. Water usage for the proposed residential uses on the site would be less than what would be necessary to supply two single-family residences⁴, each located on one and one half acres⁵. Because the use of the site is senior housing, peak hour traffic trips would be less than a typical residential development and all parking can be accommodated on site in the attached garages and surface parking lot.*

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⁴ Water usage for two single family residences each on a parcel greater than one acre is 2.88 acre feet/year and for 10 senior units is 1.2 acre feet/year.

⁵ Because of slope density and the A-1 Zone District with a minimum one acre parcel size, the 3 acre site would result in two parcels at 1.5 acre.
9. The intensity of use in terms of the number of people, hours of operation, hours of major activities and other operational aspects of the proposed facility is compatible with any neighboring residential use. The portion of the proposed development located closest to the adjacent residential use will be similar in use and intensity because it will be residential use. There will be a greater separation between the residential units and the adjacent properties than required by Ordinance. All of the core support buildings (i.e. dining areas, wellness clinics, recreational facilities, etc.) will remain in the current location and would not expand any further toward the adjacent residential properties.

Exhibits:
A. Conditions of Approval
B. Site Plan
C. Applicant’s letter, dated April 5, 2011
D. Modification Table
E. Existing & Proposed Development Table
F. Current Conditional Use Permits
G. ABR Minutes dated January 26, 2009
H. Draft Final Environmental Impact Report (provided under a separate cover)
PLANNING COMMISSION CONDITIONS OF APPROVAL

900 CALLE DE LOS AMIGOS
AMENDED CONDITIONAL USE PERMIT, MODIFICATIONS, & LOT LINE ADJUSTMENT

APRIL 14, 2011

In consideration of the project approval granted by the Planning Commission and for the benefit of the owners and occupants of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession, and enjoyment of the Real Property:

A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

1. Pay Fish and Game fee immediately upon approval of the land use applications. Delays in payment will result in delays in filing the required Notice of Determination.

2. Obtain all required design review approvals.

3. Pay Land Development Team Recovery Fee at the time of submittal for either a Building or Public Works permits.

4. Make application and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform rough grading. Comply with condition E “Construction Implementation Requirements.”

5. Record any required documents (see Recorded Conditions Agreement section).

6. Permits.
   a. Make application and obtain a Building Permit (BLD) for construction of approved development.
   b. Make application and obtain a Public Works Permit (PBW) for all required public improvements.

Details on implementation of these steps are provided throughout the conditions of approval.

B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Approved Development.** The development approved by the Planning Commission on April 14, 2011, as shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara, is limited to the following:

An amendment to the Conditional Use Permit for the Valle Verde project to allow the following land uses:
a. 246 Independent Living Units (separate living units with individual kitchens and no more than two bedrooms).

b. 7 Studio Units (multiple attached living units of no more than one bedroom each sharing a common kitchen)

c. A 2-story, 6,870 S.F. Administration Building which includes within the footprint:
   (1) 1st story - Administrative offices, conference room and a resident bank office. (5,045 S.F.)
   (2) 2nd story - 4 Bed and Breakfast units each with full bath & wet bar (1,825 S.F.)

d. A 4,923 s.f. Poolside Lounge, which includes a library, a lounge, resident resale room (La Tienda room) with annex, a storage area, a laundry area and bathrooms with shower facilities.

e. A 13,764 s.f. Dining complex, which includes a 351 seat multi-purpose/theater/aerobic room, a lobby area, a 12 seat chapel, a kitchen, bathrooms, a dining hall that includes a 32 seat formal dining alcove, a 679 s.f. outdoor patio dining area, a 110 seat main dining area, and a wellness center.

f. A 2,658 s.f. Beauty Salon building, which also includes a staff room lounge, an outdoor staff area (with designated smoking area), a conference room (Santa Barbara Room), and a store for the residents (Country Store).

g. A 2,646 s.f. social room, which includes a card/conference room, a business office with help desk, 8 seat deli & lounge area, and bathrooms.

h. A 28,558 s.f. 80 bed Skilled Nursing building.

i. A 33,401 s.f. 48 bed Assisted Living building, which also includes a 44 seat dining area with kitchen, a lounge, an art room, a fitness room and staff office area.

j. A 2-story 5,899 s.f. Maintenance Building:
   (1) 1st Story – Hobby shop, maintenance shop, landscape storage, and remodel storage. (4,099 s.f.)
   (2) 2nd Story – Maintenance staff offices, meeting room and file storage. (1,800 s.f.)

k. A 252 s.f. Laundry room with a storage room and bathroom.

l. A 8,079 s.f. open air plaza including café seating & bbq trellis

m. Five gazebos totaling 3,175 s.f. with a restroom, storage & janitor/laundry area. Four gazebos have indoor seating with exterior open air seating.

n. A 588 s.f. storage area
PlanninG Commission Conditions of Approval
900 Calle de los Amigos
April 14, 2011
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O. 414 Parking spaces.

p. Dedication of 9.8 acres of Oak Woodland habitat to remain undeveloped.

q. New access driveway onto Torino Road.

r. A Lot Line Adjustment which would result in APN 049-440-015 being 3.4 acres and APN 049-440-016 being 11.7 acres.

Note: The square footage of items e. (Dining Complex), h. (Skilled Nursing) & i. (Assisted Living) are accurate within a factor of 10% + or -. In the event more substantial renovations occur in any of these buildings in the future, a more through evaluation of the building square footage shall be provided. This approved development includes the total of all the development requested under the Conditional Use Amendment, along with all of the existing Valle Verde development.

The uses allowed in this amendment to the conditional use permit are expressed as maximum limits. The amended conditional use permit supersedes all prior conditional use permits for the Valle Verde project.

2. Development Rights Restrictions - Oak Woodland. The Owner shall not make any use of the restricted portion of the Real Property as designated on the approved plans in order that those portions of the Real Property remain in their natural state. This area shall encompass one area of the oak woodland habitat totaling 9.8 acres. The Owner shall not make use of the restricted area including, but not limited to, grading, irrigation, structures, ornamental landscaping, or utility service lines. The restricted areas shall be shown on the site plan. The only exception to activity in this restricted area is fuel management as prescribed under the approved fire clearance plan and restoration of the area as described in a habitat restoration plan. The Owner shall continue to be responsible for maintenance of the restricted area, and compliance with orders of the Fire Department. Any brush clearance shall be performed without the use of earth moving equipment.

3. Uninterrupted Water Flow. The Owner shall provide for the continuation of any historic uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.

4. Recreational Vehicle Storage Prohibition. No recreational vehicles, boats, or trailers shall be stored on the Real Property.

5. Landscape Plan Compliance. The Owner shall comply with the Landscape Plan approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan, including any tree protection measures. If said landscaping is
removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.

6. **Oak Tree Protection.** The existing Oak trees shown on the Tree Protection Plan & Landscape Plan shall be preserved, protected, and maintained in accordance with the recommendations contained in the Valle Verde Retirement Community Tree Assessment and Protection Plan (Spiewak, 2008). See Condition D.2.d. for further detail on tree protect and also the copy of the Spiewak report, which shall be attached to the recorded conditions as an exhibit.

7. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.

8. **Senior Housing Restrictions.** The Real Property may only be used for residential uses by elderly or senior persons who are sixty-two (62) years of age or older (herein sometimes referred to as "senior housing").

9. **Required Redesign if Senior Housing Not Used.** In the event that the Real Property, or any portion thereof, is not or cannot be used solely for senior housing, the structures shall be redesigned and possibly reconstructed and the number of dwelling units shall be reduced so that the maximum number of dwelling units on the Real Property does not exceed the number of dwelling units that would be allowed if there is compliance with the City's parking requirements then in effect and in compliance with the underlying residential zone district.

10. **Pesticide or Fertilizer Usage Near Creeks.** The use of pesticides or fertilizer shall be prohibited within the south-eastern area, which drains directly into Arroyo Burro Creek.

11. **On Site Employee Amenities** – On site employee amenities shall be maintained for the life of the project which include break room areas, outdoor seating areas and smoking areas.

12. **On Site Residential & Employee Permit Parking Program.** Valle Verde shall create a residential and employee permit program with the purpose that all residents and employees shall park on site. Valle Verde shall maintain the program with the name of the resident or employee, the make and model of the car, and license
number. Records shall be maintained by Valle Verde staff and be provided to City staff as needed to ensure compliance with this condition. The program shall include the following components:

a. All residents of the independent living units and studios shall participate in the Permit Parking Program. Each independent residential living unit and studio unit shall be issued one (1) parking sticker.

b. In the event a resident moves out of an independent living unit or a studio, the automobile shall be removed off site to a designated storage area or other appropriate location that is not in the public right-of-way and the permit forfeited.

c. Designated residential parking spaces shall be clearly marked on wheel stops or other such signage.

d. All employees shall be issued one (1) parking sticker. All employees shall park on-site, and Valle Verde staff in charge of maintaining the parking program shall ensure that employees are using the on-site parking spaces.

e. Designated employee parking lots shall be provided as shown on the approved site plan and each employee parking lot shall include appropriate signage, approved by City Public Works Transportation staff.

13. **Common Area Maintenance.** All common/shared areas/facilities/improvements shall be kept open, available and maintained in the manner in which it was designed and permitted.

14. **Areas Available for Parking.** All parking areas and access thereto shall be kept open and available in the manner in which it was designed and permitted. No storage of equipment, such as storage containers or construction material, shall occur, unless allowed during construction or remodeling of buildings. Visitors to Valle Verde shall be encouraged to park on site prior to parking in the public right-of-way. As part of scheduling facilities for use by outside groups, Valle Verde shall encourage carpooling or other alternative transportation. 414 Parking spaces shall be divided among the residents, visitors, and employees in the following manner:

a. Residents – 251 spaces (note: includes a combination of single car attached garages and surface parking lots)

b. Employees – 114 spaces

c. Visitors – 49 spaces

C. **Design Review.** The project, including public improvements, is subject to the review and approval of the Architectural Board of Review (ABR). The ABR shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.

1. **Landscape Plans:**
a. The project shall adhere to the Fire Department Landscape Guidelines and Fuel Management Standards identified for properties within the project area. The Landscape plan shall be reviewed and approved by the Fire Department prior to submittal to the Environmental Analyst or ABR for review. (HAZ 1.)

b. Prior to issuance of grading or building permits, final landscaping plans for the development shall be submitted for review and approval of the Environmental Analyst, Creeks Division and Architectural Board of Review (ABR), and shall include the following: (AES 1)

(1) Planting of only native species in development areas adjacent to native riparian, oak woodland, and coastal sage scrub areas. Drought tolerant, water wise landscaping should be used throughout the site. No highly invasive non-native species listed by the California Native Plant Society are to be used onsite.

(2) Replacement of all skyline and specimen trees proposed for removal or significantly impacted onsite at a minimum of a 1:1 ratio, preferably with native species. Should any of the large sycamore trees onsite be impacted by the project, they should be replaced at a 3:1 ratio per the specifications of the Tree Assessment and Protection Plan.

2. **Habitat Restoration Plan.** Prior to issuance of grading or building permits, an oak woodland and coastal sage scrub restoration plan prepared by a qualified biologist shall be submitted for review and approval by the City's Environmental Analyst. At minimum, the restoration plan shall contain the following elements: (BIO-1a.)

a. The plan shall include all recommendations related to restoration and tree replacement contained in the Biological Assessment and Tree Assessment and Protection Plan prepared for the project.

b. Removed/disturbed oak woodland and coastal sage scrub habitat shall be provided/restored at a minimum 2:1 replacement ratio. To the extent possible, this mitigation shall be performed on the project site in existing non-native and/or disturbed habitat such as areas where fuel management activities have occurred but will no longer be required, and nonnative annual grassland habitat. The habitat restoration plan shall at a minimum create 0.48 of an acre of oak woodland and 0.24 of an acre of coastal sage scrub habitat. The oak woodland and coastal sage scrub habitat restoration/mitigation may be implemented in conjunction with proposed oak tree replacement mitigation (BIO-2a).

c. At minimum, the oak woodland and coastal sage scrub habitat restoration/mitigation plan shall describe the following plan elements:

(1) Restoration site selection criteria.
(2) Where restoration/mitigation will occur.

(3) The existing conditions in the restoration/mitigation area(s).

(4) Site preparation and planting methods.

(5) A planting pallet using locally obtained native coast live oak trees and coastal sage scrub plant materials.

(6) A maintenance schedule.

(7) Mitigation goals, objectives, and success criteria.

(8) A description of the monitoring methods and reporting that will be used to document and measure the progress of the restoration/mitigation effort.

d. The coastal sage scrub habitat restoration/mitigation performance standard shall be a minimum of 80 percent native herb and shrub cover. The oak woodland habitat restoration/mitigation performance standard shall be a minimum of 45 percent canopy cover for native trees. Both the coastal sage scrub and oak woodland areas shall have no more than 15 percent non-native weeds (excluding non-native annual grasses) and the required performance standards shall be achieved within five (5) years after initial planting.

e. Monitoring of the restoration areas shall occur for a minimum of five (5) years. Monitoring reports shall be submitted annually and at the completion of the five year period. If the final report indicates that the restoration project has in part or in whole been unsuccessful based on the performance standards specified in the restoration plan, the applicant shall submit within 90 days a revised or supplemental restoration program.

f. All plantings shall be maintained for the life of the project.

g. All cleared, graded, or disturbed areas on the project site shall be planted or protected and maintained for erosion control purposes as soon as feasible following initial disturbance.

h. All disturbed soil around the margins of the development proposed on the western side of the campus adjacent to the existing oak woodland shall be hydroseeded with a native coastal sage scrub seed mix using native species found in adjacent habitats. Seed shall be collected from locally-occurring plants (either on-site or within the south coast of Santa Barbara County).

i. Areas adjacent to the oak woodland on the western side of the property that are currently subject to fuel modification but would no longer require management after the approval of the proposed project (approximately 1.5 acres), shall be cleared of existing invasive, nonnative species (oleander, ice plant, ivy, etc.) and replanted with native, locally-occurring ground cover, brush and trees found in the oak woodland and coastal sage scrub habitats.
j. Planting shall be undertaken immediately after completion of construction.

k. Cages around the saplings shall be installed during planting to prevent wildlife from damaging the young trees. Weeds shall be controlled and a 2-3 inch layer of mulch shall be placed around the trees, but not against the stems. Newly planted saplings shall be irrigated with drip or other water source for the first two years, until the saplings are established.

l. All trees removed during construction shall have their trunks and large limbs cut into three to four-feet long sections and scattered around adjacent natural habitat to function as microhabitat for small animals.

m. To restore oak woodland habitat functions as quickly as possible, it is recommended that at least 80 percent of the of removed native trees replacement (80 percent of 150 removed oak replacement trees = 120 trees) be performed using 15-gallon or 24-inch box trees at a 3:1 mitigation ratio (12 removed trees would require 36 15-gallon and/or 24-inch box trees); and that 20 percent of the removed native trees replacement be performed replaced using one to five gallon trees planted at a 10:1 mitigation ratio (3 impacted trees would require 30 on- to five-gallon replacement trees). (20 percent of 150 replacement trees = 30 trees).

3. **Arborist’s Report / Tree Protection Plan.** Include a note on the plans that the recommendations/conditions contained in the arborist’s report, Valle Verde Retirement Community Tree Assessment and Protection Plan (Spiewak, 2008), shall be implemented. See Condition D.2.d. for further detail.

4. **Landscape Screening.** Landscaping with low water use plants and/or a solid screen wall or fence shall be provided to buffer the visitor parking area on the Rutherford Lot from Torino Road and adjacent properties to the south.

5. **Preliminary Hydraulic Report.** All recommended measures in the Preliminary Hydraulic Report prepared by MAC Design Associates, dated November 20, 2008, shall be followed and shown on final project plans. (W-1)

6. **Project Directory.** A project directory (including map and parking directional signs) listing all units on-site shall be indicated on the project plans. This directory shall be lit sufficiently for readability for site visitors and placed in a location or locations acceptable to the Fire Department, shall meet current accessibility requirements, and is subject to Design Review Approval.

7. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.

Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.
D. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.

1. Public Works Department.
   a. **Approved Public Improvement Plans.** Public Improvement Plans as identified in condition D.1.h - k for both Private and Public street Improvements shall be submitted to the Public Works Department for review and approval. Upon acceptance of completed public improvement plans, a Building permit may be issued if the Owner has bonded for public improvements and executed the Agreement to Construct and Install Improvements (Not a Subdivision).
   
   b. **Dedication.** Easements, as shown on the approved site plan and described as follows, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:
      
      (1) A minimum 20-foot wide easement within the center of the proposed private road to be known as "Mesa Verde" for storm drainage, City of Santa Barbara sanitary sewer main and City of Santa Barbara water main purposes as shown on the approved site plan / utility plan.
      
   c. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an Agreement Assigning Water Extraction Rights. Engineering Division Staff prepares said agreement for the Owner’s signature.
   
   d. **Drainage and Water Quality.** In addition to complying with Condition C.5, the project plans for grading, drainage, stormwater facilities, and project development shall be subject to review and approval by City Building Division and Public Works Department per City regulations, (and Regional Water Quality Control Board). Sufficient engineered design and adequate mitigation measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water quality pollutants, or groundwater pollutants would result from the project. (W-2)
   
   e. **Erosion Control/Water Quality Protection Plan.** Prior to the issuance of a demolition permit for the proposed project, the applicant or project developer shall prepare an erosion control plan that is consistent with the requirements outlined in the Procedures for the Control of Runoff into Storm Drains and Watercourses and the Building and Safety Division
Erosion/Sedimentation Control Policy (2003). The erosion control/water quality protection plan shall specify how the required water quality protection procedures are to be designed, implemented and maintained over the duration of the development project. A copy of the plan shall be submitted to the Community Development and Public Works Departments for review and approval, and a copy of the approved plan shall be kept at the project site. (W-3)

At minimum, the erosion control/water quality protection plan prepared for the proposed project shall address the implementation, installation and/or maintenance of each of the following water resource protection strategies:

- Paving and Grinding
- Sandbag Barriers
- Spill Prevention/Control
- Solid Waste Management
- Storm Drain Inlet Protection
- Stabilize Site Entrances and Exits
- Illicit Connections and Illegal Discharges
- Water Conservation
- Stockpile Management
- Liquid Wastes
- Street Sweeping and Vacuuming
- Concrete Waste Management
- Sanitary/Septic Waste Management
- Vehicle and Equipment Maintenance
- Vehicle and Equipment Cleaning
- Vehicle and Equipment Fueling

f. **Minimization of Storm Water Pollutants of Concern.** The applicant shall submit project plans incorporating long-term BMPs to minimize storm water pollutants of concern to the extent feasible, and obtain approval from Public Works Engineering. The approved facilities shall be maintained in working order for the life of the project and should incorporate passive design (bioswales, buffers, etc) to the extent feasible. (W-4)

g. **Storm Drain System Stenciling and Signage.** Within the project area, the applicant shall implement stenciling of all storm drain inlets and catch basins, and posting of signs at all public access points along channels and
creeks, with language in English and Spanish and graphic icons prohibiting dumping, per approved plans. The applicant shall submit project plans to the satisfaction of Public Works Engineering that identify storm drain inlet locations throughout the project area, and specified wording and design treatment for stenciling of storm drain inlets and signage for public access points that prohibit dumping. The owners association shall maintain ongoing legibility of the stenciling and signage for the life of the project, and shall inspect at least annually and submit report to City annually. (W-5)

h. Calle de los Amigos (public) Road Improvements. The Owner shall submit building plans for construction of improvements along the property frontage on Calle de los Amigos (public portion). As determined by the Public Works Department, the improvements shall include the following to City standards: Construct one (N) commercial style driveway; construct one (N) residential style driveway; and three (N) Type B curb drain outlets. Any work in the public rights-of-way requires a Public Works permit.

i. Calle de los Amigos (private) Road Improvements. The Owner shall submit building plans for construction of improvements along the property frontage on Calle de los Amigos (private portion). As determined by the Public Works Department, the improvements shall include the following to City standards: Construct one (N) commercial style driveway; construct one (N) residential style driveway; construct one (N) Type B Curb drain outlet; saw-cut (E) curb and gutter and construct (N) infiltration trenches per plan at driveway approaches and parking area.

j. Torino Drive (public) Road Improvements. The Owner shall submit building plans for construction of improvements along the property frontage on Torino Drive. As determined by the Public Works Department, the improvements shall include the following to City standards: Supply and install one (N) stop sign and paint Stop legend on street per the 2006 MUTCD. Any work in the public rights-of-way requires a Public Works permit.

k. Senda Verde (private) Road Improvements. The Owner shall submit building plans for construction of improvements along the property frontage on the private road known as Senda Verde. As determined by the Public Works Department, the improvements shall include the following to City standards: Construct 2 (N) commercial style driveways and one (N) residential style driveway; construct 3 x 3-inch Type B curb drain outlets (or 4-inch if 8-inch curb); construct +/-100 LF (N) sidewalk; construct +/-400 LF (N) curb & gutter; saw-cut +/- 130 LF (E) curb & gutter & install new infiltration trenches per plan at driveway approaches and parking area; and relocate (E) private street light. Install and connect one (N) irrigation water meter at the end of the (E) water main on Senda Verde in order to
flush the mainline. The new Irrigation Meter requires a Public Works Permit/ Work Order.

1. **Lot Line Adjustment Required.** The Owner shall submit an executed Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof or Declarations of Lot Line Adjustment to the Public Works Department. A surveyor licensed in the state of California shall prepare the legal description and required exhibits to attach to the subject Agreement or Declaration for the subject properties, which shall be recorded in the Office of the County Recorder.

m. **Construction Traffic.** The haul routes for all construction related trucks, three tons or more, entering or exiting the site, shall be approved by the Transportation Engineer. Construction-related truck trips for all trucks three tons or more shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) to help reduce truck traffic and noise on adjacent streets and roadways. The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods. (TRF-2a)

n. **Construction Parking. Construction.** Parking and vehicle/equipment/materials storage shall be provided as follows (T-2b):

   1. During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Transportation and Parking Manager.

   2. On-site or off-site storage shall be provided for construction materials, equipment, and vehicles. Storage of construction materials within the public right-of-way is prohibited.

o. **Disabled Accessibility.** Project circulation shall be maintained for disabled accessibility or equivalent facilitation in accordance with American Disabilities Act requirements (T-3a).

p. **Private Road Improvements.** The proposed private road identified as “Mesa Verde” shall be constructed to the same standards as public roads, as outlined in the Greenbook, the 1975 Interim Design and Improvement Standards, the DRAFT Engineering Design Guidelines, and as approved by the Public Works Director. New driveway approaches, curb & gutter, sidewalk, curb drain outlets and other road improvements shall be included on construction plans for the new road.

q. **Stop Sign.** A "STOP" sign shall be installed at (N) private road “Mesa Verde” and shown on the approved plans.

2. **Community Development Department.**

a. **Recordation of Agreements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded
Conditions identified in condition B “Recorded Conditions Agreement” to the Community Development Department prior to issuance of any building permits.

b. **Project Environmental Coordinator Required.** Submit to the Planning Division a contract with a qualified independent consultant to act as the Project Environmental Coordinator (PEC). Both the PEC and the contract are subject to approval by the City’s Environmental Analyst. The PEC shall be responsible for assuring full compliance with the provisions of the Mitigation Monitoring and Reporting Program (MMRP) and Conditions of Approval to the City. The contract shall include the following, at a minimum:

1. The frequency and/or schedule of the monitoring of the mitigation measures.
2. A method for monitoring the mitigation measures.
3. A list of reporting procedures, including the responsible party, and frequency.
4. A list of other monitors to be hired, if applicable, and their qualifications.
5. Submittal of weekly reports during demolition, excavation, grading and footing installation and biweekly reports on all other construction activity regarding MMRP and condition compliance by the PEC to the Community Development Department/Case Planner.
7. The PEC shall have authority over all other monitors/specialists, the contractor, and all construction personnel for those actions that relate to the items listed in the MMRP and conditions of approval, including the authority to stop work, if necessary, to achieve compliance with mitigation measures.

c. **Geotechnical Review.** The final project plans reviewed and approved by the City Building Division prior to issuance of any grading or building permits shall show that the project is constructed in accordance with California Building Code requirements and the recommendations contained in the Geotechnical Report prepared by Fugro West, Inc., dated October 2006, updated on February 18, 2008 regarding site-preparation, grading, paving, foundation design, retaining walls, and construction plans. (GEO-1.)

d. **Native and Specimen Tree Replacement and Protection.** The project applicant shall implement the Valle Verde Retirement Community Tree Assessment and Protection Plan (Spiewak, 2008), and the mitigation measures provided by the Initial Study prepared for the Valle Verde project.
The following tree replacement/protection measures shall be implemented: (BIO-2a.)

(1) A minimum oak tree replacement ratio of 10:1 shall be required to mitigate the loss of the 15 coast live oaks. A minimum survivorship ratio of 8:1 after three years post-planting shall be achieved. Acorns collected from on-site oak trees shall be used. One hundred fifty oak saplings, one gallon in size shall be planted in areas between the new structures on the west side of the property (project north) and the oak woodland. Additional trees shall be planted if damage occurs to existing trees during construction-related activities. Mitigation trees and required protection/maintenance requirements shall be installed prior to issuance of project permits.

(2) The following measures shall be noted on the grading plan submitted to the building department prior to issuance of grading permit and implemented prior and during construction-related activities to ensure the protection of trees:

(a) Tree protection fencing and barriers shall be installed as indicated on the fencing plan.

(b) Fences shall be chain link or orange plastic, four to six feet high and positioned at the Critical Root Zone (CRZ) as specified in the tree inventory table and illustrated on the site maps of the Tree Assessment and Protection Plan.

(c) CRZs shall have a radius measured from the center of the trunk to the outside edge of the CRZ, wherever possible. If work is approved within the CRZ, the fence shall be placed at the outside edge of the work zone.

(d) Fencing shall remain upright and intact throughout the duration of the project.

(e) Construction related activities shall be prohibited within the Tree Protection Zones (TPZ), including the use of heavy equipment, storage of materials, or accumulation of soil for later use.

(f) Demolition and excavation within TPZs of all native and non-native trees shall be done by hand where reasonable. Reasonableness shall be determined by the Project Environmental Coordinator, Supervising General Contractor and the Project Arborist.

(g) Special attention shall be given to construction related activity around sycamore No. 104 and all oak trees to
minimize impacts. Three 24-inch boxed sycamores shall be planted to mitigate impacts to sycamore #104.

(h) Any roots encountered within the CRZs of trees, even if outside the TPZs shall be cleanly cut back to an undisturbed section of the root zone. In areas where roots are cut, the soil profile shall be irrigated to reduce drying of newly exposed soil and subsequent damage to remaining roots in that profile. The Project Arborist shall determine the quantity, area and frequency of irrigation to the disturbed area.

(i) A permethrin-based pesticide (Astro) shall be applied to the lower six feet of oak tree trunks stressed from root cutting in the early Spring and late Summer (through September), to reduce the risk of attack by fatal oak bark beetles. It may need to be repeated for several years at the discretion of the City Arborist.

(j) Tree removal should, to the extent feasible, be scheduled between August 16 and January 31 to avoid bird nesting season or survey and construct only if nesting birds are absent (see mitigation measure Bio3a-2).

(k) All trees not indicated for removal on the site plan shall be preserved, protected, and maintained, in substantial accordance with the Tree Assessment and Protection Plan dated November 12, 2008.

(l) All required mitigation trees, and each of the impacted but not significantly impacted trees shall be monitored once a year following the completion of construction activities for a period of five years. Should any of these trees die during the monitoring period, they shall be replaced at the specified tree replacement mitigation ratio.

e. **Sensitive Species Surveys and Monitoring.** Prior to issuance of any grading or building permits, the applicant shall submit a draft contract with a qualified biologist for the review and approval of the Environmental Analyst. The following monitoring and survey activities shall be implemented: (BIO-3a)

(1) A qualified biologist shall supervise the installation of the construction fencing around all work areas and access roads. Fencing shall be maintained through the duration of project construction.

(2) Tree removal/relocation/trimming activities shall not occur during nesting season (February 1 – August 15). If these activities must occur during this time, a qualified biologist shall conduct a survey of
the trees no more than one week prior to the activity to identify active nests and nest holes. The biologist shall map the location of all active and inactive nests and nest holes in trees. A 300-foot radius no-disturbance buffer shall be established around trees containing active nests and this buffer shall be maintained until the biologist has verified that young birds have fledged the nest.

(3) A city approved biologist familiar with the habits of legless lizards and coast horned lizards shall monitor initial vegetation removal efforts (grubbing), grading and other surface-disturbing activities for silvery legless lizards and coast horned lizards. The biologist shall direct the equipment operator to slowly remove vegetation and the top 12 inches of topsoil while the biologist scans the soil for lizards. Any and all reptiles found shall be relocated to appropriate microhabitats in adjacent, undisturbed habitat out of harm’s way. The monitoring biologist shall complete a California Natural Diversity Database Field Survey form should any sensitive reptiles be found and shall fax a copy to the City, and the California Department of Fish and Game California Natural Diversity Database per the instructions on the field survey form.

f. Sensitive Plan Survey and Restoration Requirements. Prior to issuance of grading or building permits, a survey plan prepared by a qualified biologist shall be submitted for review and approval by the City’s Environmental Analyst. The survey plan shall also describe restoration efforts that will be implemented if it is determined that the proposed project would result in significant impacts to Santa Barbara honeysuckle and/or mesa horkelia. At minimum, the plan shall contain the following elements. (BIO-4a.)

(1) Prior to the issuance of a grading permit, a botanical survey shall be performed to confirm the presence or absence of Santa Barbara honeysuckle and mesa horkelia on the western side of the project site.

(2) The grading limits and the outer limits of the proposed fuel modification zone shall be staked by a licensed surveyor prior to performance of the botanical surveys. The surveys shall be performed by a qualified biologist/botanist and shall be performed within one month of any scheduled ground and/or vegetation disturbance.

(3) Should the surveys required by mitigation measure BIO-4a.1 find any sensitive plants within the area where disturbance will occur, a mitigation plan shall be prepared by a qualified biologist/botanist. The mitigation plan shall describe what measures shall be used to avoid impacts to any sensitive plants found in the survey area.
Should the removal of any sensitive plant be unavoidable, replacement shall be performed at a minimum 10:1 ratio for each plant that is removed. This sensitive plant replacement mitigation may be implemented in conjunction with the proposed oak woodland and coastal sage scrub habitat restoration/mitigation plan (BIO-2a).

(4) At minimum, the habitat restoration/mitigation plan shall describe the plan elements:

(a) Restoration site selection criteria.
(b) Where restoration/mitigation will occur.
(c) The existing conditions in the restoration/mitigation area(s).
(d) Site preparation and planting methods.
(e) A planting pallet using locally obtained plant materials.
(f) A maintenance schedule.
(g) Mitigation goals, objectives, and success criteria.
(h) A description of the monitoring methods and reporting that will be used to document and measure the progress of the restoration/mitigation effort.

(5) The sensitive plant mitigation performance standard shall be a minimum 80 percent survival of all mitigation plantings, with no more than 15 percent non-native weeds (excluding non-native annual grasses) to be achieved within 5 years after initial planting.

(6) Monitoring of the restoration area shall occur for a minimum of five (5) years. Monitoring reports shall be submitted annually and at the completion of the five year period. If the final report indicates that the restoration project has in part or in whole been unsuccessful based on the performance standards specified in the restoration plan, the applicant shall submit within 90 days a revised or supplemental restoration program.

g. Unanticipated Archaeological Resources Contractor Notification. The following information should be printed on the grading plans submitted to the building department prior to issuance of a grading permit (CR-1):

Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and an
archaeologist from the most current City Qualified Archaeologists List shall be retained by the applicant. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization

h. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a draft copy of the notice to the Planning Division for review and approval.

i. **Letter of Commitment for Neighborhood Notification Prior to Construction.** The Owner shall submit to the Planning Division a letter of commitment to provide the written notice specified in condition E.3 “Neighborhood Notification Prior to Construction” below. The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person who compiled the mailing list shall be submitted to the Planning Division.

j. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment to hold the Pre-Construction Conference identified in condition E.1 “Pre-Construction Conference” prior to disturbing any part of the project site for any reason.

k. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the appropriate design review
board and as outlined in Section C “Design Review,” and all elements/specifications shall be implemented on-site.

1. **Mitigation Monitoring and Reporting Requirement.** Note on the plans that the Owner shall implement the Mitigation Monitoring and Reporting Program (MMRP) for the project's mitigation measures, as outlined in the Environmental Impact Report for the project.

m. **Emergency Evacuation Plan.** Provide an emergency evacuation plan subject to approval by the Fire Department.

n. **Visitor Parking.** 49 guest parking spaces shall be provided throughout the site in addition to the resident and employee parking required by the Zoning Ordinance. The size and location shall be based upon the Planning Commission approved site plan.

o. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

<table>
<thead>
<tr>
<th>Property Owner</th>
<th>Date</th>
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<tbody>
<tr>
<td>Contractor</td>
<td>Date</td>
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<td>Architect</td>
<td>Date</td>
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| Engineer | Date | License No. |

E. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.

1. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Community Development Department Building and
Planning Divisions, the Property Owner, (Archaeologist, Architect, Arborist, Landscape Architect, Biologist, Geologist, Project Engineer, Project Environmental Coordinator, Mitigation Monitors), Contractor and each Subcontractor.

2. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractors and Project Environmental Coordinator’s (PEC) name, contractors and PEC’s telephone numbers, construction work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.

3. **Neighborhood Notification Prior to Construction.** Construction Notice. At least 20 days prior to commencement of construction, the contractor shall provide written notice to all property owners and residents within 450 feet of the project area. The notice shall contain a description of the proposed project, a construction schedule including days and hours of construction, the name and phone number of the Project Environmental Coordinator (PEC) who can answer questions, and provide additional information or address problems that may arise during construction. A 24-hour construction hot line shall be provided. Informational signs with the PEC’s name and telephone number shall also be posted at the site. (N-1)

4. **Construction Hours.** Construction (including preparation for construction work) shall only be permitted Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. excluding the following holidays:

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<tr>
<th>Holiday</th>
<th>Date</th>
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<tbody>
<tr>
<td>New Year’s Day</td>
<td>January 1st*</td>
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<td>Martin Luther King’s Birthday</td>
<td>3rd Monday in January</td>
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<td>Presidents’ Day</td>
<td>3rd Monday in February</td>
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<td>Cesar Chavez Day</td>
<td>March 31st*</td>
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<td>Memorial Day</td>
<td>Last Monday in May</td>
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<td>Independence Day</td>
<td>July 4th*</td>
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<td>Labor Day</td>
<td>1st Monday in September</td>
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<td>Thanksgiving Day</td>
<td>4th Thursday in November</td>
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<td>Following Thanksgiving Day</td>
<td>Friday following Thanksgiving Day</td>
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<tr>
<td>Christmas Day</td>
<td>December 25th*</td>
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*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

Occasional night work may be approved for the hours between 5 p.m. and 8 a.m. by the Chief of Building and Zoning per Section 9.13.015 of the Municipal Code) between the hours of 5 p.m. and 8 a.m. weekdays In the event of such night work approval, the applicant shall provide written notice to all property owners and
residents within 450 feet of the project property boundary and the City Planning and Building Divisions at least 48 hours prior to commencement of any. Night work shall not be permitted on weekends and holidays. (N-2)

5. **Construction Equipment Sound Control.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers’ muffler and silencing devices. (N-3)

6. **Sound Barriers.** As determined necessary by the Project Environmental Coordinator, the project shall employ sound control devices and techniques such as noise shields and blankets during the construction period to reduce the level of noise to surrounding residents. (N-4)

7. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Transportation Manager with a Public Works permit.

8. **Construction Parking.** During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Transportation Manager.

9. **Mitigation Monitoring Compliance Reports.** The PEC shall submit weekly reports during demolition, excavation, grading and footing installation and biweekly reports on all other construction activity regarding MMRP compliance to the Community Development Department Planning Division.

10. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be
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retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

11. Construction Dust Control – Throughout grading and other ground disturbance, the following conditions shall be followed:

a. Minimize Disturbed Area/Speed. Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less. (AQ-1)

b. Watering. During site grading and transportation of fill materials, regular water sprinkling shall occur using reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to achieve minimum soil moisture of 12% to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas every three hours. Increased watering frequency will be required whenever the wind speed exceeds 15 mph. (AQ-2)

c. Tarping. Trucks transporting fill material to and from the site shall be covered from the point of origin and maintain a freeboard height of 12 inches. (AQ-3)

d. Gravel Pads. Gravel pads, 3 inches deep, 25 feet long, 12 feet wide per lane and edged by rock berm or row of stakes or a pipe-grid track out control device shall be installed to reduce mud/dirt track out from unpaved truck exit routes. (AQ-4)

e. Construction Dust Control – Disturbed Area Treatment. After clearing, grading, earth moving or excavation is completed, the entire area of disturbed soil shall be treated to prevent wind erosion. This may be accomplished by:

(1) Seeding and watering until grass cover is grown;
(2) Spreading soil binders;
(3) Sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind;
(4) Other methods approved in advance by the Air Pollution Control District. (AQ-5)

f. **Construction Dust Control** – Paving. All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. (AQ-6)

g. **Stockpiling.** If importation, exportation and stockpiling of fill material are involved, soil stockpiled for more than two days shall be covered, kept moist by applying water at a rate of 1.4 gallons per hour per square yard, or treated with soil binders to prevent dust generation. Apply cover when wind events are declared. (AQ-7)

h. **Project Environmental Coordinator (PEC).** The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when construction work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recording and land use clearance for finish grading for the structure. (AQ-8)

12. **Exhaust Emissions** – The following vehicle emissions controls/maintenance shall be followed through out construction:

a. **Engines.** Heavy-duty diesel-powered construction equipment manufactured after 1996 (with federally mandated "clean" diesel engines) shall be used. (AQ-9)

b. **Engine Size.** The engine size of construction equipment shall be the minimum practical size. (AQ-10)

c. **Equipment Numbers.** The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time. (AQ-11)

d. **Equipment Maintenance.** Construction equipment shall be maintained to meet the manufacturer’s specifications. (AQ-12)

e. **Engine timing.** Construction equipment operating onsite shall be equipped with two to four degree engine timing retard or pre-combustion chamber engines. (AQ-13)
f. **Catalytic Converters.** Catalytic converters shall be installed on gasoline-powered equipment, if feasible. (AQ-14)

g. **Diesel Catalytic Converters.** Diesel catalytic converters, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California shall be installed, if available. (AQ-15)

h. **Diesel Replacements.** Diesel powered equipment shall be replaced by electric equipment whenever feasible. (AQ-16)

i. **Idling Limitation.** Idling of heavy-duty diesel trucks during loading and unloading shall be limited to five minutes; auxiliary power units shall be used whenever possible. (AQ-17)

j. **Worker Trips.** Construction worker trips shall be minimized by requiring carpooling and by providing for lunch onsite. (AQ-18)

k. **Biodiesel.** Biodiesel shall be used to the maximum extent feasible. (AQ-19)

l. **Energy Use.** Minimize the use of energy by designing and constructing structures using sustainable development principles including green building designs and materials. (AQ-20)

m. **Carpool Parking.** Provide preferential parking for carpools and vanpools. (AQ-21)

13. **Demolition** - The following conditions shall be carried out through the demolition phase:

   a. **Demolition and Debris Removal.** Apply water every 4 hours to the area within 100 feet of a structure being demolished, to reduce vehicle trackout.

      Apply water to disturbed soils after demolition is completed or at the end of each day of cleanup.

   b. **Post Demolition.** Apply dust suppressants (e.g., polymer emulsion) to disturbed areas upon completion of demolition. (AQ-23)

   c. **Demolition Activities.** Prohibit demolition activities when wind speeds exceed 25 mph. (AQ-24)

   d. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met. (PS-1)
F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.

2. **Complete Public Improvements.** Public improvements, as shown in the public improvement plans or building plans, including utility service undergrounding and installation of street trees, if any, shall be completed.

3. **Red Curb Painting.** Prior to the occupancy of any proposed residential unit, curbs adjacent to the Valle Verde driveways on Calle de los Amigos and Torino Drive should be painted red to prohibit parking within five feet of the driveways. (TRF-1a.)


5. **Biological Monitoring Contract.** Submit a contract with a qualified biologist acceptable to the City for on-going monitoring consistent with condition D.2.g.6, which states:

Monitoring of the restoration area shall occur for a minimum of five (5) years. Monitoring reports shall be submitted annually and at the completion of the five year period. If the final report indicates that the restoration project has in part or in whole been unsuccessful based on the performance standards specified in the restoration plan, the applicant shall submit within 90 days a revised or supplemental restoration program.

G. **General Conditions.**

1. **Prior Conditions.** These conditions shall supersede the conditions identified in all previously approved Planning Commission Resolutions and Substantial Conformance Determinations.

2. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.

3. **Approval Limitations.**
   a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission.

c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

4. **California Department of Fish and Game Fees Required.** Pursuant to Section 21089(b) of the California Public Resources Code and Section 711.4 et. seq. of the California Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified Department of Fish and Game fees are paid and filed with the California Department of Fish and Game within five days of the project approval. The fees required are $2,839.25 for projects with Environmental Impact Reports. Without the appropriate fee, the Notice of Determination cannot be filed and the project approval is not operative, vested, or final. The fee shall be delivered to the Planning Division immediately upon project approval in the form of a check payable to the California Department of Fish and Game. Please note that a filing fee of $50.00 is also required to be submitted with the Fish and game fee in the form of a separate check payable to the County of Santa Barbara.

5. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application.

6. **Site Maintenance.** The existing site/structures shall be maintained and secured. Any landscaping shall be watered and maintained until demolition occurs.

7. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City’s Agents") from any third party legal challenge to the City Council’s denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively “Claims”). Applicant/Owner further agrees to indemnify and hold harmless the City and the City’s Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing
contained in this condition shall prevent the City or the City’s Agents from independently defending any Claim. If the City or the City’s Agents decide to independently defend a Claim, the City and the City’s Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

NOTICE OF APPROVAL TIME LIMITS:
The Planning Commission action approving the Conditional Use Permit and Modification shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or

2. A Building permit for the use authorized by the approval is issued and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

NOTICE OF LOT LINE ADJUSTMENT TIME LIMITS:
The Planning Commission’s action approving the Lot Line Adjustment shall expire 24 months from the date of approval. The applicant may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.40.100.

NOTICE OF TIME LIMITS FOR PROJECTS WITH MULTIPLE APPROVALS (S.B.M.C. § 28.87.370):
If multiple discretionary applications are approved for the same project, the expiration date of all discretionary approvals shall correspond with the longest expiration date specified by any of the land use discretionary applications, unless such extension would conflict with state or federal law. The expiration date of all approvals shall be measured from date of the final action of the City on the longest discretionary land use approval related to the application, unless otherwise specified by state or federal law.
Valle Verde is a community of the American Baptist Homes of the West (ABHOW), a trusted nonprofit provider of quality retirement housing and healthcare services. As an expression of its Judeo-Christian mission, ABHOW seeks to enhance the well-being and security of seniors through the provision of housing, healthcare, and supportive services. We serve people of many religions and ethnicities.

ABHOW operates 11 continuing care retirement communities (CCRCs) and 18 affordable housing communities. CCRCs provide residents with the continuity of a flexible, independent lifestyle while offering the security of healthcare. The ABHOW Foundation helps these communities by providing financial support to residents who require assistance.

EXHIBIT C
Overview

Valle Verde is pleased to submit the following summary of its Master Plan and the changes that have occurred since 2006 based on neighbor and Planning Commissioner requests. Included in this overview are the following sections: Collaborative Changes, Campus Statistics, History, Today’s Campus, Proposed Project, Resident & Neighbor Involvement, Parking, Emergency Evacuations, and Green Building.

Seven years ago, Valle Verde Retirement Community began planning to meet a portion of the growing need for senior housing while also renovating our aging campus.

Our Master Plan objectives include:

- Enhance campus facilities and amenities without raising resident fees.
- Meet a portion of Santa Barbara’s need for senior housing.
- Maintain the balance of outdoor spaces for pedestrian activities and landscaping.
- Maintain single story homes to best serve the physical needs of the residents.
- Continue to be good neighbors by maintaining neighborhood compatibility.
- Provide useable and sufficient on-site staff parking.
- Stay within Valle Verde’s current CUP limit of 254 independent living homes.
- Continue to expand our Green Initiative as we work towards a sustainable campus.

In establishing the Master Plan, a committee of 15 people, including Valle Verde residents, staff, and community Advisory Board members analyzed future development and services needed for Valle Verde’s existing and future seniors. The Master Planning Task Force began its work in March of 2004 and has met regularly to discuss campus visioning.

Collaborative Changes

Over the last six years, Valle Verde has also been working with Hidden Oaks and Hidden Valley neighbors, City staff, ABR, and the Planning Commission to move its Master Plan through the environmental review and permitting process. During that time, the project has been changed through a collaborative process with all parties.

These changes include:

- Redesigning site plans so that 26 of the proposed 40 homes are incorporated as infill
- Limiting development to previously disturbed areas
- Moving the proposed employee parking lot to the central campus
- Reducing grading by 62% overall
- Increasing setbacks from nearest neighbor’s fence from 15’ to 126’
- Redesigning site plans so that EIR analysis concludes no Class I Significant Impacts
- Numerous Rutherford parcel redesigns (see page 9)

Campus Statistics

The Valle Verde Retirement Community is a Continuing Care Retirement Community (CCRC) located at 900 Calle De Los Amigos. It is a nonprofit, owned and operated by American Baptist Homes of the West. Valle Verde provides seniors with residential options of independent living, assisted living, dementia care, and skilled nursing and is licensed by the Department of Social Services as a Community Care facility.

Valle Verde has 3 levels of housing:

- Independent Living
  - Studios [11 - no kitchens]
  - 1-Bedroom Apartments: 93
  - 2-Bedroom Apartments: 115
- Assisted Living: 44 beds
- Skilled Nursing: 80 beds

Valle Verde’s campus is made up of five independent legal parcels totaling approximately 60 acres of land. The campus zoning is primarily E-3, but smaller portions include E-1 and A-1 designations.
History

The following timeline shows the changes to Valle Verde’s campus since 1902. The photos are from UCSB and Pacific Aerial archives with yellow property lines added to show Valle Verde property boundary changes.

1902 - 1959
- The Rutherford family operates a walnut orchard on the property

1958
- Property purchased for senior homes

1960
- March 3 & 17, 1960: Planning Commission grants Conditional Use Permit (CUP) to annex to the City 45-acres of Valle Verde property and develop 182 independent living apartments with a separate 15-bed convalescent hospital.
- May 24, 1960: City Council approval
- Overall density = 350 residents and staff (last use of population numbers associated with CUPs)
- Portions of the property, including Arroyo Burro creek, were deeded to the City of Santa Barbara for use as Hidden Valley Park

1961
- October 1961: Planning Commission reevaluates project and City Council endorses recommendation of revised plot plan

1965 - 1966
- Valle Verde constructed

1967
- Valle Verde purchases additional acreage

1971
- Planning Commission and City Council approve addition of 34 new nursing care beds, a dining room, and day room to the campus.
- Permit includes rezone from E-3 and A-1 (One-Family Residential) to E-3-S-H (One Family Residential with a Senior Housing Overlay).

1974
- City’s CUP Ordinance changed to allow senior retirement homes in single-family zones.
History

1980
- December 18, 1980: Planning Commission reviews CUP for 44 additional independent living units. Regarding General Plan Consistency, the Staff Report says Valle Verde is consistent.
- Valle Verde has an 8-year waiting list.
- Valle Verde constructs bridge over Arroyo Burro Creek and connects Calle De Los Amigos

1981
- January 22, 1981: Planning Commission approves 44-unit addition to Valle Verde

1983
- City authorizes 5 new skilled nursing beds

1984
- APN 49-440-016 (then known as 49-040-020) was annexed into the City
- Planning Commission certifies Environmental Impact Report and Valle Verde expansion
- Valle Verde adds 28 independent living apartments, a 45-unit personal care facility with 48 beds, a 14-room nursing care facility with 28 beds, a recreation building, a laundry/kiosk, 2 five-car carports and additions to the existing central kitchen & dining building

1986
- City approves annexation of the Rutherford property as a condition of project approval for Hidden Oaks Estates

1987
- Valle Verde purchases Rutherford parcel

1989 - 1996
- Hidden Oaks Estates built
2003
- Valle Verde adds dementia care services within existing Assisted Living facility
1972 - 1999: A Visual Overview
Today’s Campus

City Authorized Uses

<table>
<thead>
<tr>
<th>Year</th>
<th>Independent Living Apartments</th>
<th>Assisted Living</th>
<th>Skilled Nursing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>182</td>
<td></td>
<td>15 beds</td>
</tr>
<tr>
<td>1971</td>
<td></td>
<td></td>
<td>+ 34 beds</td>
</tr>
<tr>
<td>1981</td>
<td>+ 44</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1983</td>
<td></td>
<td>+ 5 beds</td>
<td></td>
</tr>
<tr>
<td>1984</td>
<td>+ 28</td>
<td>+ 48 beds (45 rooms)</td>
<td>+ 28 beds (14 rooms)</td>
</tr>
<tr>
<td>Total Authorized</td>
<td>254</td>
<td>48 beds (45 rooms)</td>
<td>82 beds</td>
</tr>
</tbody>
</table>

* In 1960, the Santa Barbara City Council found Valle Verde Retirement Community to be in harmony with the adjacent Hidden Valley neighborhood. In 1971, 1981, and 1984, the Planning Commission found that Valle Verde additions were compatible with the surrounding neighborhoods.

Senior Needs Influence Today's Campus

Over the past 20 years, due to longer life expectancies, the demand for larger homes suitable for couples has increased. In 2004, the City approved a mini-master plan to alter certain independent living units on the campus. Some have enabled expansions of single units while others have involved tenant improvements to combine two independent living units into one independent living unit. Via such additions and/or combinations, Valle Verde has reduced its overall campus density from 254-permitted independent living units.

Current Campus Counts

<table>
<thead>
<tr>
<th></th>
<th>Independent Living</th>
<th>Assisted Living</th>
<th>Skilled Nursing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Actual (2011)</td>
<td>208</td>
<td>44 beds</td>
<td>80 beds</td>
</tr>
<tr>
<td>City Authorized Totals</td>
<td>254</td>
<td>48 beds</td>
<td>82 beds</td>
</tr>
</tbody>
</table>

* Campus population counts have not been updated as a Condition of Approval since 1961. Some numbers were studied in various Environmental Impact Reports, but overall population limits have not been used by the City as a regulatory device since 1961.
Proposed Project

New Senior Homes Proposed Within Existing Conditional Use Permit

The proposed Valle Verde Master Plan consists of 40 new senior homes, mainly 2-bedroom duplexes each consisting of 1,267 net sq. ft. on average (1,340 gross). These will be built in 24 buildings (19 new, 5 replacement) on multiple parcels within the existing Valle Verde campus. This would bring the total independent senior apartments on campus to 246.

With input received from meetings with neighbors and four ABR and PC concept hearings, the site plan and unit mix has been altered since 2006:

- Setbacks have been increased from 15' to 126' to the nearest Hidden Oaks Estates neighbor fence.
- Seven proposed residential units have been relocated from the Rutherford parcel adjacent to Hidden Oaks Estates.
- Site layout has been reconfigured to reduce pinch points and increase interior building setbacks.
- Finish grades have been reduced to further enhance views from the Hidden Oaks Estates neighbors.
- Retaining wall heights have been limited to no more than 8’ and all two and three tiered walls eliminated.
- Overall site grading has been reduced by 62% from the original proposal.
- Development envelopes have been concentrated on areas that have been previously disturbed.
- Proposed staff parking lot has been moved, requiring the rebuilding of the maintenance building.

As outlined in our objectives, the new senior homes will fund the upgrades (including energy efficiency upgrades) to campus common areas. These include renovations to existing gazebos, a redeveloped theater/multipurpose room, a new residential cafe, an expanded residents’ dining room, expanded resident salon services, residents’ business center, redesigned resident fitness center, redeveloped maintenance building, and new staff parking lots.

<table>
<thead>
<tr>
<th>Status</th>
<th>Independent Living</th>
<th>Assisted Living</th>
<th>Skilled Nursing</th>
<th>Residents</th>
<th>Staff (peak shift change)</th>
<th>Parking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing</td>
<td>208</td>
<td>44 beds</td>
<td>80 beds</td>
<td>381</td>
<td>109</td>
<td>331</td>
</tr>
<tr>
<td>Proposed</td>
<td>40 new, (2) removed</td>
<td>4 beds</td>
<td></td>
<td>60</td>
<td>5</td>
<td>209 new, (126) removed</td>
</tr>
<tr>
<td>Total</td>
<td>246</td>
<td>48 beds</td>
<td>80 beds</td>
<td>441</td>
<td>114</td>
<td>414</td>
</tr>
</tbody>
</table>
Resident & Neighbor Involvement

Community Input Changes Site Plans

Since 2004, Valle Verde has worked with residents and staff to create the Master Plan and keep residents involved in the permitting process. Valle Verde staff have also made it a priority to reach out and work with campus neighbors. Over the years this has included the following:

<table>
<thead>
<tr>
<th>Groups</th>
<th>Meetings</th>
<th>Mailings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valle Verde Residents &amp; Community Board Members</td>
<td>57</td>
<td>22</td>
</tr>
<tr>
<td>Neighbors</td>
<td>20</td>
<td>8</td>
</tr>
<tr>
<td>Public Officials</td>
<td>15</td>
<td>2</td>
</tr>
<tr>
<td>Community Organizations</td>
<td>14</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>106</strong></td>
<td><strong>33</strong></td>
</tr>
</tbody>
</table>

Based on feedback from the meetings and mailings, the project has been redesigned numerous times. A sampling of the changes is listed below with more detail on the following page.

<table>
<thead>
<tr>
<th>Neighbor Comments</th>
<th>Project Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rutherford Parcel</td>
<td></td>
</tr>
<tr>
<td>1. Increase setbacks to mirror neighbor's 40' setbacks</td>
<td>1. Increased setback to nearest neighbor to 126' (3x neighbor setbacks)</td>
</tr>
<tr>
<td>2. Reduce # of homes</td>
<td>2. Reduced from 20 to 13 homes</td>
</tr>
<tr>
<td>3. Lower rooflines for better view corridors</td>
<td>3. Lowered roof height by 2'2&quot;</td>
</tr>
<tr>
<td>4. Relocate homes west of road</td>
<td>4. Homes relocated to central campus</td>
</tr>
<tr>
<td>5. Eliminate road connecting to Torino Drive</td>
<td>5. Eliminated proposed road in favor of driveway &amp; added cart path for staff use</td>
</tr>
</tbody>
</table>

Eliminate on-street staff parking

Increase oak woodland preserve

Included on-site employee parking lots (114 employee parking spaces; 414 total parking spaces)

Increased oak woodland from 4 to 9.8 acres
Rutherford Parcel Site Plan: 2006 to 2008

RUTHERFORD 20 UNITS
- 8' - 14' RETAINING WALLS
- GRADING: 22,500 CUT / 12,500 FILL
- ROAD PAVING ± 18,724 S.F.

PRE APPLICATION - RUTHERFORD SITE PLAN
JULY 2006

RUTHERFORD 13 UNITS (REDUCED BY 35%)
- 11 MATURE OAKS PRESERVED
- INCREASED DISTANCE TO HIDDEN OAKS FENCE FROM 12' TO 120'
- ELIMINATED 2 & 3 TIERED RETAINING WALLS
- AVERAGE HEIGHT OF NEW WALLS BETWEEN 3' - 6' HIGH
- RETAINING WALLS REDUCED APPROX 10,000 S.F.
- GRADING REDUCED BY 24,200 CU. YDS. (89% REDUCTION)
- MINIMIZED GRADING ON 30% SLOPES
- PROPOSED LOT LINE ADJUSTMENT
- TOTAL HABITABLE UNIT S.F. REDUCED BY 11,600 S.F.
- 7 UNITS REMOVED (SINCE PRE-APP)

DART III REVISED - RUTHERFORD SITE PLAN
DECEMBER 2008
Existing Parking & Employees

New On-site Employee Parking

Associated Transportation Engineers conducted an on-site parking demand study at Valle Verde and found the following existing conditions:

### Existing Parking Conditions

<table>
<thead>
<tr>
<th>Existing Stalls*</th>
<th>Peak Demand (7am - 3pm, residents &amp; staff)</th>
<th>% Occupied</th>
</tr>
</thead>
<tbody>
<tr>
<td>331</td>
<td>219</td>
<td>66%</td>
</tr>
</tbody>
</table>

*Count includes 12 existing resident garages

While Valle Verde currently has enough parking for residents, staff, and visitors, the spaces are spread throughout its 60-acre campus. Due to this layout, on a regular basis approximately 60 Valle Verde staff park along Calle De Los Amigos during the day. Even though parking on a public street is legal, Valle Verde would like to ensure the use of on-site parking for employees as a neighborhood benefit. Valle Verde is proposing 414 parking spaces, even though City requirements for employee, resident, and visitor parking are 312 spaces total (as stated in the EIR).

### Proposed Parking Types

<table>
<thead>
<tr>
<th>Proposed Parking Types</th>
<th>Proposed Parking Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee (accommodates peak shift change &amp; 5 new employees)</td>
<td>114</td>
</tr>
<tr>
<td>Employee/Visitor</td>
<td>49</td>
</tr>
<tr>
<td>Resident</td>
<td>251</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>414</strong></td>
</tr>
</tbody>
</table>

To ensure parking compliance:
- Employee time clocks will be placed near the new lots.
- Parking permit stickers for both residents and staff will be issued to ensure compliance.
- Employee-only parking will be signed.

The campus has a volunteer, incentive-based alternative transportation program that encourages carpooling, bus riding, commuter bus use, bicycling, and walking to work. When surveyed, 28% of employees were found to use various forms of alternative transportation, which reduces neighborhood traffic.

Valle Verde is staffed in multiple shift patterns, with three predominant shifts. Employee counts on average run:
- 7:00 am - 3:00 pm: 33 - 109 employees (includes crossovers for shift changes)
- 3:00 pm - 11:00 pm: 17 - 95 employees
- 11:00 pm - 7:00 am: 17 - 35 employees
Proposed Parking Plan

The largest number of employees occurs at the shift change during the 2 o'clock hour. At this time, there are 109 employees on campus.

Proposed Parking Plan

With the proposed employee parking lots and additional spaces (see below), there will be enough employee parking to meet the existing shift change over, accommodate the proposed 5 new employees, provide spaces for existing and new residents, and have additional spaces for employees and visitors.
Emergency Evacuations & Green Building

EMERGENCY EVACUATIONS

A Tried and Tested Approach

California law requires Valle Verde conduct fire drills monthly and disaster drills semiannually. Valle Verde meets this requirement and has an extensive emergency evacuation plan. At least twice a year, residents and staff drill for the emergency evacuation plan. Valle Verde's evacuation plan is outlined below.

Status: Evacuation Warning

- Under an evacuation “warning,” independent living residents evacuate to local family and friends via private vehicles. Area relatives are also encouraged to pick up relatives at this time if feasible.
- Under direction of the City of Santa Barbara's Emergency Operations Center (EOC), the rest of the campus shelters in place.

Status: Evacuation Order

- If instructed by the EOC to evacuate, the remaining independent living residents evacuate to the nearest Red Cross evacuation site via private vehicle. Carpooling is encouraged and coordinated by Valle Verde.
- Under direction of the EOC, Assisted Living residents are transported in Valle Verde buses along with their care staff to a facility with a mutual aid agreement.
- Skilled Nursing residents are transported via Valle Verde and E-Z lift vehicles with their care staff to licensed, mutual aid facilities.
- Valle Verde facility staff evacuate with the residents, but a team of administrators and maintenance staff remain until the campus is certified and locked down.

Practical Experience: During the Painted Cave fire, Valle Verde used the above evacuation plan to safely evacuate residents and staff.

GREEN BUILDING

Valle Verde's Green Initiative Continues to Expand

As a community, Valle Verde has already embraced green building principles on its campus.

- Valle Verde currently has a 58,000 watt photovoltaic solar energy generation system.
- Landscaping is watered with reclaimed water.
- Campus recycling programs have won 4 awards from CalRecycle Waste Reduction Awards.
- Food waste from the dining room is composted with the City's Foodscrews program.
- Apartments undergoing remodeling are outfitted with energy efficient windows, low VOC paints, and efficient compact fluorescent lighting.
- Administration offices are green certified by the Green Business Program of Santa Barbara County.
Green Building & Conclusion

Valle Verde’s construction methods will include tree/waterway protection, erosion control measures, site dust control, proper disposal of construction waste and hazardous materials. The green elements to the project design include native/drought tolerant landscaping, reclaimed water for irrigation, tankless hot water systems, energy efficient building layouts, ENERGY STAR appliances, programmable thermostats, dual glazed windows, minimal garage sizes, front porches, dimmer switches, compact fluorescent light fixtures, storm water treatment, low VOC paints and carpets, operable skylights, and whole house fans.

As reflected in the EIR, Valle Verde’s Master Plan meets the City’s sustainable development standards.

Additionally, Valle Verde has partnered with UCSB’s Bren School of Environmental Science & Management to create a carbon neutral plan for the campus. The plan will assess the existing campus’ Green Initiative performance and formulate new programs to achieve carbon neutrality by 2020.

Conclusion

The Valle Verde Master Plan is a much different project than the proposal conceptually reviewed by the Planning Commission in 2006. Over the past five years, with the assistance of the Architectural Board of Review, Planning Commission, and neighbors, the project has made substantive improvements in design to a point where the project poses no significant environmental impacts as stated in the Environmental Impact Report. The Master Plan accomplishes this result while staying within the already approved total of 254 independent living units.

The proposed homes will provide the Valle Verde campus the funding needed to upgrade its aging campus and provide needed senior housing to meet the ever rising demand.

New Senior Homes
Fund Campus Improvements

Enhanced Senior Services & Care*

*Existing resident rates will not be increased to pay for improvements to Valle Verde’s aging campus.

Today, the Valle Verde community asks you to approve its Master Plan. Please take into consideration the five years of project review and extensive, collaborative revisions that make this project a benefit both for existing and future seniors and the surrounding neighborhood.
<table>
<thead>
<tr>
<th>Unit (s) Number</th>
<th>Assessor Parcel Number</th>
<th>Front Modification</th>
<th>Interior Yard</th>
<th>Building Separation Ord. requirement – 20 Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>1, 2, 3 &amp; 4</td>
<td>049-040-053</td>
<td></td>
<td></td>
<td>Variable reduction from 20' between units 1 &amp; 2 (duplex) and units 3 &amp; 4 (duplex)</td>
</tr>
<tr>
<td>6</td>
<td>049-440-015 - Rutherford</td>
<td>35' to approximately 20' Torino Road (Public Road)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6 &amp; 7</td>
<td>049-440-015 - Rutherford</td>
<td>35' to approximately 7' Mesa Verde (Private Road)</td>
<td></td>
<td>Variable reduction from 20' between units 6 &amp; 7 (duplex) &amp; units 9 &amp; 8 (duplex)</td>
</tr>
<tr>
<td>9</td>
<td>049-440-015 - Rutherford</td>
<td>35' to approximately 7' Mesa Verde (Private Road)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>049-440-015 - Rutherford</td>
<td></td>
<td>15' to approximately 14'</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>049-440-015 - Rutherford</td>
<td></td>
<td>15' to approximately 12'</td>
<td>Variable reduction from 20'</td>
</tr>
<tr>
<td>16 &amp; 17 (duplex)</td>
<td>049-440-016</td>
<td>30' to approximately 12' Calle Sastre (Private Street)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>049-440-016</td>
<td>30' to approximately 13' Calle Sastre (Private Street)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20, 21 &amp; 22</td>
<td>049-040-054</td>
<td></td>
<td></td>
<td>Variable reduction from 20' between unit 20 and units 21 &amp; 22</td>
</tr>
<tr>
<td>22</td>
<td>049-040-054</td>
<td></td>
<td></td>
<td>Variable reduction from 20' between unit 22 &amp; existing building</td>
</tr>
<tr>
<td>26</td>
<td>049-040-050</td>
<td>20 to approximately 11 feet Sende Verde (Private street)</td>
<td></td>
<td>Variable reduction from 20' between unit 26 &amp; existing building</td>
</tr>
<tr>
<td></td>
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</tr>
<tr>
<td>28</td>
<td>049-040-053</td>
<td></td>
<td>Variable reduction from 20' between unit 28 &amp; existing building</td>
<td></td>
</tr>
<tr>
<td>31</td>
<td>049-040-050</td>
<td>15' to 11'</td>
<td></td>
<td></td>
</tr>
<tr>
<td>35, 36, &amp; 37 -</td>
<td>049-040-053</td>
<td></td>
<td>Variable reduction from 20' between units 35, 36, &amp; 37 (triplex) and units 5 &amp; 38 (duplex)</td>
<td></td>
</tr>
<tr>
<td>5 &amp; 38 – Existing Building</td>
<td>049-040-053</td>
<td></td>
<td>Variable reduction from 20'</td>
<td></td>
</tr>
<tr>
<td>39</td>
<td></td>
<td></td>
<td>Variable reduction from 20' between unit 39 &amp; existing building</td>
<td></td>
</tr>
<tr>
<td>40</td>
<td></td>
<td></td>
<td>Variable reduction from 20' between unit 40 &amp; existing building</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Existing</td>
<td>Demolished</td>
<td>Additions</td>
<td>Total</td>
</tr>
<tr>
<td>--------------------------------</td>
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<td>-----------</td>
</tr>
<tr>
<td><strong>Support Facility Components</strong></td>
<td>37,540 s.f.</td>
<td>4,460 s.f. - Maintenance</td>
<td>1,728 s.f. - Gazebos, 599 s.f. - Salon, 5,899 s.f. - Maintenance, 4,855 s.f. - Administrative, 743 s.f. - Multipurpose, 73 s.f. - Recreation, 298 s.f. - Wellness, 725 s.f. - Dining</td>
<td>47,584 s.f.</td>
</tr>
<tr>
<td>Includes: Dining Hall, Fitness/Pool Area &amp; parts of Assisted Living Building</td>
<td>4,876 s.f.</td>
<td>N/A</td>
<td>946 s.f.</td>
<td>26,340 s.f.</td>
</tr>
<tr>
<td>Assisted Living (located within a building that includes a few support facility components)</td>
<td>25,394 s.f. (gross)</td>
<td>25,394 s.f.</td>
<td>25,394 s.f. (gross)</td>
<td>25,394 s.f. (gross)</td>
</tr>
<tr>
<td>Skilled Nursing</td>
<td>27,244 s.f. (net)</td>
<td>N/A</td>
<td>No change</td>
<td>No change</td>
</tr>
<tr>
<td>Hospice</td>
<td>2,390 s.f.</td>
<td>2,390 s.f.</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Residential Component</td>
<td>169,743 s.f.</td>
<td>7,105 s.f.</td>
<td>246 independent units, 7 studio units</td>
<td>Total - 253 units</td>
</tr>
<tr>
<td>1 - SFR (Rutherford)</td>
<td>169,743 s.f.</td>
<td>7,105 s.f.</td>
<td>246 independent units, 7 studio units</td>
<td>Total - 253 units</td>
</tr>
<tr>
<td>208 independent living units</td>
<td>169,743 s.f.</td>
<td>7,105 s.f.</td>
<td>246 independent units, 7 studio units</td>
<td>Total - 253 units</td>
</tr>
<tr>
<td>11 - studio units (shared kitchen/4 units)</td>
<td>169,743 s.f.</td>
<td>7,105 s.f.</td>
<td>246 independent units, 7 studio units</td>
<td>Total - 253 units</td>
</tr>
<tr>
<td>Total - 219 units</td>
<td>169,743 s.f.</td>
<td>7,105 s.f.</td>
<td>246 independent units, 7 studio units</td>
<td>Total - 253 units</td>
</tr>
<tr>
<td>Parking</td>
<td>331 spaces</td>
<td>129</td>
<td>212</td>
<td>414 spaces</td>
</tr>
</tbody>
</table>
RESOLUTION

WHEREAS, the City Planning Commission of Santa Barbara, at regular meetings held March 3 and March 17, 1960, considered the application of Gustave A. Gabelman and J. R. LaMont, for the Baptist Homes, Inc., and Stephen and Verne Rutherford, owners, for a conditional use permit under provisions of Section 25.00 of City Zoning Ordinance No. 2505, in order to construct and operate a non-sectarian residence home for senior citizens on approximately 50 acres of land lying in unincorporated territory westerly of and adjacent to present city boundaries along Arroyo Burro Creek on the east, Santa Barbara Estates, Inc., on the south, Hope Ranch on the west, and La Cumbre Estates Corp. on the north, said conditional use to be contingent upon and subject to annexation of this property to the City of Santa Barbara, a petition for which action is currently pending for city approval; and

WHEREAS, this Commission has recommended to City Council that favorable consideration be given to annexing the subject property to the City of Santa Barbara, with A-1 and E-3 zoning classifications to be applied in event of such annexation; and

WHEREAS, if annexed to the City of Santa Barbara and developed to a high quality of development, it is believed that such use of the property may become a desirable element of the community and, if so developed, may provide a use of the land which will not be inharmonious with the development of adjacent properties for single family residences; and

WHEREAS, it is observed that the proposed Baptist Homes development is intended to house approximately 325 residents, with a staff of 50 or 60 persons, who would not live on the property, and that this compares favorably with the potential population of 330 persons who could be accommodated on these 36 acres of land if developed for single family purposes at E-3 zoning density, or approximately four families per acre; and

WHEREAS, this Commission recognizes that this application for a conditional use permit and the accompanying application for annexation of the property to the City of Santa Barbara are mutually interdependent, the approval of each being contingent upon approval of the other, and this Commission believes that development of this property in the manner proposed can be an asset to the community if developed with suitable controls.

EXHIBIT F
NOW THEREFORE BE IT RESOLVED that the City Planning Commission of Santa Barbara hereby approves and recommends to City Council the approval of the application as described and for the reasons and with the qualifications as outlined hereinafore, this approval to be based on adherence to the following conditions:

1. Development to be in close compliance with plans submitted at this time, with any minor deviations therefrom to be approved by the Architectural Board of Review and by the Planning Director prior to issuance of building or other permits, to avoid unnecessary and time-consuming referrals to this Commission and to City Council.

2. This approval shall be valid for an initial period of one year from date of final approval by City Council, during which time the initial building permit applications shall be submitted; and subsequent applications for building permits shall be authorized on the basis of these tentative plans now approved, without the necessity for referral back to this Commission.

3. Density of development shall be not greater than presently contemplated, with accommodations for a maximum of 350 residents, including resident staff; height of buildings shall not exceed two stories; and parking spaces provided on the site shall be adequate to meet all requirements of the residents, staff and visitors, and in no case less than 90 spaces, exclusive of all areas dedicated to the city for public use.

4. Approval of the Architectural Board of Review and the Planning Director shall be secured on final landscaping plans for this development, such landscaping to be provided and maintained at high standards acceptable to the city.

5. Streets shown on those plans, comprising a major north-south street and an east-west street, shall be located, developed and improved to the satisfaction of the Public Works Director and shall fit in with and become a part of the overall city street system approved by the Public Works Director and the Planning Director for this general area, the two streets in question to be constructed to city standards of a 60 ft. right-of-way with minimum 40 ft. paved width and with provision of on-site and participation in off-site improvements as are deemed necessary in the...
opinion of the Public Works Director to integrate this proposed development into the city public street system. Sidewalks shall be constructed to city standards on at least one side of each of the proposed city streets.

6. Land in and adjacent to the creek channel along the easterly boundary line of this property and immediately adjoining the easterly right-of-way line of the proposed north-south street shall be dedicated to the City of Santa Barbara for public park purposes and shall be cleared of underbrush and otherwise improved from its present state so as to be acceptable to the City Park Superintendent, in a manner generally similar to the improvement of the easterly portion of these park lands by the developers of Hidden Valley Subdivision. Improvement of the creek channel, including street improvements at creek crossings shall meet with approval of both the City Public Works Director and the County Flood Control District.

CITY PLANNING COMMISSION
SANTA BARBARA, CALIFORNIA

Resolution #36 - 4/21/60
BOARD OF LAND USE CONTROLS  
CITY OF SANTA BARBARA  

RESOLUTION NO. 358  

SUBJECT: Application of Valle Verde Baptist Homes for a variance from the provisions of Section 28.15.030 of Title 28 of the Municipal Code of the City of Santa Barbara, the Zoning Ordinance, as applied to City Parcel 49-040-12 located at 900 Calle de los Amigos in an E-3 One-Family Residence zone, in order to permit an addition of sixteen (16) resident rooms, lounge, dining room and an arts and crafts room to an existing nursing home.

WHEREAS, the Board of Land Use Controls has held the required public hearing on the above application; and the applicant was present; and

WHEREAS, persons appeared to speak in favor of the application and persons appeared to speak in opposition thereto, and the following exhibits were presented for the record:

Application
Staff Report
Site plan and elevations
14 letters in favor
Negative Declaration by the Environmental Hearing Board
Fire Department Report

; and

WHEREAS, the matter having been fully considered by this Board, the Board of Land Use Controls finds as follows:

See Attachment.

NOW, THEREFORE, IT IS RESOLVED that the Board of Land Use Controls hereby approves the subject request, subject to the following conditions:

1. That use of the additional residence rooms be restricted to residents of Valle Verde;

2. That the three (3) considerations listed in the Negative Declaration become requirements of the variance approval.

Passed and adopted this 6th day of May, 1976, by the Board of Land Use Controls of the City of Santa Barbara, by the following vote:

AYES: 3
NOES: 0

Abstained: 1
Absent: 3

BOARD OF LAND USE CONTROLS,  
SANTA BARBARA, CALIFORNIA

I hereby certify that the above Resolution was adopted by the Santa Barbara Board of Land Use Controls at its meeting of the above date:

[Signature]
Secretary

NOTE: This action of the City Board of Land Use Controls shall become effective ten days from date of mailing of this resolution copy, unless appealed to City Council within that time, and shall remain in effect thereafter unless the conditions have not been met, or unless the variance is unused, abandoned or discontinued for a period of six months. If you have an existing zoning violation on the property, it must be corrected within 40 days from the date of this action.

(the above shall not apply to rezonings)

Date: May 11, 1976
1. There are exceptional circumstances applicable to the property involved which do not apply generally to other property in the same zone or vicinity as the Master Plan previously approved for the project included the structures in this request, that zoning changes have been made which make the project nonconforming, and that a similar variance was approved in 1971 but it expired before it could be used.

2. The granting of this variance will not be materially detrimental to the public welfare or to other property in such zone or vicinity.

3. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, possessed by other property in the same zone and vicinity.

4. The granting of this variance will not adversely affect the Comprehensive General Plan.
APPLICANT: VALLE VERDE BAPTIST HOMES
TYPE OF REQUEST: VARIANCE
PARCEL NUMBER: 49-040-12
ADDRESS: 900 Calle De Los Amigos
ZONE: E-3 One Family Residence
LOT SIZE: 57 Acres
EXISTING USE: Retirement Community
PROPOSED USE: Retirement Community
NATURE OF REQUEST: A variance to permit an addition of sixteen (16) resident rooms, lounge, dining room and an arts and crafts room to an existing nursing home.

DISCUSSION: The Valle Verde Baptist Home was approved in 1960 and the project constructed in subsequent years. In 1971 a change in zone from E-3 and A-1 One Family Residence zone to E-3-S-H One Family Residence zone with a Senior Housing Overlay was approved by the Planning Commission and City Council, however the zoning action was not completed as apparently all the conditions of the zoning were not satisfied. At this same time a variance was approved to add 16 resident rooms, lounge, dining room and day room. City Council also approved the construction of the nursing care facilities. Because of various reasons stated in the applicant's letter the work was not commenced and the variance expired. It is desired to complete this portion of the project but the variance must be approved.

STAFF COMMENTS: Fire Department has no objections to the request, but notes that all plans must be submitted through their office for review of requirements of California Administrative Code Title 19 after review by the State Fire Marshal.

Staff has no objections to the request as the proposed addition is located between existing buildings and is screened from public view, and the addition is in substantial conformance with the overall development plan previously approved.

Although the Environmental Hearing Board has not heard this item the application is on file and it will be recommended for a negative declaration. One possible adverse effect of this project on the area will be the traffic, noise and other effects of the actual construction phase and the applicant should be required to reduce these adverse effects to a minimum.

ATTACHMENTS: Applicant's letter Site plan with location map
NOTICE IS HEREBY GIVEN that the Board of Land Use Controls of Santa Barbara has set a hearing for the application of Valle Verde Baptist Homes for a variance from the provisions of Section 28.15.030 of Title 28 of the Municipal Code of the City of Santa Barbara, the Zoning Ordinance, as applied to City Parcel 49-040-12 located at 900 Calle De Los Amigos in a E-3 One Family Residence zone, in order to permit an addition of sixteen (16) resident rooms, lounge, dining room and an arts and crafts room to an existing nursing home.

The above notice is sent to you because your property is within 450 feet of the property in this request. If you have any question in regard to the above, please call 963-0611, Ext. 361.

Date: April 16, 1976 Time: The Board of Land Use Controls meeting will commence at 1:00 p.m.

Place: Council Chambers City Hall The Board of Land Use Controls will hear the agenda items in the order that they appear on the agenda.
Santa Barbara City Fire Department

April 6, 1976

To: Zoning Office

From: R. R. Peterson, Fire Chief

Subject: Variance Request for Sixteen (16) Resident Rooms, Lounge, Dining Room, and Arts and Craft Room to be Added to Valle Verde - 900 Calle De Los Amigos

This department has no objections to the proposed request for a variance.

We will, however, want all plans to be submitted through this office for review for requirements of California Administrative Code Title 19 after review by the State Fire Marshal.

Yours truly,

R. R. Peterson, Fire Chief

RFP: g1c
cc D. Warburton—Division of Land Use Controls
F. Bonde —Division of Land Use Controls
April 2, 1976

Mrs. Joanne Miller
Planning Commission
City Hall
Santa Barbara

Dear Mrs. Miller:

Recently it has come to the attention of the Commission On Aging that Valle Verde retirement community is desirous of adding beds at their skilled nursing facility. Realizing that there are always delays and problems in putting such a project together, it was moved, seconded and carried in our April 1, 1976 meeting that we send a letter to the Planning Commission with our wholehearted approval and endorsement of this project.

It is hoped that your Commission will respond favorably to this request in order to meet this vital need.

Since I am personally involved in similar activity with retired people, there is no question in my mind at all that these additional beds are needed in order to meet the requirements for the number of people they have on grounds.

Sincerely yours,

Harry Ekstam
Administrator

cc Ray Schneider
Valle Verde
RESOLUTION NO. 3

SUBJECT: Application of the American Baptist Homes of the West, Inc., for a conditional use permit under provisions of Section 28.94 and Section 28.94.030.30 of Title 28 of the Municipal Code of the City of Santa Barbara, the Zoning Ordinance, as applied to City Parcel 49-040-12, located at 500 Calle de los Amigos in an E-3 one family residence zone in order to permit forty-four (44) additional dwelling units to an existing retirement home.

WHEREAS, the City Planning Commission has held the required public hearing on the above application, and the applicant was present.

WHEREAS, persons appeared to speak in favor of the application and persons appeared to speak in opposition thereto, and the following exhibits were presented for the record:

Application
Environmental Impact Report
Site Plan
Letter from City Administrator

WHEREAS, the matter having been fully considered by this Commission, the Planning Commission finds as follows:

1. Such use is deemed essential or desirable for the public convenience and welfare and is in harmony with the General Plan.
2. Such use will not be materially detrimental to the public peace, health, safety, or general welfare and will not materially affect property values in the neighborhood involved.
3. This Commission approves the location and site development plans, drawings of buildings and landscaping of the proposed use.
4. The proposed use is one permitted in the zone for which it is proposed, upon the granting of a conditional use permit.

NOW, THEREFORE IT IS RESOLVED that the City Planning Commission hereby approves the subject request, subject to the following conditions:

A. Bridge
   1. The existing equestrian trail shall be incorporated into the bridge design.
   2. The following shall be incorporated into the plans:
      a. Concrete box culvert adequate in size and with proper orientation in the (OVER)

Passed and adopted this 22nd day of January 1981, by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6
ABSTAINED: 0
NOES: 0
ABSENT: 1

CITY PLANNING COMMISSION
SANTA BARBARA, CALIFORNIA

I hereby certify that the above Resolution was adopted by the Santa Barbara City Planning Commission at its meeting of the above date.

[Signature]
Secretary

NOTE: This action of the City Planning Commission shall become effective 10 days from date of mailing of this resolution copy, unless appealed to City Council within that time, and shall remain in effect thereafter unless the conditions have not been met, or unless the Conditional Use Permit is unused, abandoned or discontinued for a period of 6 months.

Date Mailed: 1/27/81
Date: 1/27/81

The above shall not apply to rezoneings
CONDITIONS CONTINUED

creek bed to allow passage of the 100-year flood flow.

b. Gabion wing walls and end walls extending from the box culvert both up and down
downstream to prevent bank erosion where the stream passage will be constricted
through the culvert. Also, large boulders shall be placed in the creek bed
immediately downstream of the culvert to dissipate stream energy and prevent
channel scouring and erosion.

c. All cut and fill slopes will be revegetated by hydromulch techniques with an
appropriate seed mix including native and drought resistant plants, subject to
the review and approval of the ABR. No fertilizer or eucalyptus seed is to be
used.

3. Cuttings of River Willow (Salix Spp) shall be planted at the toe of the cut
and fill slopes along the creek. One gallon size containers of Rhus,
Ceanothus and Sycamore shall also be planted along these slopes.

4. Prior to the issuance of Occupancy Permit a performance bond to insure
revegetation of slopes promptly, and to see to replacement for a period of up
to two years, subject to the review of the Chief of Building & Zoning, be
provided.

B. Expansion/Conditional Use Permit

1. Prior to submittal for building permits, domestic water service to the subject
site shall be assured subject to the review and approval of the Public Works
Department.

2. The Conditional Use Permit shall expire two years from the date of Planning
Commission approval unless bridge construction has begun.

3. The applicant shall work with the Architectural Board of Review on the following:
   a. The exterior lighting shall be of low intensity in order to avoid impacting
      the neighborhood.
   b. The landscaping along La Cumbre Country Club shall be adequate to visually
      screen the project from the club.
   c. Sidewalks shall be provided around all parking areas and streets.
   d. Covered carports (19 spaces total) shall be provided in two locations.
   e. Hydroseed mix including native and drought resistant plants for all cut and
      fill slopes.

4. Parking spaces shall be assigned to each resident with a car. Guest spaces shall
   be so indicated.

5. No recreational vehicles, boats or trailers shall be stored on the subject site.

6. The applicant shall agree to pay a cash contribution towards a special La Cumbre Road,
   Las Positas Road freeway overpass improvement fund. The amount shall be based upon the
   project’s projected Average Daily Trip (ADT) level as determined by the City Engineer.
   The actual amount per ADT shall be set by Resolution #79-084 of the City Council.

7. The applicant shall make every effort to see the bridge is in place before the
   project begins.

8. The occupancy of this new addition shall have no more than 32 cars.
6. Prior to the issuance of Occupancy Permit a performance bond to insure revegetation of slopes promptly, and to see to replacement for a period of up to two years, subject to the review of the Chief of Building & Zoning, be provided.

7. Prior to submittal for building permits, domestic water service to the subject site shall be assured subject to the review and approval of the Public Works Department.

8. The applicant shall work with the Architectural Board of Review on the following:
   a. The exterior lighting shall be of low intensity in order to avoid impacting the neighborhood.
   b. The landscaping along La Cumbre Country Club shall be adequate to visually screen the project from the club.
   c. Sidewalks shall be provided around all parking areas and streets.
   d. Covered carports (19 spaces total) shall be provided in two locations.
   e. Hydrosed mix including native and drought resistant plants for all cut and fill slopes.

9. Parking spaces shall be assigned to each resident with a car. Guest spaces shall be so indicated.

10. No recreational vehicles, boats or trailers shall be stored on the subject site.

11. The applicant shall agree to pay a cash contribution towards a special La Cumbre Road/Las Positas Road freeway overpass improvement fund. The amount shall be based upon the project's projected Average Daily Trip (ADT) level as determined by the City Engineer. The actual amount per ADT shall be set by Resolution #79-084 of the City Council.

12. The applicant shall make every effort to see the bridge is in place before the project begins.

13. The occupancy of this new addition shall have no more than 32 cars.

B. Other Conditions:
   1. Survey the property (set monuments) and record a Parcel Map.
   2. Record an easement for access along Senda Verda to both entrances/exits of the new project.
   3. Both 1) and 2) are to be completed within three months.
July 10, 1984

American Baptist Homes of the West
400 Roland Way
Oakland, CA 94621

Re: Valle Verde, 900 Calle de los Amigos

Dear Sirs:

On July 5, 1984, the Planning Commission of the City of Santa Barbara reviewed application of Ralph Belknap, Agent for American Baptist Homes of the West for a Conditional Use Permit under provisions of Section 28.94 and Section 28.94.030.19 of Title 28 of the Municipal Code of the City of Santa Barbara, the Zoning Ordinance, as applied to City Parcel 49-040-20, located at 900 Calle de los Amigos in an E-3 One-Family Residence Zone in order to permit: 1) a 28-unit apartment complex; 2) a 45-unit personal-care building having 48 beds; 3) a 14-room nursing care building having 28 beds; 4) a recreation building; 5) a laundry/kiosk and five, two-(2) car-carports and; 6) Additions to the existing central kitchen & dining building, and approved said application with findings and subject to conditions as stated in Resolution No. 093-84.

Please amend your copy to include incorporation of Resolution No. 093-84 as amended July 19, 1984 (attached).

Sincerely,

Susan McKenzie
Planning Commission Secretary

cc: 1) Ralph Belknap, 400 Roland Way, Oakland, CA 94621
2) Ray Schneider, Administrator, 900 Calle de los Amigos, Santa Barbara, CA 93101
3) Bob Grant, Grant Pedersen, Philips Architects, 1435 Anacapa Street
   Santa Barbara, CA. 93101
SANTA BARBARA CITY PLANNING COMMISSION

RESOLUTION __093-84__

AMENDED 7/19/84

SUBJECT:
Application of Ralph Belknap, Agent for American Baptist Homes of the West for a Conditional Use Permit under provisions of Section 28.84 and Section 28.94.030.19 of Title 28 of the Municipal Code of the City of Santa Barbara, the Zoning Ordinance, as applied to City Parcel 49-040-20, located at 300 Calle de los Amigos in an E-3 One-Family Residence Zone in order to permit: 1) a 28-unit apartment complex; 2) a 48-unit personal-care building having 48 beds; 3) a 14-room nursing care building having 28 beds and a classroom; 4) a recreation building, including a store, operated for use of residents; 5) a laundry/kiosk and five, two- (2) car carports and, 6) Additions to the existing central kitchen & dining building.

WHEREAS, the City Planning Commission has held the required public hearing on the above application; and the applicant was present;

WHEREAS, 0 persons appeared to speak in favor of the application and 0 persons appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report, July 5, 1984
2. Color rendering Site Plan
4. Site Plan
5. Floor Plan
6. Elevation Plan
7. Irrigation Plan
8. Planting Plan
9. Annexation Site Plan
10. Floor Plan
11. Vicinity Map
12. Valle Verde Annexation Plans (see Resolution No. 092-84)
14. Final Environmental Impact Report Valle Verde Annexation
15. Environmental Impact Report, Calle de los Amigos Road Extension

WHEREAS, the matter having been fully considered by this Commission, the Planning Commission finds as follows:

1. That the Planning Commission has read and considered the EIR for this project.

2. That a statement of overriding consideration be made relative to the significant unavoidable long-term and cumulative impact on the water supply. Because of the project's location over Storage Unit III of the Santa Barbara basin, this annexation will provide the City with water rights and extraction capabilities in an area not previously available to the City. In addition, the project proposed as a result of the annexation will be providing badly-needed elderly housing for the City of Santa Barbara.

3. Changes in and alterations to the project have been required which mitigate or avoid the significant environmental effects identified in the Final EIR.

4. Any such use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive Plan;

5. Such uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved;
6. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided.

7. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time.

8. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible to the character of the area.

9. Compliance with any additional specific requirements for a conditional use permit. The Planning Commission may impose such other conditions and restrictions upon the proposed use consistent with the Comprehensive General Plan and may require security to assure satisfactory performance of all conditions and restrictions.

10. Public services such as roads, sewer and water are available in amounts adequate to service the retirement home.

11. The intensity of use and impact upon all public services and facilities is compatible with any neighboring residential use.

NOW, THEREFORE IT IS RESOLVED that the City Planning Commission hereby approves the subject request, subject to the following conditions:

I. Approval of this project is contingent upon approval of this annexation by LFACD and City Council. Upon such annexation, the conditions for this permit shall apply.

II. The following is subject to the review and approval of the Architectural Board of Review:

A. No more than seven (7) Oak trees shall be removed unless it is determined by an arborist contracted by the owner and confirmed by the City Arborist that such removal is necessary due to the health of the tree or to protect the safety of future residents.

B. All Oak trees removed shall be replaced on a three-for-one basis with minimum 15-gallon-size trees.

C. The landscape, building and grading plans shall include the following Oak tree protection measures from the EIR:

1. All excavation within the driplines of Oak trees shall be done by hand tools.
2. Any roots encountered shall be cleanly cut and sealed with asphaltic tree seal compound.

3. After initial hand excavation, enclose each oak tree within the construction area with a five-foot-high chain-link fence at the dripline. The fences shall remain to protect the trees during construction.

4. No storage of heavy equipment or materials or parking shall take place under the trees.

5. No utility lines, planting or irrigation shall be installed within any oak tree dripline.

6. No chemical herbicides shall be applied within 100 feet of any oak tree dripline.

7. All root pruning and pruning of oak tree crowns shall be done in accordance with Appendix C of the Final EIR. An oak tree specialist may be retained by the applicant. Such specialist may modify the above conditions consistent with the intent of preserving and protecting the oak trees subject to review of the City Arborist.

C. Exterior lighting, where provided, shall be of low intensity in order to provide aesthetically-pleasing lighting which promotes safety, but does not impose on adjacent properties and uses.

E. The applicant shall provide street trees along the extension of Torino Drive subject to the requirements of the Parks Department.

F. Future landscaping shall utilize indigenous, drought-tolerant plants, where possible, to reduce water demand.

G. Drip irrigation systems and cisterns shall be used to reduce water demand, including, but not limited to, reuse run-off cisterns.

III. Prior to the issuance of building permits, the applicant shall complete the following:

A. The applicant shall record an agreement on the property which includes the following provisions subject to the review and approval of the City Attorney's Office.

1. Storage of recreational vehicles, boats or trailers, shall be stored on the real property only in designated areas of the property, with planting area around storage area approved by the Architectural Board of Review.

2. Owner waives the right to protest the formation of any and all street lighting, traffic, underground utility and other public improvement districts.

3. The applicant shall provide for the uninterrupted flow of water through the property, in swales and natural drainage courses on the property or any access roads, as appropriate. Property owner is responsible for the adequacy of any drainage facilities and for the continued maintenance thereof in a manner which will preclude any hazard to life or health or damage to adjoining property.
4. The use of chemical herbicides shall be prohibited within 100 feet of any Oak tree dripline.

5. The applicant shall agree to pay a cash contribution toward a special La Cumbre/Las Positas Road Freeway Overpass Improvement Fund. The amount shall be based upon the projected ADT level as determined by the City Engineer. The actual amount per ADT shall be set by Resolution #79-084 of the City Council. Said fees shall be paid prior to the issuance of building or grading permits.

B. Construct public improvements on Torino Drive as required by Public Works Department. Such public improvements shall include, but not be limited to, curbs, gutters, sidewalks, asphalt concrete pavement on aggregate base, street lights with underground wiring, sewer system, water system and adequate positive storm drainage. Public improvements may also be required to include a vehicle turn around. Improvement plans prepared by a registered civil engineer, thereof, shall be submitted by the owner and approved by the City Engineer. Improvement plans shall include appropriate directional and regulatory traffic control signs.

C. A geologic, soils, drainage and erosion report shall be prepared by an engineering geologist and soils engineer in order to reduce project-related impacts, including those created by off-site landslides. All recommendations made shall be included in the building and grading plans.

D. Construct or bond for construction the water well and treatment facility. Dedicate the water rights under the real property and the proposed on-site well and treatment facility to the City in exchange for City water service. Such dedication agreement shall be reviewed by the City Attorney and the Public Works Department. Said agreement shall include provisions which allow the applicant to recover some of the costs from future projects which use the proposed water well and treatment facility. Such recovery time shall not exceed a period of twenty (20) years.

E. A preliminary construction conference shall be scheduled and completed by the applicant. The conference shall include representatives from the Public Works Department, Building and Planning Division, the applicant and the contractor in order to resolve any areas of concern prior to construction.

F. The applicant shall dedicate the development rights of the Oak woodland containing approximately 40 acres to the City for purposes of protecting the Oak woodland and maintaining the open space in perpetuity.

G. Dedicate: A) a 60-foot right-of-way, and B) a vehicle turn-around for the purpose of extending Torino Drive.

H. In cooperation with neighboring property owners and the Parks Department, grant or offer to dedicate an easement for a hiking and riding trail, subject to approval of the Parks Department.

IV. The following shall be shown on the improvement plans submitted to the Division of Land Use Controls with the applications for building permits.

A. The applicant shall meet with the Crime Analyst to determine how lighting, locking mechanisms, egress and fencing can be designed or included so as to reduce the potential number of calls for police service from project residents.
B. All structures shall be constructed to Uniform Building Code standards for Seismic Zone 4 and all structures shall be set back a minimum of fifty (50) feet from the Leaviga Fault Zone.

C. The following shall be specifically included in the grading plans in addition to any requirements for building plans:
   1. On-site grading shall be performed in such a manner as to prevent ponding of water during or after construction and to prevent the flow of surface water on cut or fill slopes.
   2. Interceptor ditches shall be constructed above the tops of cut and fill slopes to collect runoff when it is not otherwise controlled.
   3. Graded slopes on-site shall be immediately revegetated and maintained. In addition, lined gutters should be provided along the tops of slopes to minimize surface erosion.
   4. Additional drainage facilities may be recommended by the Soil Engineer, depending upon field conditions.

D. All oak tree protection measures indicated in condition II.C. shall be indicated on the grading, building and landscaping plans.

E. The location of all street trees shall be shown in accordance with Parks Department approval.

F. All easements, culverts, catch basins and other proposed improvements shall be shown.

G. Dedicate 0.75 feet of street right-of-way and 8 feet of a vehicle turnaround, for the purpose of extending to one drive, subject to approval of the Public Works Department.

H. In cooperation with neighboring property owners, and the Parks Department, grant or offer to dedicate an easement for a hiking and riding trail, subject to approval of the Parks Department.

V. The following shall be completed prior to the issuance of the Certificate of Occupancy:

A. All improvements discussed in Conditions III.B and III.D shall be completed.

Passed and adopted this 5th day of July, 1984, by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 0 ABSTAINED: 2 ABSENT: 0

CITY PLANNING COMMISSION
SANTA BARBARA, CALIFORNIA

I hereby certify that the above Resolution was adopted by the Santa Barbara City Planning Commission at its meeting of the above date.

SECRETARY

Date

NOTE: THIS ACTION OF THE CITY PLANNING COMMISSION SHALL BECOME EFFECTIVE TEN DAYS (10) FROM THE DATE OF HEARING, UNLESS APPEALED TO CITY COUNCIL WITHIN THAT TIME.
CONCEPT REVIEW - CONTINUED ITEM

3. 900 CALLE DE LOS AMIGOS  
Assessor's Parcel Number: 049-040-050  
Application Number: MST2005-00742  
Owner: American Baptist Homes of the West  
Applicant: Tynan Group  
Agent: Cameron Carey  
Architect: Keith Nolan  

(This is a revised proposal for residential and non-residential additions to the Valle Verde Retirement Community. The proposal includes the construction of 40 new senior independent living units across the existing campus, for a total of 251 residential units. The non-residential component includes 13,945 square feet of demolition, 14,902 square feet of new construction, resulting in a 957 net square feet addition, and 10,461 square feet to be remodeled. The proposal would result in the addition of 58,436 square feet of structures, bringing the total on site development to 317,741 square feet. 83 new parking spaces are proposed for a total of 414 parking spaces. 11,520 cubic yards of cut, 13,300 cubic yards of fill, and 1,780 cubic yards of imported soils is proposed on the 59.75 acre site. The project requires Planning Commission approval for an amendment to the existing Conditional Use Permit, Lot Line Adjustment and Modifications for building separation and yard encroachments.)

(Third Concept Review. Comments only; Project requires Environmental Assessment and Planning Commission review for an amendment to the existing Conditional Use Permit, Lot Line Adjustment and Modifications for building separation and setback encroachments.)

(4:45)

Present: Ron Schaffer, Executive Director, Valle Verde Retirement Community; Justin Van Mullem, Architect; Keith Nolan, Architect; Cameron Carey, Agent; and Peter Lawson, Associate Planner.

Public comment opened at 5:14 p.m.

The Board acknowledged staff's announcement that approximately 56 letters, emails, and petitions of support and two opposition letters or emails were received.

The following members of the public spoke in support of the proposed project:
Karin & Bob Hughes, Dan George, Larry Wilson, Susan Richards, Susan Johnson, Charlie Johnson, Ragnar Thorensen, Louise Carey, Ernie Campbell, Rita Templer, Robert Buegler, Henry Jones, Alice Scott, Art Christman, Art Montgomery, Dr. George Scott, Bill Spangler, Jane Rieffel, Steve Cushman (President of SB Chamber of Commerce), and Rev./Dr. Michelle Woodhouse and Jane Zonke.

The following members of the public spoke in opposition to the proposed project regarding lighting and parking issues, safe entrance and egress, the requested no access on Torino Road, modifications within 15 feet of the sidewalk, parking density, emergency access, private views, wild life trail, and landscaping height and pinch-point concerns for vehicular safety of Unit #6 and #7:
Heike Killian (Hidden Oaks Association), Ruth Georgi, and Jermaine Chastain.

Public comment closed at 5:55 p.m.

EXHIBIT G
Straw vote: How many Board members are in favor of the modification for front yard encroachment of Unit 6? 7/0 (unanimous). The Chair clarified that the Board would like to closely look at this area in terms of landscaping, etc.

Motion: Continued indefinitely to the Planning Commission and return to Full Board with comments:
1) The Board supports the site plan.
2) The Board finds no negative aesthetic impacts to the requested modifications for building separation, and the setback encroachment for unit #6 and adds that it provides benefits for wild life habitat.
3) The Board is not in favor of the current layout of the administrative parking due to insufficient landscaping between the parking and the street. Applicant is to comply with the parking standards requirements (SBMC §28.90.050) regarding the ratio of parking stalls per landscape planting finger.

ARCHITECTURE:
1) The architecture of the units is moving in the right direction.
2) The Board looks for further refinement of columns and massing of the proposed units.
3) The Board reserves the right to review the architecture more completely when the proposed project returns.
4) Return with plans and elevations of the carports.

LANDSCAPING:
1) The Board appreciates the use of native species. The applicant is encouraged to further study the landscaping to reduce the plant variety and to group similar water-use plants.
2) Return with proposed plants to help visually screen the parking.
3) The Board appreciates the increased amount of setback between the Hidden Oak neighborhood to Rutherford property units, and looks forward to proposed landscaping solutions on the plans to screen the new units in that area.

Action: Gross/Aurell, 7/0/0. Motion carried. (Blakeley/Sherry absent).

** THE BOARD RECESS AT 6:31 P.M. AND RECONVENED AT 6:59 P.M. **
CONCEPT REVIEW - CONTINUED ITEM

3. 900 CALLE DE LOS AMIGOS

Assessor’s Parcel Number: 049-040-050
Application Number: MST2005-00742
Owner: American Baptist Homes of the West
Applicant: Tyan Group
Agent: Cameron Carey
Architect: Keith Nolan

(This is a revised proposal for residential and non-residential additions to the Valle Verde Retirement Community. The proposal includes the construction of 40 new senior independent living units across the existing campus, for a total of 251 residential units. The non-residential component includes 13,945 square feet of demolition, 14,902 square feet of new construction, resulting in a 957 net square feet addition, and 10,461 square feet to be remodeled. The proposal would result in the addition of 58,436 square feet of structures, bringing the total on site development to 317,741 square feet. 83 new parking spaces are proposed for a total of 414 parking spaces. 11,520 cubic yards of cut, 13,300 cubic yards of fill, and 1,780 cubic yards of imported soils is proposed on the 59.75 acre site. The project requires Planning Commission approval for an amendment to the existing Conditional Use Permit, Lot Line Adjustment and Modifications for building separation and yard encroachments.)

(Third Concept Review. Comments only; Project requires Environmental Assessment and Planning Commission review for an amendment to the existing Conditional Use Permit, Lot Line Adjustment and Modifications for building separation and setback encroachments.)

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Present: Ron Schaffer, Executive Director, Valle Verde Retirement Community; Justin Van Mullem, Architect; Keith Nolan, Architect; Cameron Carey, Agent; and Peter Lawson, Associate Planner.

Public comment opened at 5:14 p.m.

The Board acknowledged staff’s announcement that approximately 56 letters, emails, and petitions of support and two opposition letters or emails were received.

The following members of the public spoke in support of the proposed project:
Karin & Bob Hughes, Dan George, Larry Wilson, Susan Richards, Susan Johnson, Charlie Johnson, Ragner Thorensen, Louise Carey, Ernie Campbell, Rita Templer, Robert Buegler, Henry Jones, Alice Scott, Art Christman, Art Montgomery, Dr. George Scott, Bill Spangler, Jane Rieffel, Steve Cushman (President of SB Chamber of Commerce), and Rev./Dr. Michelle Woodhouse and Jane Zonke.

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Heike Killian (Hidden Oaks Association), Ruth Georgi, and Jermaine Chastain.

Public comment closed at 5:55 p.m.
Straw vote: How many Board members are in favor of the modification for front yard encroachment of Unit 6? 7/0 (unanimous). The Chair clarified that the Board would like to closely look at this area in terms of landscaping, etc.

Motion: Continued indefinitely to the Planning Commission and return to Full Board with comments:
1) The Board supports the site plan.
2) The Board finds no negative aesthetic impacts to the requested modifications for building separation, and the setback encroachment for unit #6 and adds that it provides benefits for wildlife habitat.
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2) Return with proposed plants to help visually screen the parking.
3) The Board appreciates the increased amount of setback between the Hidden Oak neighborhood to Rutherford property units, and looks forward to proposed landscaping solutions on the plans to screen the new units in that area.

Action: Gross/Aurell, 7/0/0. Motion carried. (Blakeley/Sherry absent).

** THE BOARD RECESSED AT 6:31 P.M. AND RECONVENED AT 6:59 P.M. **
Exhibit H: Draft Final Environmental Impact Report, dated February 2011 can be found at

http://www.santabarbaraca.gov/Resident/Environmental_Documents/900_Calle_de_Los_Amigos/
CALL TO ORDER:
Chair Jostes called the meeting to order at 1:01 P.M.

I. ROLL CALL
Chair John Jostes, Vice Chair Sheila Lodge, Commissioners Bruce Bartlett, Mike Jordan, and Deborah L. Schwartz.

Absent: Commissioners Jacobs and Larson.

STAFF PRESENT:
Danny Kato, Senior Planner
Steve Wiley, City Attorney
Steve Foley, Supervising Transportation Planner
Michael Berman, Project Planner/Environmental Analyst
Victoria Johnson, Project Engineer
Peter Lawson, Associate Planner
Stacey Wilson, Associate Transportation Planner
Julie Rodriguez, Planning Commission Secretary

II. PRELIMINARY MATTERS:
A. Announcements and appeals.
   1. Danny Kato, Senior Planner, announced that the 2915 De la Vina Street appeal was heard by City Council on Tuesday, April 12, 2011 and was denied on a 5/2 vote.
   2. Julie Rodriguez, Planning Commission Secretary, announced that the April 21, 2011 Planning Commission meeting will be held in the David Gephard Public Meeting Room at 630 Garden Street and not in Council Chambers.

B. Comments from members of the public pertaining to items not on this agenda.
Chair Jostes opened the public hearing at 1:03 P.M. and, with no one wishing to speak, closed the hearing.
III. **NEW ITEM:**

**ACTUAL TIME: 1:03 P.M.**

**EX PARTE COMMUNICATION:**
Commissioner Bartlett disclosed an ex parte communication with the Applicant regarding parking.


The proposed project would be for an amended Conditional Use Permit (CUP) for additions and remodeling to the facilities at the Valle Verde Retirement Community facility. The CUP would also expand to encompass an adjacent parcel, known as the Rutherford Parcel, which is currently owned by Valle Verde. The project would involve the demolition of 2 independent living residential units (defined as each unit containing a kitchen), a single family residence, and the construction of 40 new independent living residential units for a net increase of 37 new independent living residential units. The existing 11 studio units (defined as one shared kitchen per four studios) would be reduced to 7 units through the demolition of 4 units.

Project components involving the support facilities for the residents would include a two-story addition to the Administration building, where a 4-room bed and breakfast and a small banking office would be located. The existing bed and breakfast, currently located in a former independent living unit would be demolished. The Assisted Living facility would include an addition for four new beds, and the Dining & Multi-Purpose Building would be remodeled along with minor additions totaling 1,300 square feet. The existing 4,348 square foot Maintenance Building would be demolished and a new 5,642 square foot maintenance facility would be constructed within the same location.

Several of the existing parking areas on the project site would be reconfigured for dedicated residential, visitor and employee parking, and would provide a total of 83 new parking spaces. A parking permit program would be implemented to track the residential and employee parking. After project implementation, a total of 414 parking spaces would be provided on the project site. A new driveway from the Rutherford Parcel would provide access to eight of the ten proposed residential units on that lot, with the remaining two units accessed from within the campus. The project would include the dedication of a 9.8-acre oak woodland area on the western portion of the project site. The project also includes a minor Lot Line Adjustment between two parcels owned by Valle Verde.

The discretionary applications required for this project are:
1. Modifications to allow less than the required front setback for proposed Unit 6 along Torino Drive and for proposed development along Valle Verde private roads (SBMC § 28.92.110.2);

2. Modifications to allow less than the required distance between buildings for some of the proposed development (SBMC § 28.92.110.2);

3. Modifications to allow less than the required interior yard setback for some of the proposed development (SBMC § 28.92.110.2);

4. A Conditional Use Permit Amendment to allow expansion of the Valle Verde retirement community (SBMC §28.94.030.R); and

5. A Lot Line Adjustment to allow an exchange of land between APNs 049-440-015 and -016, which would result in a decrease of APN 049-440-015 from 3.6 acres to 3.4 acres and a corresponding increase of APN 049-440-016 from 11.5 to 11.7 acres (SBMC §27.40).

Environmental Review: A Final Environmental Impact Report (FEIR) has been prepared along with responses to comments received during the comment period and, prior to an action on the project, the Planning Commission will consider certification of the EIR, and must make findings pursuant to the California Environmental Quality Act Guidelines Section 15091. A copy of the FEIR and response to comments can be found online at http://www.santabarbaraca.gov/Resident/Environmental_Documents/ listed under 900 Calle de los Amigos and is also available at the Planning Counter at 630 Garden Street.

Case Planner: Peter Lawson, Associate Planner
Email: PLawson@SantaBarbaraCA.gov Phone: 805-564-5470, ext. 4565

Peter Lawson, Associate Planner, gave the Staff presentation. Additional Staff providing responses to questions from the Commission included Michael Berman, Project Planner/Environmental Analyst; Anne Marx, Fire Inspector; Steve Foley, Supervising Transportation Planner; Stacey Wilson, Associate Transportation Planner; Victoria Johnson, Project Engineer; along with Rob Olson, Transportation Engineering Manager, ITERIS.

Ron Schaffer, Executive Director, Valle Verde Retirement Community; gave the applicant presentation. Cameron Carey, Agent, and Justin Van Mullem, Architect, provided responses to questions from the Commission.

Chair Jostes opened the public hearing at 2:23 P.M.

The following people spoke in support of the project:

1. Hugh and Helen Smart
2. Susan Dempsey
3. Louise Carey
4. Jim Dow
5. Gail Harling
6. Sue Melcor, Vistas Lifelong Learning
7. Charlie Schneider, Vistas Lifelong Learning
8. Peter Kruse, Vistas Lifelong Learning
9. Larry Wilson
10. Jay Blatter
11. Donald O’Dowd
12. Arthur Christman, Jr., speaking for Jane Rieffel
13. Robert Buegler
14. Jan O’Dowd
15. Dorothy Burkhart
16. Bob Miller
17. Judy Richards
18. George Scott
19. Gerson Kumin
20. Michael Seligman
21. Roy Donkin
22. Norman Boyan
23. Dan George, Valle Verde Advisory Board Member
24. Henry Jones
25. Art Montgomery
26. Rhonda Spiegel, Executive Director, Alzheimers Association
27. Charlie Johnson, Valle Verde Advisory Board Member
28. Laurie Yttri

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

5. Steve Gaither, Hidden Oaks neighbor; concern for Chumash burial sites at Valle Verde.
7. David Lane: desire to keep open space.
9. John Caulfield: concerns about safety. Also stated project is not consistent with the California State findings for a CUP.
10. Stevie Peters, Hidden Oaks neighbor: requests additional conditions to CUP.

Chair Jostes called for a recess at 3:25 P.M. and resumed the public comment at 3:42 P.M.
With no one else wishing to speak, the public hearing was closed at 4:23 P.M.

The following people submitted speaker slips, but were unable to remain the duration of the meeting:

1. Steve Cushman, Santa Barbara Regional Chamber of Commerce
2. Eddie Harris, Santa Barbara Urban Creeks Council
3. Jeff Avella, Friends of Valle Verde
4. Karina Israilachvili, Save Hidden Valley
5. Jamie Freymuth
6. Hans Kistn
7. Jim Vanturino, Hidden Oaks Homeowners Association
8. Steven Weiner, Tri Counties Building & Construction Industry Council
9. Marilyn Valenzuela, Tri Counties Central Labor Council
10. Betty Weiner

**MOTION: Schwartz/Bartlett**

Certify the Environmental Impact Report, making the findings as outlined on Page 14, Section 8.A in the Staff Report.

This motion carried by the following vote:

Ayes: 4  Noes: 1 (Jostes)  Abstain: 0  Absent: 2 (Jacobs, Larson)

**MOTION: Schwartz/Bartlett**

Approved the project, making the findings for Modifications, Conditional Use Permit Amendment, and Lot Line Adjustment as outlined in Section 8.B-F of the Staff Report, subject to the Conditions of Approval in Exhibit A, as revised, with the following additional revisions: 1) Revise condition B.14, Areas Available for Parking, to include additional onsite parking signage; 2) Revise condition D.q.(1) to include construction staging, and to describe the Commission's intent that construction parking, storage and staging shall be located out of the right-of-way to minimize traffic, parking, noise and other impacts to the neighborhood, as acceptable to Parking & Transportation Staff; 3) Add a condition to include a requirement that the final design of the below-grade detention basin on the Rutherford parcel be designed in consultation with a qualified arborist, with the goal of minimizing impacts to the health of the existing oak trees. 4) Add to Section A.5. “including, but not limited to the Oak Grove development rights restriction”. 5) Explore ways to reduce retaining wall height by units 12 and 13 and the southerly portion above the maintenance building with the Architectural Board of Review. 6) Parking & Transportation Staff review increasing the length of red curbs around the driveway entrances in an effort to improve circulation of traffic on Calle de los Amigos, particularly around curb near Administration building, and explore no-parking zones on one side of Calle de Los Amigos particularly at the curves.
This motion carried by the following vote:

Ayes: 5  Noes: 0  Abstain: 0  Absent: 2 (Jacobs, Larson)

Chair Jostes announced the ten calendar day appeal period.

VII. ADJOURNMENT

Chair Jostes adjourned the meeting at 5:54 P.M.

Submitted by,

Julie Rodriguez, Planning Commission Secretary
The proposed project would be for an amended Conditional Use Permit (CUP) for additions and remodeling to the facilities at the Valle Verde Retirement Community facility. The CUP would also expand to encompass an adjacent parcel, known as the Rutherford Parcel, which is currently owned by Valle Verde. The project would involve the demolition of 2 independent living residential units (defined as each unit containing a kitchen), and a single family residence, and the construction of 40 new independent living residential units for a net increase of 37 new independent living residential units. The existing 11 studio units (defined as one shared kitchen per four studios) would be reduced to 7 units through the demolition of 4 units.

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The discretionary applications required for this project are:

1. **Modifications** to allow less than the required front setback for proposed Unit 6 along Torino Drive and for proposed development along Valle Verde private roads (SBMC § 28.92.110.2);

2. **Modifications** to allow less than the required distance between buildings for some of the proposed development (SBMC § 28.92.110.2);

3. **Modifications** to allow less than the required interior yard setback for some of the proposed development (SBMC § 28.92.110.2);
PLANNING COMMISSION RESOLUTION NO.009-11  
900 CALLE DE LOS AMIGOS  
APRIL 14, 2011  
PAGE 2  

4. A Conditional Use Permit Amendment to allow expansion of the Valle Verde retirement community (SBMC §28.94.030.R); and  

5. A Lot Line Adjustment to allow an exchange of land between APNs 049-440-015 and -016, which would result in a decrease of APN 049-440-015 from 3.6 acres to 3.4 acres and a corresponding increase of APN 049-440-016 from 11.5 to 11.7 acres (SBMC §27.40).  

Environmental Review: A Final Environmental Impact Report (FEIR) has been prepared along with responses to comments received during the comment period and, prior to an action on the project, the Planning Commission will consider certification of the EIR, and must make findings pursuant to the California Environmental Quality Act Guidelines Section 15091. A copy of the FEIR and response to comments can be found online at http://www.santabarbaraca.gov/Resident/Environmental_Documents/ listed under 900 Calle de los Amigos and is also available at the Planning Counter at 630 Garden Street.  

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.  

WHEREAS, 29 people appeared to speak in favor of the application, and 11 people appeared to speak in opposition thereto or with concerns, and the following exhibits were presented for the record:  

1. Staff Report with Attachments, April 7, 2011. If item is continued list each Staff report separately with attachments.  
2. Site Plans  
3. A copy of Staff’s Power Point presentation with a copy of Valle Verde Community events.  
4. Correspondence received in support of the project:  
   a. M.L. Dugan (writing illegible), Santa Barbara, CA  
   b. Dan McKinnon, Santa Barbara, CA  
   c. Edwina Mindheim, Santa Barbara, CA  
   d. Marian D. Buegles, Santa Barbara, CA  
   e. Leonard A. Price, MD, Santa Barbara, CA  
   f. Henry Levy, Jr., Santa Barbara, CA  
   g. John & Sally Mandle, Santa Barbara, CA  
   h. Dr. and Mrs. Robert G. Logan, Santa Barbara, CA  
   i. Frank and Parmele Williams, Santa Barbara, CA  
   j. Bill and Kathlyn Paxton, Santa Barbara, CA  
   k. Art and Peggy Montgomery and Betsy Rose, via email  
   l. Janet L. O’Dowd, Santa Barbara, CA  
   m. Robert J. Buegler, Santa Barbara, CA  
   n. Roger David Cole, Santa Barbara, CA  
   o. Guenter and June Ahlers, via email
p. Bob and Karin Hughes, Santa Barbara, CA
q. Jane C. Rieffel, Santa Barbara, CA
r. Virginia Robinson, Santa Barbara, CA
s. Ellen Brown, Santa Barbara, CA
t. Anna M. Freidell, Santa Barbara, CA
u. William A. Kelsey, Santa Barbara, CA
v. Jean Vroman, Santa Barbara, CA
w. Joan and Thomas Mitchell, Santa Ynez, CA
x. James and Phyllis Axtell, Santa Barbara, CA
y. Marion Fortunato, Santa Barbara, CA
z. Phyllis and Elliot Prager, Santa Barbara, CA
aa. Dempsay, via email
bb. Henry Jones, via email
cc. Donald O’Dowd, via email
dd. Bob Miller, President, Valle Verde Resident Council, via email
ee. Julia Springer, Summerland, CA
ff. Norman J. Boyan, via email
gg. Janet W. Davis, Santa Barbara, CA
hh. Dr. and Mrs. David Bohn, via email
ii. Judy Richards, via email
jj. Paul D. King, Santa Barbara, CA
kk. Arthur C. Christman, Jr., Santa Barbara, CA
ll. Lorilee Torrey and the Torrey Family, via email
mm. Ruth Priest, Santa Barbara, CA
nn. William Spangler, Santa Barbara, CA
oo. Margaret E. Olds, via email
pp. Patricia C. Dow, via email
qq. Louise Carey, via email
rr. Steve Amerikaner, Santa Barbara, CA
ss. Laurie Yttri, via email
tt. Alexa Steadman, via email
Correspondence received in opposition to, or with concerns about, the project:

a. Jermaine Chastain, via email
b. Heike Killian, via email
c. Judy Orias, Santa Barbara, CA
d. Janice Z. Baker, via email
e. Beatrice T. Oshika, via email
f. Robert Boghosian and Beth Gates Warren, via email
g. Steve Seim, via email’
h. Jim Venturino, via email
i. Tom and Sherie Burgher, via email
j. John Horton, via email
k. William Sabella, President, De los Amigos Owners Association, via email
l. Marc Chytilo, Attorney for Hidden Oaks Homeowner’s Association, via email
m. Sharon A. Seidenstein, Attorney for UHW/Friends of Valle Verde, via email
n. Pete Georgi, President, Hidden Oaks Homeowner’s Association, via email
o. Stevie Peters, via email
p. Tim Reinauer, via email
q. Ruth Georgi, via email
r. Wilmer Haas, via email
s. Eddie Harris, President, Santa Barbara Urban Creeks Council, via email
t. Catherine McCammon, President, Allied Neighborhoods Association, via email
u. Frank Arredondo, Chumash MLD, via email
v. John Caulfield, Santa Barbara, CA
w. Sherry Hall, Friends of Valle Verde, Santa Barbara, CA
x. “Save Hidden Valley” petition with 117 signatures of neighboring residents
y. “Friends of Valle Verde Save the Oaks” petition with 159 signatures

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission:

I. Approved the subject application making the following findings and determinations:

A. Final Environmental Impact Report (EIR) Certification

Consistent with the California Environmental Quality Act Section 15090, Certification of the Final EIR, prior to approving a project the lead agency shall certify that:

1. The Final Environmental Impact Report for the Valle Verde project was presented to the Planning Commission of the City of Santa Barbara. The Planning Commission reviewed
and considered the information contained in the Final Environmental Impact Report, along with public comment and responses to comments, and determined that the document constitutes a complete, accurate, and good faith effort toward full disclosure of the project’s impacts and is an adequate environmental analysis of the project.

2. The Final Environmental Impact Report, dated February 2011, prepared for the Valle Verde project has been completed in compliance with CEQA.

3. The Final Environmental Impact Report for the Valle Verde Project reflects City of Santa Barbara Planning Commission’s independent judgment and analysis.

4. The location and custodian of documents and materials that constitute the record of proceedings upon which this decision is based, is the City of Santa Barbara Community Development Department, Planning Division, 630 Garden Street, Santa Barbara, CA, which is also the Lead Agency.

5. A mitigation monitoring and reporting program (MMRP) is hereby adopted. Mitigation measures have been made enforceable through incorporation into the project description or are included as conditions of project approval.

Class II Impacts (Potentially Significant and Mitigated). Project elements incorporated as part of the project description and mitigation measures applied as conditions of project approval would result in the avoidance or substantial lessening of the following environmental impacts to less than significant levels. These findings are supported by substantial evidence in the record including the Final EIR.

a. **Visual Aesthetics.** Removal of existing mature trees and additional development would affect the site’s visual appearance. This impact would be reduced to a less than significant level by replacing each mature tree removed with an appropriate replacement tree, as determined by the City’s Architectural Board of Review.

b. **Biological.** Short-term impacts to wildlife could occur as a result of the project construction. Mitigations include survey for nests prior to construction, construction fencing, and designated equipment parking, which would reduce impacts to a less than significant level. Long-term impacts to the Oak Woodland habitat from the new development and associated fuel management requirements could also occur. The project includes a revised fuel management program, an oak woodland restoration plan and standard conditions for lighting that manage lighting and direct it toward the ground, which would reduce impacts to a less than significant level.

c. **Geophysical Conditions.** Components of the project are proposed to be located on steeper slopes and could be impacted by slope stability. This impact would be reduced to a less than significant level with the implementation of the recommendations in the Soils Engineering Report for grading the site, directing drainage, as well as compliance with building code requirements that would minimize potential hazards associated with slope stability.

d. **Hazards.** The project is not located within a high fire hazard area. However, there is heavy vegetation and non-native grasses within close proximity of the proposed development. Implementation of the revised fuel management program would
reduce impacts to less than significant levels by reducing the fuel load and using a fire resistant construction techniques.

e. **Noise.** Construction noise has the potential to impact adjacent residents. Mitigation measures to address construction hours, construction equipment sound, and noise barriers have been included and would reduce impacts to a less than significant level.

f. **Public Services.** Construction and demolition activities required to implement the proposed project would generate a substantial amount of solid waste. This impact would be reduced to a less than significant level with the implementation of a waste management plan that would recycle the majority of the waste.

**Class III Impacts (Less than Significant).** The proposed project would result in a less than significant impact in the following environmental issue areas, as identified in the Final EIR. As applicable, Mitigation measures are incorporated as conditions of project approval to further reduce the level of impact, consistent with City policies. These findings are supported by substantial evidence in the record including the Final EIR.

a. **Air Quality.** Long-term impacts were considered less than significant. Short-term project-related grading and construction activities would result in fugitive dust and emissions from construction equipment that would be well below the established threshold of significance. Standard dust and emissions control measures to further reduce potential impacts are included as recommended mitigation measures and in the Conditions of Approval. Therefore, the project is anticipated to have a less than significant short-term air quality impact.

b. **Cultural Resources.** The project involves ground-disturbing activities, which means there is a remote possibility of encountering unknown buried archeological deposits. The project site was surveyed to detect the presence of prehistoric and historic cultural materials. The survey did not detect the presence of any resources. Standard mitigation requiring contractor notification if resources are excavated would further reduce potential impacts.

c. **Population and Housing.** The proposed project would provide 40 new dwelling units, resulting in a net gain of 33 dwelling units in the City and would have no significant housing- or population-related impacts.

d. **Recreation.** The Valle Verde campus includes various on-site passive and active recreation opportunities for residents. Increases in park and recreation demand associated with the proposed project would be less than significant.

e. **Transportation/Circulation.** Short-term construction related impacts could occur during construction. Recommended mitigations and standard conditions of approval for construction traffic and construction parking would further reduce impacts. The project would result in approximately five new employees and new senior housing. No long-term significant traffic impacts would result from the project. A recommended mitigation to prevent parking within five feet of all driveways would further reduce impacts.
f. **Water Environment.** Through the recommended mitigations, which would be incorporated into the conditions of approval, less than significant short-term construction-related water quality impact would be further reduced to a less than significant level. All new development would be required to comply with the provisions of the Storm Water Management Program, which mandate that post construction runoff is equal to pre-construction runoff and runoff is treated prior to leaving the site, thus long term impacts would be less than significant.

**Findings for the Fish & Game Code**

An Environmental Impact Report has been prepared by the lead agency (City of Santa Barbara), which has evaluated the potential for the proposed project to result in adverse effects, either individually or cumulatively, on wildlife resources. For this purpose, wildlife is defined as "all wild animals, bird, plants, fish, amphibians, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability." The proposed project has the potential for adverse effects on trees and mature vegetation and associated wildlife during project construction. Mitigation measures have been applied such that any less than significant impacts would be further reduced. The project does not qualify for a waiver and is subject to payment of the California Department of Fish and Game fee.

This motion to certify the Environmental Impact Report was passed and adopted on the 14th day of April, 2011 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 4   NOES: 1 (Jostes)   ABSTAIN: 0   ABSENT: 2 (Jacobs, Larson)

**B. Modification Front Setback (SBMC §28.92.110.2)**

The proposed Modification along Torino Drive to reduce the front setback from 35 feet to 20 feet is consistent with the purpose and intent of the Zoning Ordinance and is necessary to promote uniformity of improvement. The reduction of the setback would not be out of character with the existing Valle Verde development or the adjacent Hidden Oaks development, because the unit that would be located in the front setback would be single story, similar to the existing Valle Verde development on Torino Drive.

The proposed Modification from the private streets with Valle Verde can also be found consistent the purpose and intent of the Zoning Ordinance. The proposed development along the private streets would follow a similar development pattern established over the four phases of the site development.

**C. Modification Distance Between Buildings (SBMC §28.92.110.2)**

The Modification to reduce the distance between buildings requirements is consistent with the purpose and intent of the Zoning Ordinance and is necessary to promote uniformity of improvement. The existing development of the site includes reduced distances between buildings. The typical existing development is comprised of single story duplexes and triplexes, which does not create a crowded feel. The proposed Modifications between the buildings would be similar in nature. Typically, some of the buildings are at an angle to other buildings and only part of the building is closer than required to the other buildings.
D. **Modification Interior Yard Setback (SBMC §28.92.110.2)**

The Modification to reduce the interior setback is consistent with the purpose and intent of the Zoning Ordinance and is necessary to promote uniformity of improvement. Two units on the Rutherford parcel would encroach within one to two feet of the interior setback and place the development closer to the existing Valle Verde development. A third unit, located on the hillside above Sende Verde, would be placed three feet into the required setback. This location is appropriate since the unit would be located further from the Oak Woodland habitat and only affects Valle Verde interior lots.

E. **Lot Line Adjustment Modification (SBMC §27.40.040)**

The parcels resulting from the lot line adjustment conform to the General Plan, and zoning ordinance and building code, and specifically satisfy all lot area, street frontage and setback requirements as described in Section VI of the staff report.

F. **Conditional Use Permit**

In keeping therewith, the Planning Commission may permit, by issuance of a conditional use permit, any of the uses specifically enumerated in Section 28.94.030 upon a finding that:

1. Any such use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan; *The improvements and updated conditions of approval for the amended CUP will clarify the uses of the campus and improve the parking on site, thereby reducing parking on the public street. The project is consistent with the General Plan Elements, because it will not cause a significant traffic impact, the buildings will be a similar design to the existing development, and will provide an updated facility consistent with both local building code and state code for licensed retirement facilities.*

2. Such uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved; *The project site is located in an area that is somewhat buffered from the majority of the neighboring properties. Hope Ranch is adjacent to the site on two sides, Hidden Valley Park is on the eastern side and a dedicated open space is on the southern side. Hidden Oaks subdivision, a Planned Urban Development (PUD) is located immediately west of the Rutherford Lot, where ten of the proposed units will be located. Of the ten units, eight would have direct access onto Torino Drive. This public street was constructed in the mid-1980's and has a low traffic volume, since it only serves Hidden Oaks. The proposed units would be set further back from the common lot line than required by Ordinance and the clustering would be similar to the Hidden Oaks development.*

3. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided. *The development of the Rutherford Lot includes one unit encroaching closer to the front setback line through a Modification request. However, the location of this development would be consistent with the front setbacks of the existing Valle Verde development of the project site and would not be adjacent to existing off-site neighborhood development.*
4. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time. The applicant is providing additional parking for the proposed development. The project includes a reconfiguration of the existing parking lots and designating specific parking lots for employees, residents, and visitors. A parking program is proposed to be implemented to track the number of residents and staff to ensure that vehicles are parked on site and not on the surrounding streets.

5. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area. The Planning Commission shall have the authority to approve the design of open space. Design shall mean size, shape, location and usability for proposed private, public, or quasi-public purposes and development. Approval of such open spaces may be expressly conditioned upon an offer of conveyance by the owner to the City of Santa Barbara of the development rights, the right to prohibit the construction of additional buildings, or other property rights, necessary to achieve the purpose set forth in this title. The proposed development is all single story, similar to the existing development, except for the addition to the administration building. The additions to the administration building would include a second story element for the four bed and breakfast units; however this second floor element would be in the center of the campus away from the public roads or off-site development. Open space is being dedicated as part of the project and along with a previously required, but unrecorded dedicated open space, a total of 9.8 acres of oak woodland would be provided. Finally, the project was reviewed on several occasions by the Architectural Board of Review and the Board found the project was moving in the right direction.

Compliance with any additional specific requirements for a conditional use permit:

Section 28.94.030.R.2 states that for existing State-licensed residential care facilities for the elderly, community care facility or hospice as of the effective date of this Ordinance requesting an alteration or modification, in addition to the findings required under Section 28.94.020 (stated above), the Planning Commission or City Council on appeal must find upon a showing of adequate information that:

6. The proposal has been reviewed and approved by the City Fire Marshall and the City Building Official. The proposed project was reviewed as part of the application process. The project will be required to apply for a building permit and representatives of the Fire Department and the Building Department will review the project for consistency with the applicable codes. The review will encompass all aspects of the project, including emergency access, ingress and egress of the parking areas and location of parking spaces.

7. The facility will generate a demand for resources such as water, traffic and parking capacity, and other public services equivalent to no more than that which would be demanded by development of the property in accordance with the underlying zone, or if existing resource use exceeds the underlying zone, then resource use shall be equivalent to no more than that of the existing use. The project would be consistent with both
scenarios of this finding. Water usage for the proposed residential uses on the site would be less than what would be necessary to supply two single-family residences, each located on one and one half acres. Because the use of the site is senior housing, peak hour traffic trips would be less than a typical residential development and all parking can be accommodated on site in the attached garages and surface parking lot.

8. The intensity of use in terms of the number of people, hours of operation, hours of major activities and other operational aspects of the proposed facility is compatible with any neighboring residential use. The portion of the proposed development located closest to the adjacent residential use will be similar in use and intensity because it will be residential use. There will be a greater separation between the residential units and the adjacent properties than required by Ordinance. All of the core support buildings (i.e. dining areas, wellness clinics, recreational facilities, etc.) will remain in the current location and would not expand any further toward the adjacent residential properties.

II. Said approval is subject to the following conditions:

A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

1. Pay Fish and Game fee immediately upon approval of the land use applications. Delays in payment will result in delays in filing the required Notice of Determination.

2. Obtain all required design review approvals.

3. Pay Land Development Team Recovery Fee at the time of submittal for either a Building or Public Works permits.

4. Make application and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform rough grading. Comply with condition E “Construction Implementation Requirements.”

5. Record any required documents (see Recorded Conditions Agreement section), including an approvable application for a Lot Line Adjustment, including, but not limited to the Oak Grove development rights restriction.

6. Permits.
   a. Make application and obtain a Building Permit (BLD) for construction of approved development.
   b. Make application and obtain a Public Works Permit (PBW) for all required public improvements.

Details on implementation of these steps are provided throughout the conditions of approval.

B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Approved Development.** The development approved by the Planning Commission on April 14, 2011, as shown on the plans signed by the chairman of the Planning
Commission on said date and on file at the City of Santa Barbara, is limited to the following:

An amendment to the Conditional Use Permit for the Valle Verde project to allow the following land uses:

a. 246 Independent Living Units (separate living units with individual kitchens and no more than two bedrooms).

b. 7 Studio Units (multiple attached living units of no more than one bedroom each sharing a common kitchen)

c. A 2-story, 6,870 S.F. Administration Building which includes within the footprint:
   (1) 1st story - Administrative offices, conference room and a resident bank office. (5,045 S.F.)
   (2) 2nd story - 4 Bed and Breakfast units each with full bath & wet bar (1,825 S.F.)

d. A 4,923 s.f. Poolside Lounge, which includes a library, a lounge, resident resale room (La Tienda room) with annex, a storage area, a laundry area and bathrooms with shower facilities.

e. A 13,764 s.f. Dining complex, which includes a 351 seat multi-purpose/theater/aerobic room, a lobby area, a 12 seat chapel, a kitchen, bathrooms, a dining hall that includes a 32 seat formal dining alcove, a 679 s.f. outdoor patio dining area, a 110 seat main dining area, and a wellness center.

f. A 2,658 s.f. Beauty Salon building, which also includes a staff room lounge, an outdoor staff area (with designated smoking area), a conference room (Santa Barbara Room), and a store for the residents (Country Store).

g. A 2,646 s.f. social room, which includes a card/conference room, a business office with help desk, 8 seat deli & lounge area, and bathrooms.

h. A 28,558 s.f. 80 bed Skilled Nursing building.

i. A 33,401 s.f. 48 bed Assisted Living building, which also includes a 44 seat dining area with kitchen, a lounge, an art room, a fitness room and staff office area.

j. A 2-story 5,899 s.f. Maintenance Building:
   (1) 1st Story – Hobby shop, maintenance shop, landscape storage, and remodel storage. (4,099 s.f.)
   (2) 2nd Story – Maintenance staff offices, meeting room and file storage. (1,800 s.f.)

k. A 252 s.f. Laundry room with a storage room and bathroom.

l. A 8,079 s.f. open air plaza including café seating & bbq trellis
m. Five gazebos totaling 3,175 s.f. with a restroom, storage & janitor/laundry area. Four gazebos have indoor seating with exterior open air seating.

n. A 588 s.f. storage area

o. 414 Parking spaces.

p. Dedication of 9.8 acres of Oak Woodland habitat to remain undeveloped.

q. New access driveway onto Torino Road.

r. A Lot Line Adjustment which would result in APN 049-440-015 being 3.4 acres and APN 049-440-016 being 11.7 acres.

Note: The square footage of items e. (Dining Complex), h. (Skilled Nursing) & i. (Assisted Living) are accurate within a factor of 10% + or -. In the event more substantial renovations occur in any of these buildings in the future, a more thorough evaluation of the building square footage shall be provided. This approved development includes the total of all the development requested under the Conditional Use Amendment, along with all of the existing Valle Verde development.

The uses allowed in this amendment to the conditional use permit are expressed as maximum limits. The amended conditional use permit supersedes all prior conditional use permits for the Valle Verde project.

2. Development Rights Restrictions - Oak Woodland. The Owner shall not make any use of the restricted portion of the Real Property as designated on the approved plans in order that those portions of the Real Property remain in their natural state. This area shall encompass one area of the oak woodland habitat totaling 9.8-acres. The Owner shall not make use of the restricted area including, but not limited to, grading, irrigation, structures, ornamental landscaping, or utility service lines. The restricted areas shall be shown on the site plan. The only exception to activity in this restricted area is fuel management as prescribed under the approved fire clearance plan and restoration of the area as described in a habitat restoration plan. The Owner shall continue to be responsible for maintenance of the restricted area, and compliance with orders of the Fire Department. Any brush clearance shall be performed without the use of earth moving equipment.

3. Uninterrupted Water Flow. The Owner shall provide for the continuation of any historic uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.

4. Recreational Vehicle Storage Prohibition. No recreational vehicles, boats, or trailers shall be stored on the Real Property.

5. Landscape Plan Compliance. The Owner shall comply with the Landscape Plan approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan, including any tree protection measures. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.
6. **Oak Tree Protection.** The existing Oak trees shown on the Tree Protection Plan & Landscape Plan shall be preserved, protected, and maintained in accordance with the recommendations contained in the Valle Verde Retirement Community Tree Assessment and Protection Plan (Spiewak, 2008). See Condition D.2.d. for further detail on tree protect and also the copy of the Spiewak report, which shall be attached to the recorded conditions as an exhibit.

7. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state. Should any of the project’s surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.

8. **Senior Housing Restrictions.** The Real Property may only be used for residential uses by elderly or senior persons who are sixty-two (62) years of age or older (herein sometimes referred to as "senior housing").

9. **Required Redesign if Senior Housing Not Used.** In the event that the Real Property, or any portion thereof, is not or cannot be used solely for senior housing, the structures shall be redesigned and possibly reconstructed and the number of dwelling units shall be reduced so that the maximum number of dwelling units on the Real Property does not exceed the number of dwelling units that would be allowed if there is compliance with the City's parking requirements then in effect and in compliance with the underlying residential zone district.

10. **Pesticide or Fertilizer Usage Near Creeks.** The use of pesticides or fertilizer shall be prohibited within the south-eastern area, which drains directly into Arroyo Burro Creek.

11. **On Site Employee Amenities** – On site employee amenities shall be maintained for the life of the project which include break room areas, outdoor seating areas and smoking areas.

12. **On Site Residential & Employee Permit Parking Program.** Valle Verde shall create a residential and employee permit program with the purpose that all residents and employees shall park on site. Valle Verde shall maintain the program with the name of the resident or employee, the make and model of the car, and license number. Records shall be maintained by Valle Verde staff and be provided to City staff as needed to ensure compliance with this condition. The program shall include the following components:
   a. All residents of the independent living units and studios shall participate in the Permit Parking Program. Each independent residential living unit and studio unit shall be issued one (1) parking sticker.
b. In the event a resident moves out of an independent living unit or a studio, the automobile shall be removed off site to a designated storage area or other appropriate location that is not in the public right-of-way and the permit forfeited.

c. Designated residential parking spaces shall be clearly marked on wheel stops or other such signage.

d. All employees shall be issued one (1) parking sticker. All employees shall park on-site, and Valle Verde staff in charge of maintaining the parking program shall ensure that employees are using the on site parking spaces.

e. Designated employee parking lots shall be provided as shown on the approved site plan and each employee parking lot shall include appropriate signage, approved by City Public Works Transportation staff.

13. **Common Area Maintenance.** All common/shared areas/facilities/improvements shall be kept open, available and maintained in the manner in which it was designed and permitted.

14. **Areas Available for Parking.** All parking areas and access thereto shall be kept open and available in the manner in which it was designed and permitted. No storage of equipment, such as storage containers or construction material, shall occur, unless allowed during construction or remodeling of buildings. Visitors to Valle Verde shall be encouraged to park on site prior to parking in the public right-of-way. As part of scheduling facilities for use by outside groups, Valle Verde shall encourage carpooling or other alternative transportation. 414 Parking spaces shall be divided among the residents, visitors and employees in the following manner:

a. Residents – 251 spaces (note: includes a combination of single car attached garages and surface parking lots)
b. Employees – 114 spaces
c. Visitors – 49 spaces

On-site parking signage, directing residents, visitors and staff to park on-site, rather than on Calle de los Amigos shall be provided.

C. **Design Review.** The project, including public improvements, is subject to the review and approval of the Architectural Board of Review (ABR). The ABR shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.

1. **Landscape Plans:**

a. The project shall adhere to the Fire Department Landscape Guidelines and Fuel Management Standards identified for properties within the project area. The Landscape plan shall be reviewed and approved by the Fire Department prior to submittal to the Environmental Analyst or ABR for review. (HAZ 1.)
b. Prior to issuance of grading or building permits, final landscaping plans for the development shall be submitted for review and approval of the Environmental Analyst, Creeks Division and Architectural Board of Review (ABR), and shall include the following: (AES 1)

1. Planting of only native species in development areas adjacent to native riparian, oak woodland, and coastal sage scrub areas. Drought tolerant, water wise landscaping should be used throughout the site. No highly invasive non-native species listed by the California Native Plant Society are to be used onsite.

2. Replacement of all skyline and specimen trees proposed for removal or significantly impacted onsite at a minimum of a 1:1 ratio, preferably with native species. Should any of the large sycamore trees onsite be impacted by the project, they should be replaced at a 3:1 ratio per the specifications of the Tree Assessment and Protection Plan.

2. Habitat Restoration Plan. Prior to issuance of grading or building permits, an oak woodland and coastal sage scrub restoration plan prepared by a qualified biologist shall be submitted for review and approval by the City’s Environmental Analyst. At minimum, the restoration plan shall contain the following elements:(BIO-1a.)

a. The plan shall include all recommendations related to restoration and tree replacement contained in the Biological Assessment and Tree Assessment and Protection Plan prepared for the project.

b. Removed/disturbed oak woodland and coastal sage scrub habitat shall be provided/restored at a minimum 2:1 replacement ratio. To the extent possible, this mitigation shall be performed on the project site in existing non-native and/or disturbed habitat such as areas where fuel management activities have occurred but will no longer be required, and nonnative annual grassland habitat. The habitat restoration plan shall at a minimum create 0.48 of an acre of oak woodland and 0.24 of an acre of coastal sage scrub habitat. The oak woodland and coastal sage scrub habitat restoration/mitigation may be implemented in conjunction with proposed oak tree replacement mitigation (BIO-2a).

c. At minimum, the oak woodland and coastal sage scrub habitat restoration/mitigation plan shall describe the following plan elements:

1. Restoration site selection criteria.
2. Where restoration/mitigation will occur.
3. The existing conditions in the restoration/mitigation area(s).
4. Site preparation and planting methods.
5. A planting pallet using locally obtained native coast live oak trees and coastal sage scrub plant materials.
6. A maintenance schedule.
7. Mitigation goals, objectives, and success criteria.
(8) A description of the monitoring methods and reporting that will be used to document and measure the progress of the restoration/mitigation effort.

d. The coastal sage scrub habitat restoration/mitigation performance standard shall be a minimum of 80 percent native herb and shrub cover. The oak woodland habitat restoration/mitigation performance standard shall be a minimum of 45 percent canopy cover for native trees. Both the coastal sage scrub and oak woodland areas shall have no more than 15 percent non-native weeds (excluding non-native annual grasses) and the required performance standards shall be achieved within five (5) years after initial planting.

e. Monitoring of the restoration areas shall occur for a minimum of five (5) years. Monitoring reports shall be submitted annually and at the completion of the five year period. If the final report indicates that the restoration project has in part or in whole been unsuccessful based on the performance standards specified in the restoration plan, the applicant shall submit within 90 days a revised or supplemental restoration program.

f. All plantings shall be maintained for the life of the project.

g. All cleared, graded, or disturbed areas on the project site shall be planted or protected and maintained for erosion control purposes as soon as feasible following initial disturbance.

h. All disturbed soil around the margins of the development proposed on the western side of the campus adjacent to the existing oak woodland shall be hydroseeded with a native coastal sage scrub seed mix using native species found in adjacent habitats. Seed shall be collected from locally-occurring plants (either on-site or within the south coast of Santa Barbara County).

i. Areas adjacent to the oak woodland on the western side of the property that are currently subject to fuel modification but would no longer require management after the approval of the proposed project (approximately 1.5 acres), shall be cleared of existing invasive, nonnative species (oleander, ice plant, ivy, etc.) and replanted with native, locally-occurring ground cover, brush and trees found in the oak woodland and coastal sage scrub habitats.

j. Planting shall be undertaken immediately after completion of construction.

k. Cages around the saplings shall be installed during planting to prevent wildlife from damaging the young trees. Weeds shall be controlled and a 2-3 inch layer of mulch shall be placed around the trees, but not against the stems. Newly planted saplings shall be irrigated with drip or other water source for the first two years, until the saplings are established.

l. All trees removed during construction shall have their trunks and large limbs cut into three to four-feet long sections and scattered around adjacent natural habitat to function as microhabitat for small animals.
To restore oak woodland habitat functions as quickly as possible, it is recommended that at least 80 percent of the removed native trees replacement (80 percent of 150 removed oak replacement trees = 120 trees) be performed using 15-gallon or 24-inch box trees at a 3:1 mitigation ratio (12 removed trees would require 36 15-gallon and/or 24-inch box trees); and that 20 percent of the removed native trees replacement be performed using one to five gallon trees planted at a 10:1 mitigation ratio (3 impacted trees would require 30 one- to five-gallon replacement trees).(20 percent of 150 replacement trees = 30 trees).

3. **Arborist’s Report / Tree Protection Plan.** Include a note on the plans that the recommendations/conditions contained in the arborist’s report, Valle Verde Retirement Community Tree Assessment and Protection Plan (Spiewak, 2008), shall be implemented. See Condition D.2.d. for further detail.

4. **Landscape Screening.** Landscaping with low water use plants and/or a solid screen wall or fence shall be provided to buffer the visitor parking area on the Rutherford Lot from Torino Road and adjacent properties to the south.

5. **Final Hydrology Report.** All recommended measures in a final Hydrology Report prepared by MAC Design Associates shall be submitted. The preliminary report on file is dated November 20, 2008. The final report shall be followed and recommendations shall be shown on final project plans. (W-1)

6. **Project Directory.** Project directories (including map and parking directional signs) listing all units on-site shall be indicated on the project plans. The directories shall clearly depict the location of visitor and staff parking and encourage visitors to park on site. The directories shall be lit sufficiently for readability for site visitors and placed in a location or locations acceptable to the Fire Department, shall meet current accessibility requirements, and is subject to Design Review Approval. Project Directories shall be placed at all entrances to the campus, which include the intersections of Calle Sende and Calle de los Amigos, Torino Drive and Calle Verde; Torino Drive and Calle Sastre; Torino Drive and Mesa Verde.

7. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.

   Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.

8. **Retaining Wall Heights.** The applicant shall explore further reduction of the retaining wall heights adjacent to units 12 and 13, and the southerly portion adjacent to the maintenance building in the employee parking lot.
D. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.

1. Public Works Department.
   
a. **Approved Public Improvement Plans.** Public Improvement Plans as identified in condition D.1.h - k for both Private and Public street Improvements shall be submitted to the Public Works Department for review and approval. Upon acceptance of completed public improvement plans, a Building permit may be issued if the Owner has bonded for public improvements and executed the Agreement to Construct and Install Improvements (Not a Subdivision).

b. **Dedication.** Easements, as shown on the approved site plan and described as follows, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:

   (1) Owner shall offer to the City of Santa Barbara a minimum 20-foot wide easement for the purposes of construction, maintenance, ingress & egress for City of Santa Barbara public sanitary sewer in and City of Santa Barbara public water main purposes as shown on the approved site plan / utility plan.

   (2) Owner shall offer an Easement in Gross to the City of Santa Barbara for the purposes of water meter reading and maintenance of water meters.

c. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an Agreement Assigning Water Extraction Rights. Engineering Division Staff prepares said agreement for the Owner’s signature.

d. **Drainage and Water Quality.** In addition to complying with Condition C.5, the project plans for grading, drainage, stormwater facilities, and project development shall be subject to review and approval by City Building Division and Public Works Department per City regulations, (and Regional Water Quality Control Board). Sufficient engineered design and adequate mitigation measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water quality pollutants, or groundwater pollutants would result from the project. (W-2). See the Final Hydrology Report for details.

e. **Erosion Control/Water Quality Protection Plan.** Prior to the issuance of a demolition permit for the proposed project, the applicant or project developer shall prepare an erosion control plan that is consistent with the requirements outlined in the Procedures for the Control of Runoff into Storm Drains and Watercourses and the Building and Safety Division Erosion/Sedimentation Control Policy (2003). The erosion control/water quality protection plan shall specify how the required water quality protection procedures are to be designed,
implemented and maintained over the duration of the development project. A copy of the plan shall be submitted to the Community Development and Public Works Departments for review and approval, and a copy of the approved plan shall be kept at the project site. (W-3)

At minimum, the erosion control/water quality protection plan prepared for the proposed project shall address the implementation, installation and/or maintenance of each of the following water resource protection strategies:

- Paving and Grinding
- Sandbag Barriers
- Spill Prevention/Control
- Solid Waste Management
- Storm Drain Inlet Protection
- Stabilize Site Entrances and Exits
- Illicit Connections and Illegal Discharges
- Water Conservation
- Stockpile Management
- Liquid Wastes
- Street Sweeping and Vacuuming
- Concrete Waste Management
- Sanitary/Septic Waste Management
- Vehicle and Equipment Maintenance
- Vehicle and Equipment Cleaning
- Vehicle and Equipment Fueling

f. **Minimization of Storm Water Pollutants of Concern.** The applicant shall submit project plans incorporating long-term BMPs to minimize storm water pollutants of concern to the extent feasible, and obtain approval from Public Works Engineering. The approved facilities shall be maintained in working order for the life of the project and should incorporate passive design (bioswales, buffers, etc) to the extent feasible. (W-4)

g. **Storm Drain System Stenciling and Signage.** Within the project area, the applicant shall implement stenciling of all storm drain inlets and catch basins, and posting of signs at all public access points along channels and creeks, with language in English and Spanish and graphic icons prohibiting dumping, per approved plans. The applicant shall submit project plans to the satisfaction of Public Works Engineering that identify storm drain inlet locations throughout the project area, and specified wording and design treatment for stenciling of storm
drain inlets and signage for public access points that prohibit dumping. The owners association shall maintain ongoing legibility of the stenciling and signage for the life of the project, and shall inspect at least annually and submit report to City annually. (W-5)

h. **New public sewer and public water mains.** The Owner shall submit separate C-1 public improvement plans prepared by a civil engineer licensed in the state of California for the construction of the proposed public sewer main and the proposed public water main, in accordance with current engineering design standards and as outlined in the DRAFT Engineering Design Guidelines. Any extensions to the private water and sewer system also require separate C-1 improvement plans submitted to the Public Works Department. C-1 plans require a separate Public Works permit.

In addition, the Owner shall apply at the Public Works counter to abandon the existing 6-inch water main that traverses the subject property between the southeasterly ends of Calle De Los Amigos (private portion of road) and Senda Verde (private road), or submit separate C-1 public improvement plans to loop the system.

i. **Calle de los Amigos (public) Road Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Calle de los Amigos (public portion). As determined by the Public Works Department, the improvements shall include the following to City standards: Construct one three (N) commercial style driveways; a minimum of three (N) Type B curb drain outlets, saw-cut +/- 70 LF curb & gutter, construct +/- 70 LF (N) curb and gutter, & construct (N) sidewalk on-site. **Connection to the City’s Recyled Water System is required per SBMC 14.23 for irrigation meters.** Plans shall be prepared by a civil engineer licensed in the state of California. Any work in the public rights-of-way requires a Public Works permit.

j. **Calle de los Amigos (private) Road Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Calle de los Amigos (private portion). As determined by the Public Works Department, the improvements shall include the following to City standards: Construct one three (N) commercial style driveways; construct a minimum of three (N) Type B Curb drain outlets; saw-cut +/- 180 LF (E) curb and gutter, construct +/- 180 LF curb only, and construct +/- 100 LF ribbon gutter infiltration trenches. All improvements in the Right of Way requires a Public Works permit.

k. **Torino Drive (public) Road Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Torino Drive. As determined by the Public Works Department, the improvements shall include the following to City standards: Supply and install one two (N) stop signs and paint Stop legends on street per the 2006 MUTCD, saw-cut +/- 20 LF (E) curb & construct one (N) commercial driveway approach to the new residential structures, (N) sidewalk on-site per plan, +/- 10 LF of sidewalk in the Public
Rights-of-Way extending from sidewalk on private property. Any work in the public rights-of-way requires a Public Works permit.

l. **Senda Verde (private) Road Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on the private road known as Senda Verde. As determined by the Public Works Department, the improvements shall include the following to City standards: Construct seven (N) commercial style driveway approaches; construct a minimum of 3 x 3-inch Type B curb drain outlets (or 4-inch if 8-inch curb); construct one (N) drop inlet, construct +/-100 LF (N) sidewalk in R/W & additional sidewalk on-site per plan; construct +/- 400-460 LF (N) curb & gutter; saw-cut +/- 130-253 LF (E) curb & gutter, construct +/- 150 LF curb only, & install +/- 150 LF new infiltration trenches per plan at driveway approaches and parking area; and relocate (E) private street light. Install and connect one (N) irrigation water meter at the end of the (E) water main on Senda Verde in order to flush the mainline, or submit separate C-1 plans to the Public Works Department to loop the system. The new Irrigation Meter or new plans for looping the system requires a separate Public Works Permit/Work Order. All improvements in the Rights-of-Way requires a Public Works permit.

m. **Calle Sastre (private) Road Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on the private road known as Calle Sastre. As determined by the Public Works Department. The improvements shall include the following to City standards: Saw-cut +/- 100 LF (E) curb and gutter, and construct +/-100 LF of (N) curb only, construct +/- 240 LF (N) curb and gutter, construct +/- 995 LF (N) ribbon gutter infiltration trenches, +/- 360 LF (N) sidewalk, construct three (N) commercial driveway approaches. All improvements in the Right of Way requires a Public Works permit.

n. **Encroachment Permits.** An Encroachment permit is required for connection of the (N) private storm drain to the City’s public storm drain system.

o. **Lot Line Adjustment Required.** The Owner shall submit an executed Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof or Declarations of Lot Line Adjustment to the Public Works Department. A surveyor licensed in the state of California shall prepare the legal description and required exhibits to attach to the subject Agreement or Declaration for the subject properties, which shall be recorded in the Office of the County Recorder.

p. **Construction Traffic.** The haul routes for all construction related trucks, three tons or more, entering or exiting the site, shall be approved by the Transportation Engineer. Construction-related truck trips for all trucks three tons or more shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) to help reduce truck traffic and noise on adjacent streets and roadways. The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods. (TRF-2a)
q. **Construction Parking, Storage and Staging.** Construction staging, parking, and vehicle/equipment/materials storage shall be provided as follows (T-2b). The intent of these conditions is to minimize traffic, parking, noise and other impacts to the neighborhood:

1. During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Transportation and Parking Manager.

2. On-site or off-site storage shall be provided for construction materials, equipment, and vehicles. Storage of construction materials within the public right-of-way is prohibited.

3. Construction staging shall not take place within the public right-of-way.

r. **Disabled Accessibility.** Project circulation shall be maintained for disabled accessibility or equivalent facilitation in accordance with American Disabilities Act requirements (T-3a).

s. **Private Road/Driveway Maintenance Agreement.** The Owner shall submit a copy of the draft Agreement for Maintenance for the proposed private road/driveway(s). Said agreement is subject to the review and approval of the Community Development Director and the City Attorney.

t. **Stop Sign.** Two new "STOP" signs shall be installed on Torino Drive and shown on the approved plans.

u. **Red Curbs.** Parking and Transportation Staff shall study increasing the length of red curbs on each side of the driveways on Calle de los Amigos, with the goal of improving visibility from cars exiting the site and with particular attention to the area adjacent to the Administration building, and explore no-parking zones on one side of Calle de Los Amigos particularly at the curves.

2. **Community Development Department.**

a. **Recordation of Agreements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in condition B “Recorded Conditions Agreement” to the Community Development Department prior to issuance of any building permits.

b. **Project Environmental Coordinator Required.** Submit to the Planning Division a contract with a qualified independent consultant to act as the Project Environmental Coordinator (PEC). Both the PEC and the contract are subject to approval by the City’s Environmental Analyst. The PEC shall be responsible for assuring full compliance with the provisions of the Mitigation Monitoring and Reporting Program (MMRP) and Conditions of Approval to the City. The contract shall include the following, at a minimum:

1. The frequency and/or schedule of the monitoring of the mitigation measures.

2. A method for monitoring the mitigation measures.
(3) A list of reporting procedures, including the responsible party, and frequency.

(4) A list of other monitors to be hired, if applicable, and their qualifications.

(5) Submittal of weekly reports during demolition, excavation, grading and footing installation and biweekly reports on all other construction activity regarding MMRP and condition compliance by the PEC to the Community Development Department/Case Planner.

(6) Submittal of a Final Mitigation Monitoring Report.

(7) The PEC shall have authority over all other monitors/specialists, the contractor, and all construction personnel for those actions that relate to the items listed in the MMRP and conditions of approval, including the authority to stop work, if necessary, to achieve compliance with mitigation measures.

c. **Geotechnical Review.** The final project plans reviewed and approved by the City Building Division prior to issuance of any grading or building permits shall show that the project is constructed in accordance with California Building Code requirements and the recommendations contained in the Geotechnical Report prepared by Fugro West, Inc., dated October 2006, updated on February 18, 2008 regarding site preparation, grading, paving, foundation design, retaining walls, and construction plans. (GEO-1.)

d. **Native and Specimen Tree Replacement and Protection.** The project applicant shall implement the Valle Verde Retirement Community Tree Assessment and Protection Plan (Spiewak, 2008), and the mitigation measures provided by the Initial Study prepared for the Valle Verde project. The following tree replacement/protection measures shall be implemented: (BIO-2a.)

1. A minimum oak tree replacement ratio of 10:1 shall be required to mitigate the loss of the 15 coast live oaks. A minimum survivorship ratio of 8:1 after three years post-planting shall be achieved. Acorns collected from on-site oak trees shall be used. One hundred fifty oak saplings, one gallon in size shall be planted in areas between the new structures on the west side of the property (project north) and the oak woodland. Additional trees shall be planted if damage occurs to existing trees during construction related activities. Mitigation trees and required protection/maintenance requirements shall be installed prior to issuance of project permits.

2. The location of the below-grade detention basin on the Rutherford parcel shall be determined in consultation with a qualified arborist, with the goal of minimizing impacts to the health of the existing Oak trees.

3. The following measures shall be noted on the grading plan submitted to the building department prior to issuance of grading permit and implemented prior and during construction-related activities to ensure the protection of trees:
Tree protection fencing and barriers shall be installed as indicated on the fencing plan.

Fences shall be chain link or orange plastic, four to six feet high and positioned at the Critical Root Zone (CRZ) as specified in the tree inventory table and illustrated on the site maps of the Tree Assessment and Protection Plan.

CRZs shall have a radius measured from the center of the trunk to the outside edge of the CRZ, wherever possible. If work is approved within the CRZ, the fence shall be placed at the outside edge of the work zone.

Fencing shall remain upright and intact throughout the duration of the project.

Construction related activities shall be prohibited within the Tree Protection Zones (TPZ), including the use of heavy equipment, storage of materials, or accumulation of soil for later use.

Demolition and excavation within TPZs of all native and non-native trees shall be done by hand where reasonable. Reasonableness shall be determined by the Project Environmental Coordinator, Supervising General Contractor and the Project Arborist.

Special attention shall be given to construction related activity around sycamore No. 104 and all oak trees to minimize impacts. Three 24-inch boxed sycamores shall be planted to mitigate impacts to sycamore #104.

Any roots encountered within the CRZs of trees, even if outside the TPZs shall be cleanly cut back to an undisturbed section of the root zone. In areas where roots are cut, the soil profile shall be irrigated to reduce drying of newly exposed soil and subsequent damage to remaining roots in that profile. The Project Arborist shall determine the quantity, area and frequency of irrigation to the disturbed area.

A permethrin-based pesticide (Astro) shall be applied to the lower six feet of oak tree trunks stressed from root cutting in the early Spring and late Summer (through September), to reduce the risk of attack by fatal oak bark beetles. It may need to be repeated for several years at the discretion of the City Arborist.

Tree removal should, to the extent feasible, be scheduled between August 16 and January 31 to avoid bird nesting season or survey and construct only if nesting birds are absent (see mitigation measure Bio3a-2).
(k) All trees not indicated for removal on the site plan shall be preserved, protected, and maintained, in substantial accordance with the Tree Assessment and Protection Plan dated November 12, 2008.

(l) All required mitigation trees, and each of the impacted but not significantly impacted trees shall be monitored once a year following the completion of construction activities for a period of five years. Should any of these trees die during the monitoring period, they shall be replaced at the specified tree replacement mitigation ratio.

e. **Sensitive Species Surveys and Monitoring.** Prior to issuance of any grading or building permits, the applicant shall submit a draft contract with a qualified biologist for the review and approval of the Environmental Analyst. The following monitoring and survey activities shall be implemented: (BIO-3a)

1. A qualified biologist shall supervise the installation of the construction fencing around all work areas and access roads. Fencing shall be maintained through the duration of project construction.

2. Tree removal/relocation/trimming activities shall not occur during nesting season (February 1 – August 15). If these activities must occur during this time, a qualified biologist shall conduct a survey of the trees no more than one week prior to the activity to identify active nests and nest holes. The biologist shall map the location of all active and inactive nests and nest holes in trees. A 300-foot radius no-disturbance buffer shall be established around trees containing active nests and this buffer shall be maintained until the biologist has verified that young birds have fledged the nest.

3. A city approved biologist familiar with the habits of legless lizards and coast horned lizards shall monitor initial vegetation removal efforts (grubbing), grading and other surface-disturbing activities for silvery legless lizards and coast horned lizards. The biologist shall direct the equipment operator to slowly remove vegetation and the top 12 inches of topsoil while the biologist scans the soil for lizards. Any and all reptiles found shall be relocated to appropriate microhabitats in adjacent, undisturbed habitat out of harm’s way. The monitoring biologist shall complete a California Natural Diversity Database Field Survey form should any sensitive reptiles be found and shall fax a copy to the City, and the California Department of Fish and Game California Natural Diversity Database per the instructions on the field survey form.
f. **Sensitive Plan Survey and Restoration Requirements.** Prior to issuance of grading or building permits, a survey plan prepared by a qualified biologist shall be submitted for review and approval by the City’s Environmental Analyst. The survey plan shall also describe restoration efforts that will be implemented if it is determined that the proposed project would result in significant impacts to Santa Barbara honeysuckle and/or mesa horkelia. At minimum, the plan shall contain the following elements. (BIO-4a.)

1. Prior to the issuance of a grading permit, a botanical survey shall be performed to confirm the presence or absence of Santa Barbara honeysuckle and mesa horkelia on the western side of the project site.

2. The grading limits and the outer limits of the proposed fuel modification zone shall be staked by a licensed surveyor prior to performance of the botanical surveys. The surveys shall be performed by a qualified biologist/botanist and shall be performed within one month of any scheduled ground and/or vegetation disturbance.

3. Should the surveys required by mitigation measure BIO-4a.1 find any sensitive plants within the area where disturbance will occur, a mitigation plan shall be prepared by a qualified biologist/botanist. The mitigation plan shall describe what measures shall be used to avoid impacts to any sensitive plants found in the survey area. Should the removal of any sensitive plant be unavoidable, replacement shall be performed at a minimum 10:1 ratio for each plant that is removed. This sensitive plant replacement mitigation may be implemented in conjunction with the proposed oak woodland and coastal sage scrub habitat restoration/mitigation plan (BIO-2a).

4. At minimum, the habitat restoration/mitigation plan shall describe the plan elements:
   
   (a) Restoration site selection criteria.
   
   (b) Where restoration/mitigation will occur.
   
   (c) The existing conditions in the restoration/mitigation area(s).
   
   (d) Site preparation and planting methods.
   
   (e) A planting pallet using locally obtained plant materials.
   
   (f) A maintenance schedule.
   
   (g) Mitigation goals, objectives, and success criteria.
   
   (h) A description of the monitoring methods and reporting that will be used to document and measure the progress of the restoration/mitigation effort.
(5) The sensitive plant mitigation performance standard shall be a minimum 80 percent survival of all mitigation plantings, with no more than 15 percent non-native weeds (excluding non-native annual grasses) to be achieved within 5 years after initial planting.

(6) Monitoring of the restoration area shall occur for a minimum of five (5) years. Monitoring reports shall be submitted annually and at the completion of the five year period. If the final report indicates that the restoration project has in part or in whole been unsuccessful based on the performance standards specified in the restoration plan, the applicant shall submit within 90 days a revised or supplemental restoration program.

g. **Unanticipated Archaeological Resources Contractor Notification.** The following information should be printed on the grading plans submitted to the building department prior to issuance of a grading permit (CR-1): Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and an archaeologist from the most current City Qualified Archaeologists List shall be retained by the applicant. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

h. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a draft copy of the notice to the Planning Division for review and approval.
i. **Letter of Commitment for Neighborhood Notification Prior to Construction.** The Owner shall submit to the Planning Division a letter of commitment to provide the written notice specified in condition E.3 “Neighborhood Notification Prior to Construction” below. The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person who compiled the mailing list shall be submitted to the Planning Division.

j. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment to hold the Pre-Construction Conference identified in condition E.1 “Pre-Construction Conference” prior to disturbing any part of the project site for any reason.

k. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the appropriate design review board and as outlined in Section C “Design Review,” and all elements/specifications shall be implemented on-site.

l. **Mitigation Monitoring and Reporting Requirement.** Note on the plans that the Owner shall implement the Mitigation Monitoring and Reporting Program (MMRP) for the project's mitigation measures, as outlined in the Environmental Impact Report for the project.

m. **Emergency Evacuation Plan.** Provide an emergency evacuation plan subject to approval by the Fire Department.

n. **Visitor Parking.** 49 guest parking spaces shall be provided throughout the site in addition to the resident and employee parking required by the Zoning Ordinance. The size and location shall be based upon the Planning Commission approved site plan.

o. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are their usual and customary responsibility to perform, and which are within their authority to perform.
E. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.

1. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Community Development Department Building and Planning Divisions, the Property Owner, (Archaeologist, Architect, Arborist, Landscape Architect, Biologist, Geologist, Project Engineer, Project Environmental Coordinator, Mitigation Monitors), Contractor and each Subcontractor.

2. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractors and Project Environmental Coordinator’s (PEC) name, contractors and PEC’s telephone numbers, construction work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.

3. **Neighborhood Notification Prior to Construction.** Construction Notice. At least 20 days prior to commencement of construction, the contractor shall provide written notice to all property owners and residents within 450 feet of the project area. The notice shall contain a description of the proposed project, a construction schedule including days and hours of construction, the name and phone number of the Project Environmental Coordinator (PEC) who can answer questions, and provide additional information or address problems that may arise during construction. A 24-hour construction hot line shall be provided. Informational signs with the PEC’s name and telephone number shall also be posted at the site. (N-1)

4. **Construction Hours.** Construction (including preparation for construction work) shall only be permitted Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. excluding the following holidays:
New Year’s Day January 1st*
Martin Luther King’s Birthday 3rd Monday in January
Presidents’ Day 3rd Monday in February
Cesar Chavez Day March 31st*
Memorial Day Last Monday in May
Independence Day July 4th*
Labor Day 1st Monday in September
Thanksgiving Day 4th Thursday in November
Following Thanksgiving Day Friday following Thanksgiving Day
Christmas Day December 25th*

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

Occasional night work may be approved for the hours between 5 p.m. and 8 a.m. by the Chief of Building and Zoning per Section 9.13.015 of the Municipal Code) between the hours of 5 p.m. and 8 a.m. weekdays. In the event of such night work approval, the applicant shall provide written notice to all property owners and residents within 450 feet of the project property boundary and the City Planning and Building Divisions at least 48 hours prior to commencement of any. Night work shall not be permitted on weekends and holidays. (N-2)

5. **Construction Equipment Sound Control.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers’ muffler and silencing devices. (N-3)

6. **Sound Barriers.** As determined necessary by the Project Environmental Coordinator, the project shall employ sound control devices and techniques such as noise shields and blankets during the construction period to reduce the level of noise to surrounding residents. (N-4)

7. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Transportation Manager with a Public Works permit.

8. **Construction Parking.** During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Transportation Manager.

9. **Mitigation Monitoring Compliance Reports.** The PEC shall submit weekly reports during demolition, excavation, grading and footing installation and biweekly reports on all other construction activity regarding MMRP compliance to the Community Development Department Planning Division.

10. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological
features or artifacts. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

11. **Construction Dust Control** – Throughout grading and other ground disturbance, the following conditions shall be followed:

   a. **Minimize Disturbed Area/Speed.** Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less. (AQ-1)

   b. **Watering.** During site grading and transportation of fill materials, regular water sprinkling shall occur using reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to achieve minimum soil moisture of 12% to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust. Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas every three hours. Increased watering frequency will be required whenever the wind speed exceeds 15 mph. (AQ-2)

   c. **Tarping.** Trucks transporting fill material to and from the site shall be covered from the point of origin and maintain a freeboard height of 12 inches. (AQ-3)
d. **Gravel Pads.** Gravel pads, 3 inches deep, 25 feet long, 12 feet wide per lane and edged by rock berm or row of stakes or a pipe-grid track out control device shall be installed to reduce mud/dirt track out from unpaved truck exit routes. (AQ-4)

e. **Construction Dust Control** – Disturbed Area Treatment. After clearing, grading, earth moving or excavation is completed, the entire area of disturbed soil shall be treated to prevent wind erosion. This may be accomplished by:

1. Seeding and watering until grass cover is grown;
2. Spreading soil binders;
3. Sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind;
4. Other methods approved in advance by the Air Pollution Control District. (AQ-5)

f. **Construction Dust Control** – Paving. All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. (AQ-6)

g. **Stockpiling.** If importation, exportation and stockpiling of fill material are involved, soil stockpiled for more than two days shall be covered, kept moist by applying water at a rate of 1.4 gallons per hour per square yard, or treated with soil binders to prevent dust generation. Apply cover when wind events are declared. (AQ-7)

h. **Project Environmental Coordinator (PEC).** The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when construction work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading for the structure. (AQ-8)

12. **Exhaust Emissions** – The following vehicle emissions controls/maintenance shall be followed through out construction:

a. **Engines.** Heavy-duty diesel-powered construction equipment manufactured after 1996 (with federally mandated "clean" diesel engines) shall be used. (AQ-9)

b. **Engine Size.** The engine size of construction equipment shall be the minimum practical size. (AQ-10)

c. **Equipment Numbers.** The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time. (AQ-11)

d. **Equipment Maintenance.** Construction equipment shall be maintained to meet the manufacturer’s specifications. (AQ-12)
e. **Engine timing.** Construction equipment operating onsite shall be equipped with two to four degree engine timing retard or pre-combustion chamber engines. (AQ-13)

f. **Catalytic Converters.** Catalytic converters shall be installed on gasoline-powered equipment, if feasible. (AQ-14)

g. **Diesel Catalytic Converters.** Diesel catalytic converters, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California shall be installed, if available. (AQ-15)

h. **Diesel Replacements.** Diesel powered equipment shall be replaced by electric equipment whenever feasible. (AQ-16)

i. **Idling Limitation.** Idling of heavy-duty diesel trucks during loading and unloading shall be limited to five minutes; auxiliary power units shall be used whenever possible. (AQ-17)

j. **Worker Trips.** Construction worker trips shall be minimized by requiring carpooling and by providing for lunch onsite. (AQ-18)

k. **Biodiesel.** Biodiesel shall be used to the maximum extent feasible. (AQ-19)

l. **Energy Use.** Minimize the use of energy by designing and constructing structures using sustainable development principles including green building designs and materials. (AQ-20)

m. **Carpool Parking.** Provide preferential parking for carpools and vanpools. (AQ-21)

13. **Demolition** - The following conditions shall be carried out through the demolition phase:

a. **Demolition and Debris Removal.** Apply water every 4 hours to the area within 100 feet of a structure being demolished, to reduce vehicle trackout. Apply water to disturbed soils after demolition is completed or at the end of each day of cleanup.

b. **Post Demolition.** Apply dust suppressants (e.g., polymer emulsion) to disturbed areas upon completion of demolition. (AQ-23)

c. **Demolition Activities.** Prohibit demolition activities when wind speeds exceed 25 mph. (AQ-24)

d. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met. (PS-1)
F. Prior to Certificate of Occupancy. Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

1. Repair Damaged Public Improvements. Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.

2. Complete Public Improvements. Public improvements, as shown in the public improvement plans or building plans, including utility service undergrounding and installation of street trees, if any, shall be completed.

3. Red Curb Painting. Prior to the occupancy of any proposed residential unit, curbs adjacent to the Valle Verde driveways on Calle de los Amigos and Torino Drive should be painted red to prohibit parking within five feet of the driveways. (TRF-1a.)


5. Biological Monitoring Contract. Submit a contract with a qualified biologist acceptable to the City for on-going monitoring consistent with condition D.2.g.6, which states:

Monitoring of the restoration area shall occur for a minimum of five (5) years. Monitoring reports shall be submitted annually and at the completion of the five year period. If the final report indicates that the restoration project has in part or in whole been unsuccessful based on the performance standards specified in the restoration plan, the applicant shall submit within 90 days a revised or supplemental restoration program.

G. General Conditions.

1. Prior Conditions. These conditions shall supersede the conditions identified in all previously approved Planning Commission Resolutions and Substantial Conformance Determinations.

2. Compliance with Requirements. All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.

3. Approval Limitations.

   a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.

   b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission.

   c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further
environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

4. **California Department of Fish and Game Fees Required.** Pursuant to Section 21089(b) of the California Public Resources Code and Section 711.4 et. seq. of the California Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified Department of Fish and Game fees are paid and filed with the California Department of Fish and Game within five days of the project approval. The fees required are $2,839.25 for projects with Environmental Impact Reports. Without the appropriate fee, the Notice of Determination (which the City is required to file within five days of project approval) cannot be filed and the project approval is not operative, vested, or final. The fee shall be delivered to the Planning Division immediately upon project approval in the form of a check payable to the California Department of Fish and Game. Please note that a filing fee of $50.00 is also required to be submitted with the Fish and game fee in the form of a separate check payable to the County of Santa Barbara.

5. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application.

6. **Site Maintenance.** The existing site/structures shall be maintained and secured. Any landscaping shall be watered and maintained until demolition occurs.

7. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors (“City’s Agents”) from any third party legal challenge to the City Council’s denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively “Claims”). Applicant/Owner further agrees to indemnify and hold harmless the City and the City’s Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City’s sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City’s Agents from independently defending any Claim. If the City or the City’s Agents decide to independently defend a Claim, the City and the City’s Agents shall bear their own attorney fees, expenses, and costs of that independent defense.
NOTICE OF APPROVAL TIME LIMITS:
The Planning Commission action approving the Conditional Use Permit and Modification shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

NOTICE OF LOT LINE ADJUSTMENT TIME LIMITS:
The Planning Commission's action approving the Lot Line Adjustment shall expire 24 months from the date of approval. The applicant may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.40.100.

NOTICE OF TIME LIMITS FOR PROJECTS WITH MULTIPLE APPROVALS (S.B.M.C. § 28.87.370):
If multiple discretionary applications are approved for the same project, the expiration date of all discretionary approvals shall correspond with the longest expiration date specified by any of the land use discretionary applications, unless such extension would conflict with state or federal law. The expiration date of all approvals shall be measured from date of the final action of the City on the longest discretionary land use approval related to the application, unless otherwise specified by state or federal law.

This motion was passed and adopted on the 14th day of April, 2011 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5  NOES: 0  ABSTAIN: 0  ABSENT: 2 (Jacobs, Larson)

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Planning Commission at its meeting of the above date.

_______________________________________________  __________________________
Julie Rodriguez, Planning Commission Secretary   Date

PLEASE BE ADVISED:

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) CALENDAR DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.
a. Archaeological Monitoring Contract. Submit a contract with an archaeologist from the most current City Qualified Archaeologists List for monitoring during all ground-disturbing activities associated with the specific area of the project that involves Units 19, 20, 21, & 22, including, but not limited to, grading, excavation, trenching vegetation or paving removal and ground clearance. The contract shall be subject to the review and approval of the Environmental Analyst.

The archaeologist’s monitoring contract shall include the provisions identified in condition F.2.d “Requirement for Archaeological Resources” below:

**Note:** Condition F.2.d is already in the approved conditions of approval for Valle Verde and is listed below:

Requirement for Archaeological Resources. The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.
### Proposed Project | 189 Single Family Homes

<table>
<thead>
<tr>
<th>Category</th>
<th>Proposed Project</th>
<th>189 Single Family Homes</th>
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<tbody>
<tr>
<td>Water Usage</td>
<td>77.8 afy*</td>
<td>79.38 afy**</td>
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<tr>
<td>Traffic Trips***</td>
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<tr>
<td>Average Daily</td>
<td>691.26 trips</td>
<td>1808.75 trips</td>
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<td>AM Peak</td>
<td>4.28 trips</td>
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<td>PM Peak</td>
<td>71.34 trips</td>
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<tr>
<td>Parking</td>
<td>312 spaces****</td>
<td>378 spaces*****</td>
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</tbody>
</table>

* Final EIR, Appendix A, Valle Verde Initial Study, page 36  
** Calculated from 2009 City of Santa Barbara Water Demand Factor Table  
*** Calculated by Tynan Group from ITE trip generation rates, see applicant letter 4/14/11  
**** Final EIR, page 5.3-25  
***** Based on Santa Barbara Zoning Code requirements  

Note additional resource analysis (e.g. police, fire, etc.) is discussed on page 35 and 36 of the initial study, which is included as an attachment to the Environmental Impact Report.
CORRESPONDENCE
City Council  
Santa Barbara, CA  

Dear Members of the City Council:  

May 14, 2011  

We would like to express our strong support for the Valle Verde Retirement Community Master Plan, which was approved recently by the Planning Commission. Unfortunately the Commission's decision was appealed, and the Plan will be before you for a hopefully final and positive decision shortly.  

We all know that there is a great need for more senior housing in the Santa Barbara area. Valle Verde is unique in the quality of life that it provides for seniors, enabling them to live a happy, active, and often still independent and productive life. It indeed is a valuable resource to the Santa Barbara community; but the demands for its services exceed its capacity. It is shortsighted to limit the modest expansion proposed in the Valle Verde Master Plan.  

The Valle Verde Campus is a delightful place enjoyed not only by its residents, but also by many in the neighboring community who take advantage of the pleasant walkways among greenery and flowers. This environment adds immensely to the quality of life for all. The Master Plan is designed carefully to maintain this environment and in some ways to improve it. For instance, much of the on-street parking by staff, which has prevailed since the early days of the community nearly half a century ago, will be moved to on-Campus parking facilities.  

Since the early Conceptual Review in 2006, Valle Verde has gone a long way to make changes in response to objections from neighbors in the Hidden Oaks community. In our view these changes already have diminished the benefit that the residents of Santa Barbara will derive from the implementation of the Master Plan. Any further reductions of the scope of the project would further reduce the benefits for many to accommodate the unfounded objection of a few.  

Permit us to reaffirm our strong and enthusiastic support of the Valle Verde Master Plan. It is late already; but all is not yet lost and it is time now for you to make a positive decision.  

Respectfully yours,  

Guenter Ahlers  
Professor of Physics  
805-893-3795 (voice)  
guenter@physics.ucsb.edu  
http://www.nls.physics.ucsb.edu  

June Ahlers  
Volunteer,  
SB Chamber of Commerce Visitors'  
Center,  
Docent, SB Courthouse  
juneahlers@cox.net  

1051B Senda Verde  
Santa Barbara CA 93105  
805-687-2820
June 1, 2011

City Council
735 Anacapa
Santa Barbara, CA 93101

Dear City Council Members:

I live at the Valle Verde Retirement Community and am writing to urge you to give final approval for construction of the planned changes to Valle Verde. Many changes have been made during the planning process at the Planning Commission’s request to include changes requested by neighbors and the city. A lot of money collected by the Valle Verde owners has been spent during this process which has not produced any brick and mortar work so far. All of this money has come out of the pockets of the residents like myself at the end of the day.

The Planning Commission has determined to their satisfaction that there are now no serious defects in the design. I strongly agree with this decision. People opposing the project will of course continue to raise objections. Such is the nature of trying to build something in a nice place like Santa Barbara, but there should be limits to unreasonable delays in getting final approval on a project. I believe we are now in the unreasonable delay phase of the project. And we have spent more than enough residents' money to date.

Please move ahead with approval of the Valle Verde development project. The over 400 residents want it as far as I know. The project will be good for Santa Barbara by providing more needed quality housing for seniors and immediately providing local jobs for the construction industry.

Thank you,

Bill Spangler
Rodriguez, Cyndi

From: Janddodowd@aol.com
Sent: Tuesday, May 31, 2011 12:04 PM
To: Rodriguez, Cyndi
Cc: tayars@cox.net

Subject: Valle Verde Master Plan/Support for Approval
To: Santa Barbara City Council

Ladies and Gentlemen:

I am writing in strong support of the Valle Verde Master Plan which has been under consideration for years. It is time to move forward with this plan to expand and improve this attractive and vital retirement community.

My husband and I moved to Valle Verde six years ago and have never regretted our decision. We have enjoyed the freedom from the daily chores of home ownership, the abundance of activities available and, most of all, the interaction with a remarkable group of fellow residents. My hope now is that Valle Verde will be allowed to add new units and update the current homes to serve the growing need for senior housing. The Master Plan will not only serve the seniors who move to Valle Verde but will also benefit the young families who will move into the vacated homes as they become available.

I commend the Planning Commission and the Architectural Board of Review for their careful examination of the Master Plan and for the suggestions that have helped improve many aspects of the original plan. There has also been a great deal of input from Valle Verde residents and staff and neighbors which has contributed to the Plan which has been unanimously approved by the Planning Commission. All of that thought and effort should now be put into action without further delay or changes.

Respectfully,

Janet L. O'Dowd
801-A Senda Verde
Santa Barbara, CA 9310
569-2510
From: Larry Wilson [landc.wilson@cox.net]
Sent: Wednesday, June 01, 2011 2:46 PM
To: Rodriguez, Cyndi
Cc: Toby Ayars; Alexa Steadman; Ron Schaefer
Subject: Valle Verde Master Plan - Please Approve
Attention: Santa Barbara City Council Members

I am writing to express my strong support for the Valle Verde Master Plan project that will be considered by the City Council on June 14th.

I am not a resident of Valle Verde but have served as member of the Valle Verde Advisory Board for over 8 years. As such I have been able to closely observe the project from its initial conception to the present. Throughout the process I have been impressed by the care that Valle Verde management has taken to fully consider the desires and concerns of its residents, the local neighbors (including residents of Hidden Oaks Estates) as well as feedback received from the Planning Commission and the Architectural Board of Review. In my judgment, Valle Verde management has listened carefully and has responded with constructive and meaningful site design changes that have been highly responsive to feedback received regardless of the source. A few examples include: 1) an expanded setback buffer from Hidden Oaks Estates, 2) Off street parking for all employees, 3) a 9.8 acre oak woodland preserve. My discussions with both residents and many of the neighbors (including some residents from Hidden Oaks Estates) affirms my personal observations. Clearly a few residents from Hidden Oaks Estates are unhappy with the Valle Verde proposal and it is my belief that no amount of accommodation will suffice short of a complete termination of the project.

In conclusion:

- I believe that Valle Verde has been responsive and responsible throughout the process. After attending the recent Planning Commission hearing on this project it was my sense that virtually all members of the Commission also share this view. In fact, I believe that Valle Verde has been a most responsible member of the greater Santa Barbara community. A few examples of this responsibility include: Meals on Wheels, Serenity House (Hospice), the Santa Barbara Symphony, support to the Alzheimer Assoc, hosting occasional educational and other community events and providing significant tangible contributions to the Hidden Valley area such as the deeding of property for the Hidden Valley Park. Such actions directly benefit the City of Santa Barbara and its citizens well beyond the boundaries of the Valle Verde community.

- It is now time to finalize this project. There is a recognized shortage of Senior Housing in Santa Barbara. This project is a step in the right direction in addressing this shortage. I strongly recommend that City Council unconditionally affirm the recommendation of the Planning Commission.

Sincerely,
Larry Wilson
Valle Verde Advisory Board

6/2/2011
June 2, 2011

To: City Council
735 Anacapa Street
Santa Barbara, CA 93101

Fr: William A. Kelsey
1025-C Senta Verde
Santa Barbara, CA 93105
(805) 682-1611

Dear Council Members:

I am very supportive of the Valle Verde's Master Plan as it is being presented to you. The plan takes into account resident and neighbor comments as well as those of City staff, Architecture Board of Review hearings, and Planning Commission reviews. Please do not make additions or changes to these expansion plans.

The residents of Valle Verde think it is very important to keep the single-story campus architecture, which gives us a park like home with a large protected oak woodland. Senior housing is important to the surrounding community and it is important that the campus be upgraded and expanded to meet senior housing needs now and in the future.

Sincerely,

William A. Kelsey
From: JMY8S@aol.com
Sent: Thursday, June 02, 2011 8:04 PM
To: Rodriguez, Cyndi
Cc: tayars@cox.net
Subject: Valle Verde Master Plan

To: Santa Barbara City Council members:

I am a resident of the Valle Verde Continuing Care Retirement Community. I support the Master Plan.

Valle Verde has revised its Master Plan to meet all requests from neighbors and municipal bodies. The plan has been approved by the Planning Commission and Architectural Board of Review. Senior housing is listed as a community benefit in both the City's General Plan and General Plan update.

In general it can be said that facilities for the care of seniors will be required at a much greater rate than in the past, for at least one reason: there will be more and more of them. Family members as caregivers will have more and more demands placed upon them, as they (the care-givers) will have less and less capability to provide them. Valle Verde, as well as other senior care providers, need to expand to meet the obvious demand as it grows. It seems reasonable to ask of the City Council members if there will be a place for their senior relatives - or perhaps themselves - as time goes by.

Please cast your vote to approve Valle Verde's Master Plan.

Best regards,

John M. (Jack) Yates
jmy8s@aol.com
1120 Calle de los Amigos
Santa Barbara, CA 93105
805 682 8169

6/6/2011
Rodriguez, Cyndi

From: Simon Fox [simon@adventuresincaring.org]
Sent: Sunday, June 05, 2011 2:32 PM
To: Rodriguez, Cyndi
Cc: tayars@cox.net

Subject: Valle Verde Retirement Community's Master Plan

Dear Mayor and City Council Members,

I am writing in support of Valle Verde’s plan to build more senior housing in Santa Barbara. As Executive Director of the Adventures in Caring Foundation I have seen a lot of senior living communities and long term care facilities. I can tell you from first-hand experience that Valle Verde is wonderful a campus for seniors. Our volunteers visit the patients in its health center all year round, and we have had a strong partnership with Valle Verde, for 25 years. The staff and residents of Valle Verde really care, and in my view it is the perfect place for more senior homes in our community. In fact, if not there, where?

I hope you will vote in favor of the Valle Verde plan.

Sincerely,

Simon Fox
Executive Director

Adventures in Caring Foundation
1528 Chapala Street, Suite 202
Santa Barbara, CA 93101
Tel: 805.962.4500 ext 2
Fax: 805.962.2926
Web: www.AdventuresInCaring.org

6/6/2011
From: Janddodowd@aol.com
Sent: Sunday, June 05, 2011 2:10 PM
To: Rodriguez, Cyndi
Subject: Valle Verde Master Plan: Please approve

To: Santa Barbara City Council

Dear Sir or Madam:

I urge members of the City Council to adopt without changes the Valle Verde Master Plan as approved by the Planning Commission. This plan has been under review for the past five years and has been modified repeatedly to meet the concerns of city agencies and neighbors. All the significant reservations have been addressed and it is time to begin the project.

I have been a resident of Santa Barbara for 20 years and six of those years I have lived at Valle Verde. Many of my friends and acquaintances have been interested in the possibility of moving to a retirement community in Santa Barbara. They observe that the opportunities in Santa Barbara are limited. We have only five Continuing Care Retirement Communities (CCRC) and Valle Verde is probably the only one with space to expand. Given the cost of land it is hardly conceivable that another CCRC will be built in or near the city. In other cities the standard design of a CCRC is a high rise structure. That is unlikely to be acceptable in Santa Barbara. The need for more CCRC options in the future is certain. I urge you to endorse the Valle Verde Plan and let it proceed without further changes.

It may be worth noting that most of the residents at Valle Verde have previously owned homes in Santa Barbara. As empty nesters move to Valle Verde they free up desirable homes in the city making homes available in a city with a very constrained housing stock. The new units will permit this process to occur at a slightly greater level.

Valle Verde residents have played vital roles in the life of Santa Barbara as working professionals, as volunteers and as generous contributors to many city institutions. We look forward to having a few more people in our new housing who will participate in this warm relation between this small community and the city in which we live.

Please approve the Valle Verde Master Plan as it now stands without further changes and permit the building program to move forward.

Sincerely,

Donald D. O'Dowd
801-A Senda Verde
Santa Barbara, CA 93105

6/6/2011
Rodriguez, Cyndi

From: Russ Tyler [ruschar@cox.net]
Sent: Sunday, June 05, 2011 1:56 PM
To: Rodriguez, Cyndi
Cc: tayars@cox.net
Subject: Valle Verde Master Plan

To the Santa Barbara City Council: This e-mail is sent in support of the Valle Verde Master Plan and to urge the denial of the appeal with no changes. The plan has been well researched and is presented with many compromises. It has been unanimously approved by your Planning Commission and is well supported by many neighbors and institutions.

I was Director of Clinical Services of the S.B. County Department of Public Health from 1975 to 1980 and was Director of the S. B. Department of Veterans Services Out Patient Clinic from 1980 to 1995. My experience in these positions and my previous eighteen years in private practice make me painfully aware of the need for retirement communities like Valle Verde for the oncoming expansion of the baby boomer demographic of senior citizens.

Again, please deny the present appeal and approve the Valle Verde Master Plan with no further changes.

Sincerely. Russell D. Tyler, M.D., FACP, FACPE
Rodriguez, Cyndi

From: Kathlyn Paxton [kathlynpxton@gmail.com]
Sent: Monday, June 06, 2011 1:25 PM
To: Rodriguez, Cyndi
Subject: Rutherford Development, Valle Verde

Dear City Council,

In preparation for the Council meeting on June 14th regarding the Valle Verde Master Plan, my husband Bill and I would like to express our strong support. We are currently living in our own home but are on the waiting list for a residence at Valle Verde. As the leading edge of the baby boomers, we are conscious of the growing scarcity of options for senior living. Although demand is certainly not enough to persuade a favorable vote, in our view, the plan has been thoroughly thought out and reviewed by the county over many months and has received Planning Commission approval.

We appreciate the opportunity to be heard.

Sincerely,

Bill and Kathlyn Paxton
1042 Via Los Padres
Santa Barbara, CA 93111
June 4, 2011

Dear Council members:

We are writing your regarding the Appeal To Deny Approval of the Valle Verde Master Plan Project. We urge you to deny this Appeal and approve the project of this very worthwhile upgrade to the Valle Verde community. We are relatively new residents of Santa Barbara, one of us moving here from Canada and the other from San Luis Obispo. Like others in our community, we feel it was one of the best moves in our life.

Valle Verde is an outstanding retirement community and this Master Plan will bring to completion the upgrading of this community consistent with its outstanding ambience. We have not been here through the long history of changes and modifications this project has seen over the last eight to ten years, but now it is time to move on without burdening the project with additional delaying changes or conditions. Valle Verde has completely satisfied the Planning Commission’s many requests as evidenced by their unanimous approval.

You represent the final step in the approval process and we urgently request your denial of the appeal and approval of the project. This will expand the serious availability of senior housing in Santa Barbara, giving others the opportunity to enjoy coming here as much as we have.

Respectfully yours,

Paul D. and Verna M. King

1102D Calle de los Amigos
Santa Barbara CA
Rodriguez, Cyndi

From: Lorilee Torrey [LBT@atlassmarketing.com]
Sent: Monday, June 06, 2011 1:23 PM
To: Rodriguez, Cyndi
Cc: tayars@cox.net
Subject: Valle Verde Master Plan

I am writing on behalf of the entire Torrey Family, residents of Santa Barbara since 1949, to express our support for The Valle Verde Retirement Community’s Master Plan:

- this project is NEEDED and we support it!
- senior housing is a community benefit and priority for Santa Barbara
- the current Master Plan up for approval has many significant changes which are deserving of Planning Commission approval - this isn’t the same project that was conceptually reviewed in 2006
- Valle Verde has been in the neighborhood since 1966 and it’s a compatible, successful and much needed part of Santa Barbara
- NOW is the time to certify the Environmental Impact Report - independent review found NO significant impacts!
- NOW is the time to approve Valle Verde’s Master Plan

The Torrey Family sincerely hopes that for the benefit of the entire community, and seniors in particular, that you approve Valle Verde Master Plan.

Respectfully,

Lorilee Torrey - The Torrey Family

lorilee torrey
atlass marketing & media
3905 state street, suite 7
santa barbara, ca 93105
ph 805.681.2500
fx 805.681.2566
cell 805.403.1311
www.atlassmarketing.com
LBT@atlassmarketing.com

atlass
MARKETING & MEDIA
To the members of the Santa Barbara City Council.

As a 15 year resident of Valle Verde, I am writing to urge your approval of the Valle Verde Master Plan, and to re-certify the Environmental Impact Report. I believe that senior housing is an important benefit to its residents and to the City of Santa Barbara, and that Valle Verde, which has been in operation here since 1966, has demonstrated its ability to provide the best. With its single story housing and beautiful landscaping, it is certainly harmonious with the neighborhood. The new structures included in the Master Plan will simply enlarge this desirable ambiance.

I am a lifelong (94 years) resident of Santa Barbara, and love it dearly. I urge you most sincerely to give your approval.

Henry Levy, Jr.
City Council  
735 Anacapa  
Santa Barbara, CA 93101  

Re: Valle Verde Master Plan Project  
App. No. MST2005-00742  

Dear Council Members:

My wife and I have been residents of Valle Verde, in Independent Living, since March of 2006, shortly after the filing of the original Master Plan project with Santa Barbara. For over five years, we have enjoyed living in an environmentally friendly community, which is an asset to Santa Barbara through its award winning Green Building Initiatives. Valle Verde has won 5 green awards – city, county, and national. Our green planning incorporates native and drought tolerant landscaping, water conservation and recycling, solar energy production, and alternative energy efficient transportation. This green planning will continue with our project plans that will leave 67.4% of the campus as Green and Open Space. We will also be contributing to expanding the adjacent oak woodlands to 9.8 acres with planting of new oak trees that have been growing onsite for four years.

During these intervening 5 years since the application was filed, Valle Verde has responded to concerns of both the City and our neighbors by making changes to the plan of: building sites; setbacks; grading and retention walls; parking; proposed architecture; and, woodland preservation. Valle Verde has met or exceeded requirements for setback, density, grading, preservation of open space, and impact on the environment. With the project’s unanimous approval by the Planning Commission, and the Commission’s certification of the environmental impact report, the time has come to move ahead without further changes.

The new senior homes are a community benefit to Santa Barbara’s General Plan Update. Valle Verde will continue to be an asset to its community and to Santa Barbara by serving seniors, providing health care, and maintaining a beautiful campus.

Please deny the appeals and vote to approve this project.

Sincerely,

[Signature]
Robert J. Buegler

Copy to: Toby Ayars at tayars@cox.net
City Council
735 Anacapa
Santa Barbara, CA 93101

Re: Valle Verde Master Plan Project

Dear Council Members:

We moved to Valle Verde, Independent Living, 5 years ago – originally from New England, and having lived in the Southwest, and most recently the Midwest. We had a choice of different retirement communities, but came to Valle Verde because of its unique neighborhood character. This has not changed, and will not change in the revised Master Plan, already approved by the unanimous vote of the Planning Commission. Valle Verde is still a compatible neighborhood community, vital to Senior Living in Santa Barbara.

Please deny the appeals, and approve Valle Verde’s Master Plan project.

Sincerely,

Marion D. Buegler

Marion D. Buegler (Mrs. Robert J.)

Copy to: Toby Ayars at tayars@cox.net
June 7, 2011

Santa Barbara City Planning Commission  
c/o PCSecretary@SantaBarbaraCA.gov

Dear Commissioners,

I am writing to encourage the Planning Commission to certify the Final EIR for the Valle Verde Project as well as approve the project application along with the modifications, lot line adjustment and Conditional Use Permit required as part of the project.

The EIR addressed aesthetics, biology and transportation and circulation and found no significant unavoidable environmental impacts. The Valle Verde project is sustainable development, will not have a significant, cumulative impact on the environment and is a much needed expansion in the senior housing/care base of the community. In addition, Valle Verde has agreed to set back buffers and parking requirements that exceed usual requirements. The campus itself blends into the surrounding neighborhood and does not detract from the semi-rural atmosphere and, in my opinion, adds value both to the immediate neighborhood and the broader community.

The project plan has been amended and updated since it was first proposed in 2006 to meet CEQA requirements and address the concerns of neighboring home owners and now is the time for approval. It is understandable that there are neighborhood concerns but it seems to me that these have been addressed thoroughly by the EIR and the mitigations will do much to alleviate those concerns.

On a personal note, my mother lived her final twenty years at Valle Verde and my husband and I are hoping to move to Valle Verde in a few years. I was then, and have continued to be, impressed with all facets of the Valle Verde community — from the quality of care afforded the residents to the physical upkeep of the grounds and facilities. It is a quality community, one that should be encouraged to expand its capabilities to fill an ever growing need in our community for senior housing and life care.

Best regards,

Julia Springer
Ro<NAME>, Cyndi

From: Toby Ayars [tayars@cox.net]
Sent: Tuesday, June 07, 2011 2:54 PM
To: Rodriguez, Cyndi
Subject: FW: Valle Verde June 14 Hearing

Hi Cyndi,
The following is for the June 14 City Council Hearing in regards to the Valle Verde Master Plan. Charles Schneider tried to send it to you but it bounced back and asked me to forward to you. It looks as if he used a "q" instead of a "g" in your last name.
Best,
Toby

Toby Ayars
Ayars & Associates
805.845.5682
805.403.1309
tayars@cox.net

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From: CHARLES SCHNEIDER [mailto:chasnjanie@verizon.net]
Sent: Tuesday, June 07, 2011 2:08 PM
To: cmrodriguez@santabarbaraca.gov
Subject: Valle Verde June 14 Hearing

To whom it may concern, my name is Charlie Schneider, a 13 year resident of the City of Santa Barbara. I wish to support the Valle Verde Master Plan. I am a past President of Vistas Lifelong Learning, a non profit adult education organization of over 250 members who hold discussion seminars in Santa Barbara. We are most appreciative of how Valle Verde has supported us to bring low cost interesting seminars to the Santa Barbara community. Their Master Plan should be approved without further delay. Thank you.
Charlie Schneider
55 Alston Place
6/7/2011

Santa Barbara City Council
735 Anacapa,
Santa Barbara, CA 93101

Dear Honorable Santa Barbara City Counsel Members,

I am writing today to voice my support for the Valle Verde master Plan and to encourage your approval of the plan at the Santa Barbara City counsel meeting on June 14th.

Some key points for consideration in your decision:

-Senior housing is a community benefit priority for the City of Santa Barbara. Not having enough appropriate senior housing impacts our entire community.

-Valle Verde has revised its Master Plan to meet requests from neighbors, Planning Commissioners, and Architectural Board of Review members. This isn’t the same project that was conceptually reviewed in 2006. Numerous changes were made during Planning Commission and Architectural Board of Review hearings. Valle Verde’s project is good for the community and fits well within the character of the existing neighborhood which it has existed in since 1966. It is a compatible and successful part of Santa Barbara.

-Setbacks: Numerous site design changes have resulted in a setback buffer of 126’ from Hidden Oaks Estates - more than 3x their requirements and more than 6x Valle Verde’s existing campus setbacks.

-Off-street parking: Valle Verde’s Master Plan has new employee parking lots to move all employee parking on-site. There are 414 parking spaces in the project, so that all employees, residents, and visitors can park on-site.

-Appearance & Open Space: The proposed senior homes have a similar look and feel as the existing campus - single-story, low profile, and surrounded by landscaping. Valle Verde is proposing an oak-woodland preserve of 9.8 acres. This will be dedicated open space with new oak trees that have been grown on-site for the last 4 years.

-Conditional Use Permit: Valle Verde has had a conditional use permit since 1960. Planning Commissions have found it compatible in 1960, 1971, 1981, and 1984. Valle Verde remains compatible and provides a community benefit to Santa Barbara.
Now is the time to re-certify the Environmental Impact Report - independent review found NO SIGNIFICANT IMPACTS.

Please give consideration to approving Valle Verde's Master Plan.

Thank you for your time and consideration.

Sincerely,

Amy Marie Evans
Executive Director
Devereux California
Santa Barbara City Council  
735 Anacapa Street, Santa Barbara  
CMrodriguez@santabarbaraca.gov  

June 7, 2011

Dear Council members,

My name is Charlie Johnson. I’m a Retired Fire Captain from Santa Barbara County Fire Department and have been on the Valle Verde Advisory Board since 2004. I was asked to become a Board member because of my knowledge and experience with Fire and Life Safety and Disaster Preparedness Training.

I’m writing this letter to express my strong support for the Valle Verde Master Plan, the Plan that will be before your Board on June 14, 2011 as a Project Appeal. I encourage you to support the findings of Planning Commission and the Environmental Impact Report which found “No Significant Impacts”. This Master Plan has had a tremendous amount of critical review by a myriad of experts and through all of the review process it’s been Valle Verde that has shown its willingness to listen and respond in positive ways to the wishes and desires of the various interested parties and City Staff. The Project (Master Plan) before you is not the same project it was in its inception, it’s infinitely better, because Valle Verde went the extra mile and did more than was asked in its efforts to be a good neighbor. The Project Appeal before you is the result of a small group of very vocal homeowners that do not want this project to move forward ever. It does not matter what concessions Valle Verde could make, it will never be enough, they quite simply are self centered and locked into their own little world with no ability to see a greater good for our community. Now is the time to re-certify the Environmental Impact Report and approve Valle Verde’s Master Plan for the betterment of all, not just a few.

Why do I so strongly support the Valle Verde Master Plan?

• It very much needed and is a community benefit; it’s even listed as a Community Benefit in the City’s General Plan.
• The design details of the Master Plan are incredibly functional, esthetically pleasing and incorporate the latest in green building technologies.
• Valle Verde’s design team went the extra mile to design on-campus parking for residents, staff, and guest. They kept the same feel in terms of height, scale, and architectural style of the buildings.
• This Master Plan adds value to the City of Santa Barbara, it serves seniors, it provides health care, and during the recent wildfires it served as a safe refuge for evacuees from another Adult Living Community.

In closing I’d like to remind the Council members that each and every resident at Valle Verde is also a “neighbor” to the community as a whole. Their voices should be heard loud and clear they want this Master Plan, they want it now! The vocal minority from Hidden Oaks will never be satisfied, they’ve challenged you, the planning commission, and the folks that did the Environmental Review, it’s time to do the right thing for the greater good of all of Santa Barbara, re-certify the EIR and Approve the Master Plan.

Respectfully,

Charlie Johnson, Advisory Board Member
June 8, 2011

Dear City Council Members:

We love our wonderful city! We have lived in Santa Barbara since 1963 and hope to die here.

We urge you to support unanimously the Planning Commission’s approval of Valle Verde’s Master Plan on your June 14 agenda, and deny the appeal of a few disgruntled neighbors. This plan has been scrutinized and tweaked over many many years of working with the ABR, the Planning Commission, City staff and others, and has undergone an unbelievable number of changes and concessions. Now it is deemed perfect!

Valle Verde is a unique retirement community. It is well run, well maintained, a very friendly place, a happy place. Valle Verde’s residents are good citizens. Residents support Santa Barbara, giving thousands of volunteer hours to the city’s many non-profits each year. Residents support the local economy. More residents will be even better!

The approved construction is compatible with existing facilities and the Hidden Valley neighborhoods, and addresses needed improvements like employee parking. Almost 10 acres of open space will be given to Santa Barbara in perpetuity. Valle Verde plays a vital role in making Santa Barbara such a desirable place for seniors to live.

We ask you to deny the appeal before you and approve the Valle Verde Master Plan without any changes.

Thank you.

Sincerely,

Charles and Barbara Greene
728 B Mas Amigos
Santa Barbara, CA 93105
805 682-7023
I support this project because of the improvements it will bring to my retirement community. It is also a significant expansion of needed senior housing in Santa Barbara.

Six years of continuous and coordinated work with the Planning Commission and the Architectural Board of Review have produced a plan of new construction far superior to the original concept in areas of building design and locations, sight-lines, grading modifications, a large, on-site parking area moving all staff cars off Calle de los Amigos, landscaping upgrades and oak woodland enlargement. The Environmental Impact Report found “No Significant Impacts.”

Please don’t make any more changes; they could only confuse the good work done now!

Certainly this is a Master Plan fully deserving approval by City Council.

Henry Jones
May 9, 2011

The Honorable Helene Schneider  
Mayor  
City of Santa Barbara  
P.O. Box 1990  
Santa Barbara, CA 93101

Re: Your Agenda of June 14, 2011, Valle Verde Retirement Community Appeals

Dear Mayor Schneider:

The undersigned is President and CEO of American Baptist Homes of the West ("ABHOW"), a California nonprofit public benefit corporation. ABHOW is the owner of Valle Verde Retirement Community in Santa Barbara, California.

I am writing to provide information that is pertinent to the City Council’s consideration of the appeal filed by the Service Employees Internal Union-United Healthcare Workers West ("Union") and the so-called “Friends of Valle Verde.”

Valle Verde Retirement Community is one of eight continuing care retirement communities ("CCRCs") owned by ABHOW in California. In addition, ABHOW owns or manages three other CCRCs in other states along with 26 Affordable Housing Communities. In each of the cities and towns we serve, we take great care to comply with local ordinances, policies and permitting procedures. We have brought that same approach to our five-year effort to secure permits for our proposed expansion of our Santa Barbara community.

The Union that has filed this appeal appeared in these permitting proceedings for the first time just six months ago. At that time, it submitted a comment letter on the Draft Environmental Impact Report. A second letter was submitted to the Planning Commission prior to its April 14 hearing, and a third letter was submitted as part of the appeal you will be hearing. All three of the letters purport to raise environmental issues and, in our opinion, all of the Union’s claims and arguments have been thoroughly refuted in the Final EIR and the Planning Commission staff report.

At the same time, the letters conspicuously fail to disclose their true purpose: to drive up the costs of securing permits for our Santa Barbara expansion in order to put financial pressure on us in connection with a labor dispute involving two other CCRCs in Oakland, California, a dispute which is now in its second year. The Union has no stake whatsoever in the Valle Verde project or the proposed expansion of the Valle Verde campus. There are no unionized employees at Valle Verde.
The SEIU has no legal or contractual interests in the operation of Valle Verde or the employees who staff Valle Verde. We regret that these labor tactics are being injected into a land use and environmental decision.

We respectfully urge the Santa Barbara City Council to reject the Union’s unfounded arguments and to uphold the decisions of the Planning Commission.

Thank you for your consideration.

Yours very truly,

AMERICAN BAPTIST HOMES OF THE WEST

[Signature]

By: David B. Ferguson, President and CEO

cc. Steven Amerikancer, Esq.
    Edward Steinfeldt
    Randall Stamper, Esq.
June 9, 2011

City Council
735 Anacapa
Santa Barbara
CA 93101

I write in support of the Valle Verde Retirement Community's Master Plan. The time has come to move this master plan forward without further modification, and without further delay. Opponents of the master plan have had ample opportunity to express themselves, and they have been heard, and Valle Verde has responded generously. The independent Environmental Impact Report found no significant negative impacts. In fact, there are several positive impacts for the city, and the public ought not to be kept waiting any longer.

Santa Barbara has set the need for increased senior housing as a high priority in its agenda, and the master plan will address that need by increasing availability. Moreover, the quality of the current facilities will be substantially enhanced as a component of the project. Valle Verde has enjoyed a warm and healthy relationship with the city ever since it was founded 45 years ago, and it has been a substantial asset for Santa Barbara throughout that period, but it needs enhancement in order to keep up with the progress of senior health care providers that is ongoing, nationally.

The Council's staff has done its job admirably. The Planning Commission is unanimous in its approval of the master plan, as it now stands. I urge you to deny the appeal being made against the Planning Commission's judgment, and to approve the plan in its present form.

Thank you for your consideration.

Roger David Cole
723B Mas Amigos
Santa Barbara, CA
93105
(805) 563-4823
CITY OF SANTA BARBARA
COUNCIL AGENDA REPORT

AGENDA DATE: June 14, 2011

TO: Mayor and Councilmembers

FROM: City Administrator’s Office

SUBJECT: Conference With Labor Negotiator

RECOMMENDATION:

That Council hold a closed session, per Government Code Section 54957.6, to consider instructions to City negotiator Kristy Schmidt, Employee Relations Manager, regarding negotiations with General, Treatment and Patrol, and Supervisory bargaining units and regarding discussions with unrepresented management about salaries and fringe benefits.

SCHEDULING: Duration, 30 minutes; anytime

REPORT: None anticipated

PREPARED BY: Kristy Schmidt, Employee Relations Manager

SUBMITTED BY: Marcelo López, Assistant City Administrator

APPROVED BY: City Administrator's Office