

## **PLANNING COMMISSION AGENDA REPORT**

**SUBJECT:** 1925 SANTA BARBARA AVENUE (APPL-0232-2024) – APPEAL OF DECISION APPROVING ARCHITECTURAL REVIEW APPLICATION ARCH-0448-2022

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**APPELLANT:** Wayne Terry

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### **RECOMMENDATION**

Adopt the Draft Resolution denying the appeal and upholding the decision of the Community Development Director approving the Minor Development Review application ARCH-0448-2022.

### **1.0 COMMISSION'S PURVIEW**

As provided by Zoning Regulations Section 17.126.040 (A), the Commission will consider an appeal of the decision of the Community Development Director.

### **2.0 SUMMARY**

Obispo Investments Inc. proposes to develop the property at 1925 Santa Barbara Avenue with a mixed-use project comprised of four residential dwelling units and a small street-fronting nonresidential space (see Attachments B and C, and Figure 2, below). The project is subject to Minor Development Review<sup>1</sup> and review by the City's Cultural Heritage Committee, as the project site is located within the Railroad Historic District.<sup>2</sup>

Accordingly, Minor Development Review application ARCH-0448-2022 was filed on August 17, 2022. On April 22, 2024, the application was approved by the Community Development Director, based in part on the recommendation of the Cultural Heritage Committee, as to the consistency of the proposal with historical preservation policies, standards, and guidelines (see Decision Letter, Attachment D).

Wayne Terry, owner and resident of the property at 1902 Chorro Street, situated immediately southwest of the subject site, appealed the decision of the Director, providing a narrative discussion of the reasons for the appeal (see Appeal Statement, Attachment E).

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<sup>1</sup> Minor development review is a staff-level review process with public notice provided, with no public hearing required (Zoning Regs. § 17.106.030 (B))

<sup>2</sup> For each level of development review, an advisory body may provide a recommendation to the review authority as applicable or required (Zoning Regs. § 17.106.040 (A)); The Cultural Heritage Committee shall review and make recommendations to the Director on applications and development review projects which include new construction located in historic districts.

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In the discussion, the appellant raises concerns with the conduct of the Cultural Heritage Committee's deliberations and questions the project's consistency with the development pattern in the Railroad Historic District and with the City's Historic Preservation Ordinance and Historic Preservation Program Guidelines. This appeal is now before the Planning Commission.

### 3.0 BACKGROUND

#### Site and Setting

The subject property is a rectangular parcel measuring about 7,250 square feet in area, on the west side of Santa Barbara Avenue, 225 feet south of Upham Street, in a Service Commercial (C-S) Zone, and Historical Preservation Overlay (H) Zone denoting its location in the Railroad Historic District (see Figure 1). It is developed with a small commercial building installed in 1985 to serve as an office for an auto sales lot, and most recently used for personal services (The Brow Shoppe).



Figure 1: 1925 Santa Barbara

Adjacent to the site, directly north and south, are single-family dwellings (neither of which are included in the City's Inventory of Historic Resources). Also in the vicinity are the San Luis Obispo Railroad Museum (a Master List Resource, the Southern Pacific Warehouse), the Del Monte Café (a Contributing List Resource), a development comprised of industrial sheds (formerly Flanders Bicycle Shop; 1951 Santa Barbara), and a newer development of three mixed-use buildings, designed in an historical vernacular style with false fronts (1957-1977 Santa Barbara). Behind the subject site are the Chapek House (at 843 Upham) and the Bittick Residence (1902 Chorro), both Master List Historic Resources within the adjacent Old Town Historic District.

#### Railroad District Plan

In 1998, the City Council adopted the Railroad District Plan (RDP),<sup>3</sup> an "Area Plan", intended to implement General Plan policies within the Railroad Historic District. The plan aims to retain and preserve the historic and architectural character of the District with architectural standards to guide new development. The Architectural Guidelines provided in the Plan (see Attachment F) help to ensure that new development is architecturally compatible with adjacent buildings, and these guidelines are applied in reviewing new development in the Railroad Historic District.

<sup>3</sup> The Railroad District Plan may be accessed through the City's website, at: [www.slocity.org/home/showpublisheddocument/27524/637305754075300000](http://www.slocity.org/home/showpublisheddocument/27524/637305754075300000)

## Project Description

The proposed project is comprised of three new buildings accommodating four dwellings and a nonresidential suite (see Project Description and Project Plans, Attachments B and C, and Figure 2, below). The nonresidential space is provided at the Santa Barbara Avenue street frontage and is intended for the range of uses and activities permitted in a Service-Commercial Zone.<sup>4</sup> The buildings are designed in a contemporary style, based on rectangular forms, and having medium-sloped pitched roofs with eave overhangs. Plaster and horizontally oriented cement fiber board siding are the predominant exterior materials. Double-hung or divided lite windows are recessed into the building walls and provided with wood trim and sill features.

Non-Residential Space	485 sq. ft.	1-story
Accessible Living Unit	825 sq. ft.	2-story
Tri-Plex (825 sq. ft. /ea.)	2,475 sq. ft.	2-story over under-building parking area



Figure 2: Project Rendering, from Santa Barbara Avenue

## 4.0 PREVIOUS REVIEW

### Cultural Heritage Committee

The application was reviewed by the Cultural Heritage Committee, over the course of two public hearings, for their recommendation to the Community Development Director on the application of architectural and historic preservation standards and guidelines to the proposed project. Video record of each hearing, along with hearing agendas and staff reports, is accessible from the Past Meetings section of the Public Meeting Agendas page on the City's website<sup>5</sup>, and Agenda Correspondence and Minutes for each hearing are available in the City Clerk's document archive.<sup>6</sup>

<sup>4</sup> Uses permitted in various Zones are summarized in Zoning Regs. § 17.10.020 (A)

<sup>5</sup> Public Meeting Agendas may be accessed through the City's website at [www.slocity.org/government/mayor-and-city-council/agendas-and-minutes](http://www.slocity.org/government/mayor-and-city-council/agendas-and-minutes)

<sup>6</sup> The City Clerk's Documents Archive may be accessed at [opengov.slocity.org/WebLink/Browse.aspx?id=26291](http://opengov.slocity.org/WebLink/Browse.aspx?id=26291)

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On January 22, 2024, the application was brought before the Cultural Heritage Committee.<sup>7</sup> After deliberation, the Committee continued review of the application to “a date uncertain,” providing direction to staff and the applicant regarding building massing, height, and placement, roof forms, and building details such as materials, finishes, decorative elements, and window patterns.

Project plans were revised by the applicant and project architect in response to the Committee’s direction, and the application was brought back to the Committee on March 25<sup>th</sup>, 2024.<sup>8</sup> Revisions included lowering the building height and modifying the roof form, bringing its upper portion further away from the rear of the site. Fiber cement board with the appearance of wood was employed for the exterior material of the larger triplex building, and trim, decorative elements, and door and window recesses were refined to enhance visual interest, as encouraged by the Architectural Guidelines of the Railroad District Plan. The Committee considered the design revisions to be responsive to the direction they provided and recommended that the Community Development Director find the project to be consistent with the City’s Historic Preservation Ordinance, including architectural standards for construction in the Railroad Historic District.

### **Director Decision (Minor Development Review)**

On April 22, 2024, the Community Development Director approved the project by administrative action, based on findings of consistency with the General Plan, Zoning Regulations, and, following the recommendation of the CHC, historical preservation policies, standards, and Historic Preservation Program Guidelines, including consistency with the Architectural Guidelines of the Railroad District Plan (Decision Letter, Attachment D).

## **5.0 APPEAL EVALUATION**

### **Public Comment at Hearings**

In his appeal statement (Attachment E), the appellant states that his right to public comment was hindered at the March 25<sup>th</sup> Cultural Heritage Committee hearing, by refusal of a visual presentation to supplement his public comment, and as such, he could not adequately provide important information to the Committee.

Immediately prior to the March 25<sup>th</sup> CHC hearing, Mr. Terry requested that the Deputy City Clerk make a presentation available on the City’s computer network, from a personal “flash drive” that he had brought to the hearing. The presentation is said to have included images of buildings on Santa Barbara Avenue and excerpts of text from the Railroad District Plan, germane to his comments regarding the scale, massing, and pattern of buildings on this street.

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<sup>7</sup> The Meeting Agenda, Video, and Staff Reports for the January 22<sup>nd</sup> meeting may be accessed online at [pub-slocity.escribemeetings.com/Meeting.aspx?Id=092f5d9e-222d-4d65-8388-30e946288483](https://pub-slocity.escribemeetings.com/Meeting.aspx?Id=092f5d9e-222d-4d65-8388-30e946288483)

<sup>8</sup> The Meeting Agenda, Video, and Staff Reports for the March 25<sup>th</sup> meeting may be accessed online at [pub-slocity.escribemeetings.com/Meeting.aspx?Id=0fb2d569-cf24-478d-8a8d-d2e4a0dd4582](https://pub-slocity.escribemeetings.com/Meeting.aspx?Id=0fb2d569-cf24-478d-8a8d-d2e4a0dd4582)

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The City's Electronic Visual Aid Presentation policy<sup>9</sup> encourages members of the public who wish to utilize electronic visual aids as a supplement to their oral presentation to provide those materials to the City Clerk by noon on the day of the hearing. The Clerk follows this policy to ensure safe transfer of files to the City's computer network (digital files are subjected to a "virus scan") and to allow for the timely commencement of public hearings. In this case, the Deputy Clerk was not able to accommodate Mr. Terry's request immediately prior to the hearing, well past the noon deadline.

Nevertheless, many images of buildings along the west side of Santa Barbara Avenue were provided to the Committee in the applicant's project plans (see Sheet 7 of Project Plans, Attachment C), including a study of the development pattern on this block), in staff reports to the Commission, and with photographs displayed in the staff presentation. These photographs were also displayed by staff during Mr. Terry's public comment.

Staff reports also included evaluation of the consistency of the proposed project with historical preservation policies, standards, and guidelines, including the consistency of new buildings with the scale, massing, rhythm, and siting of historic structures in the district, along with specific architectural guidelines from the Railroad District Plan. Furthermore, the matter of scale, pattern, and spacing of existing buildings on the west side of the street were, before each Committee hearing, explicitly raised and discussed directly in Mr. Terry's correspondence and his public comment to the Committee, prior to, and during, both hearings.

The record of agenda correspondence and public comment reflects that Mr. Terry was not hindered in his ability to provide information and public comment to the Committee regarding this item

### **Advisory Body Review Process**

The appellant raises concern with the process by which the Cultural Heritage Committee formed their recommendation; that the Committee failed to consider key elements of the Railroad District Plan and inadequately deliberated about the pattern of development in the vicinity of the project site. He notes that the project architect was not present at the second (March 25<sup>th</sup>) Committee hearing, that the Committee Chair had professional familiarity with the project architect, and that the Chair disclosed that he had met the architect and discussed the project design.

It is not uncommon for architectural professionals active in the local community to be familiar with each other and with their work, and ex parte communication between a project proponent and individual Committee Members is permissible, where properly disclosed. Under the Brown Act, if a majority of Committee members are present during communication with a project proponent, generally such discussion could only take place at a noticed public hearing unless an exception applied. Here, however, communication with the applicant's architect was limited to discussion with an individual Committee Member, to share some conceptual ideas regarding potential design revisions, and this

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<sup>9</sup> This policy is described on the City's website and on Public Meeting Agendas, see: [www.slocity.org/government/mayor-and-city-council/agendas-and-minutes](http://www.slocity.org/government/mayor-and-city-council/agendas-and-minutes)

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ex-parte communication was properly disclosed by the Committee Chair during the hearing, immediately following staff's presentation.

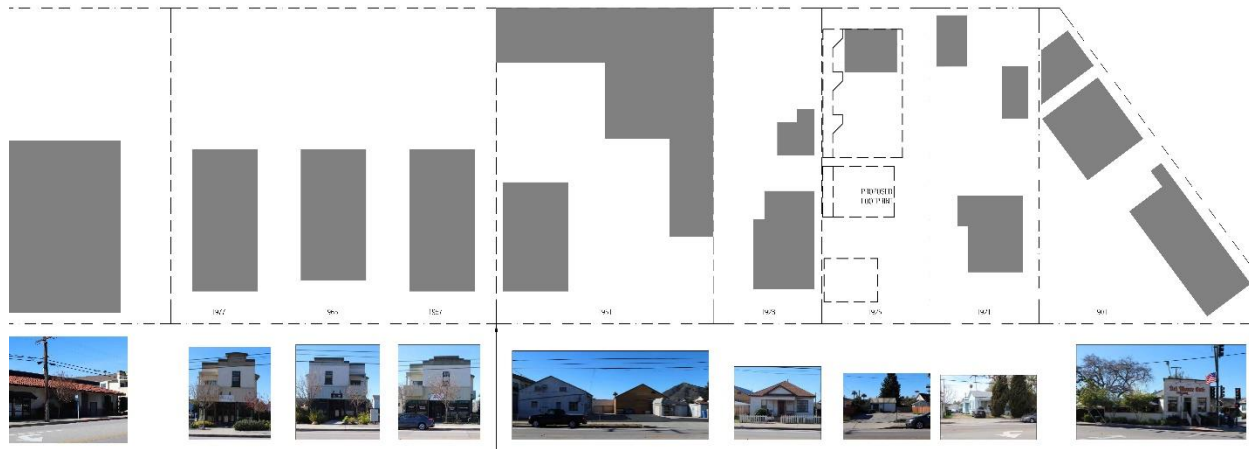
Staff notes, again, that all relevant elements of the City's Historic Preservation Program Guidelines and the Railroad District Plan were fully evaluated in staff's report and presentation to the Committee, including the consistency of the proposed project with the character of the Railroad District in terms of scale, massing, siting, and spacing of buildings, and these matters were given full deliberation by the Committee. In addition, these elements were directly raised and discussed in the appellant's correspondence and public comment to the Committee prior to, and during, both hearings.

The project architect was absent from the March 25<sup>th</sup> Committee hearing, due to an unintentional scheduling error (mistaking the hearing start time). Although it is customary for an applicant or their representative to be present at public hearings, there is no formal applicant attendance requirement that would constrain the Committee from deliberating and acting on an item under consideration. In this case, the hearing was the second hearing on the item, to consider revisions made in response to Committee direction. Staff advised the Committee that they could proceed with the hearing or, if necessary, further continue consideration of the item to a future date. The Committee elected to proceed with deliberations, having sufficient information available in the project plans and materials, staff reports and presentations, and public correspondence and comments, on which to base their recommendation to the Director.

### **Pattern of Development**

The pattern of development in the vicinity of the project site and along the west side of Santa Barbara Avenue are further discussed in the appellant's statement. The appellant notes that the Railroad District Plan makes no explicit distinction between portions of Santa Barbara Avenue that are north and south of Upham Street, though they lie within different Zones and are subject to different development standards. The predominant building type and pattern of massing and spacing south of Upham is described in the appellant statement, and it is suggested that projects adjacent to historic resources should provide deep rear setbacks and concentrate building height at their west (Santa Barbara Avenue) side, as more appropriate and consistent with the area.

The Railroad District Plan explicitly refers to the City's Zoning Regulations for descriptions of applicable property development standards (see Plan, pg. 33) and provides no specific standards for building setbacks or height for new development. Guidance on building setbacks is limited to encouraging new residential buildings to generally maintain the prevailing setbacks of older houses and apartments along Osos, Santa Barbara, and Church streets (Plan, pg. 82), an area that lies north of Upham Street, in a Medium-High Residential (R-3) Zone.



*Figure 3: Pattern Study (from Project Plans), West Side of Santa Barbara Avenue*

The project was found by the Community Development Director to conform to the development standards applicable to the Service Commercial (C-S) Zone in which it is located, including standards for building height and setbacks, lot coverage, and parking requirements. Zoning Regulations set no rear setback standard within the C-S Zone, but require that, where a site is adjacent to a zone with minimum setback requirements, a setback be provided as in the zone of the adjacent property.<sup>10</sup> In this case, the site is adjacent to a Medium-Density (R-2) Zone, and therefore a minimum setback ranging from five feet (at the ground floor) to ten feet (at the upper levels of the building) must be provided.<sup>11</sup> Furthermore, the project is subject to “Edge Condition” provisions in the Zoning Regulations,<sup>12</sup> to provide a buffer between commercial zones and adjacent lower intensity residential zones. An enhanced building setback ranging from ten feet (at the ground level) to twelve feet (at the upper levels of the building) is required at the rear of the site, adjacent to the residential uses behind it. This project exceeds this requirement, providing a twelve-foot rear setback for the whole building, from the ground to its upper levels.

At just over 25 feet above existing grade to the peak of a single roof gable feature, the height of the tallest building in the project is considered to be consistent with the height of existing residential structures in the adjacent Medium Density Residential (R-2) Zone, including listed historic resources, and well below the maximum 35-foot building height allowed in both the C-S Zone and the adjacent R-2 Zone.

Given these facts, neither the project’s building height nor setback from the adjacent residential zone would provide a basis under the City’s applicable development standards or historical preservation standards to require modification of the project design or to deny the Architectural Review application.

<sup>10</sup> See Zoning Regulations § 17.36.020 (B): [sanluisobispo.municipal.codes/Code/17.36.020](https://sanluisobispo.municipal.codes/Code/17.36.020)

<sup>11</sup> See Zoning Regulations § 17.18.020 (B): [sanluisobispo.municipal.codes/Code/17.18.020](https://sanluisobispo.municipal.codes/Code/17.18.020)

<sup>12</sup> See Zoning Regulations § 17.70.050: [sanluisobispo.municipal.codes/Code/17.70.095](https://sanluisobispo.municipal.codes/Code/17.70.095)

## Negative Impacts

The appellant's statement concludes that the project, due to building height and setbacks, will negatively impact Master List Historical resources near the project site.

The Guidelines for the Implementation of the California Environmental Quality Act (CEQA Guidelines) provide guidance about determining the significance of impacts to historical resources: "A project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment." (CEQA Guidelines §15064.5(b)). Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired." As to "materially impaired," CEQA Guidelines describe this as involving demolition or material alteration of physical characteristics of a historic resource that convey its significance.<sup>13</sup>



*Figure 4: Bittick Residence, 1902 Chorro*

In the case of the Master List "Bittick Residence" at 1902 Chorro (Figure 4, above), the property was found to be eligible for listing as a historic resource due to its Colonial Dutch Barn Style, rarity of its single-story Gambrel Roof style, architectural integrity, attractiveness of design, and association with John Chapek, an early local builder and Town Council member (see Council Resolution No. 9310, Attachment G). Construction of the proposed project on an adjacent site, in conformance to the height limits and enhanced setbacks required under the City's development standards, involves no demolition, destruction, relocation, or alteration of the features identified as important to the significance of the Bittick Residence, nor would the project development to the rear of the Bittick Residence compromise its ability to convey its significance.

## Summary

In summary response to the appellant's discussion, staff maintains that the Director took into consideration all relevant matters, including the development pattern of the Railroad Historic District, the City's historical preservation policies, standards, and guidelines, and any potential for negative impacts to historic resources, in deciding to approve the Minor Development Review application for the proposed mixed-use project. The Director's decision was informed by correspondence received from interested parties, and by the recommendation of the Cultural Heritage Committee (CHC), whose duties include

<sup>13</sup> See CEQA Guidelines § 15064.5 (b), available online (Thomson Reuters Westlaw): [govt.westlaw.com/calregs/Document/I87D9F3AA5B4D11EC976B000D3A7C4BC3](http://govt.westlaw.com/calregs/Document/I87D9F3AA5B4D11EC976B000D3A7C4BC3)

application of historical preservation standards and guidelines, as set out in the City's Historic Preservation Ordinance (SLOMC § 14.01.030 (B)). The CHC deliberated and formulated their recommendation over the course of two duly noticed and conducted public hearings, following review of all relevant information in staff reports and presentations, along with public correspondence and in-person comment provided at the hearings.

As there is no basis presented with this appeal on which to deny the Minor Development Review application ARCH-0448-2022, for development of the subject property with a mixed-use development, staff recommends that the Commission deny the appeal and uphold the decision of the Community Development Director approving the application.

## **6.0 ENVIRONMENTAL REVIEW**

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA). It consists of Infill Development consistent with the Services and Manufacturing land use designation and applicable policies described in the City's General Plan, consistent with standards and limitations described in Zoning Regulations for the Service Commercial (C-S) Zone, occurs on a project site of less than five acres substantially surrounded by urban uses with no value as habitat for endangered, rare or threatened species, would not result in any significant effects relating to traffic, noise, air quality, or water quality, and can be adequately served by all required utilities and public services, as described in CEQA Guidelines § 15332. Furthermore, development of the proposed project will not cause a substantial adverse change in the significance of any historical resources (CEQA Guidelines § 15300.2 (f)) since the project has been found consistent with the Historic Preservation Ordinance provisions for compatible development in historic districts; is not located on a listed historic property; and would not have the potential to result in adverse impacts to adjacent and nearby historic resources.

## **7.0 ALTERNATIVES**

1. Uphold the appeal and direct staff to prepare a resolution denying the Minor Development Review application ARCH-0448-2022, regarding development of a proposed mixed-use project at 1925 Santa Barbara Avenue.

This action is not recommended since the appeal provides no justification for denying the Minor Development Review application or for finding that the proposed project is inconsistent with the City's Historic Preservation Ordinance and Historic Preservation Program Guidelines, including those regarding architectural compatibility for new construction in historic districts. Furthermore, this project is a "housing development project" pursuant to the Housing Accountability Act and therefore can only be denied or conditioned in a manner that reduces density if a "specific adverse impact" (a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions) is identified. Facts and evidence based on the City's historical preservation policies, standards, and guidelines, as set out in the Historical Preservation Ordinance (SLOMC Ch. 14.01), along with specific adverse

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impacts to public health or safety, as described by the Housing Accountability Act, would have to be provided with any consideration to uphold the appeal as the basis for this alternative.

2. Continue consideration of the item to a future date, with relevant guidance to staff and applicant.

This alternative is not recommended, as continued consideration beyond the three public hearings that will have already been held on the item is unlikely to uncover additional considerations relevant to the action taken on this application. Furthermore, the Housing Crisis Act limits an agency to conduct of no more than five hearings on a proposed housing development that complies with objective standards (Govt. Code § 65905.5 (a)).

## **8.0 ATTACHMENTS**

- A - Draft Planning Commission Resolution (APPL-0232-2024)
- B - Project Description: Santa Barbara Lofts
- C - Approved Project Plans Santa Barbara Lofts
- D - Decision Letter (ARCH-0448-2022)
- E - Appeal Statement (Wayne Terry)
- F - Architectural Guidelines (Railroad District Plan)
- G - Council Resolution No. 9310 (2002)