

# SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
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## Agenda Number:

**Prepared on:** April 12, 2006  
**Department Name:** Planning & Development  
**Department No.:** 053  
**Agenda Date:** May 2, 2006  
**Placement:** Departmental  
**Estimate Time:** 1.5 hours  
**Continued Item:** No  
**If Yes, date from:**  
**Document File Name:** G:\GROUP\Permitting\Case Files\APL\2000s\06 cases\06APL-00000-00007\Gormley Pahler Final BOS ltr 05-02-06.DOC

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**TO:** Board of Supervisors

**FROM:** Dianne Meester, Assistant Director  
Planning & Development

**STAFF CONTACT:** Zoraida Abresch, Deputy Director (x6585)  
Development Review Division North

**SUBJECT:** Hearing to consider the Pahler Appeal of the Planning Commission's approval of the Gormley Change of Use Land Use Permit

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## Recommendations:

That the Board of Supervisors adopt the Planning Commission's recommendations on the Pahler Appeal, Case Number 05APL-00000-00027, for a Land Use Permit to allow a change of use from a retail commercial building to a tavern/restaurant and approve the project. The application involves APN 101-191-002, located at the corner of Bell and Helena Streets in the community of Los Alamos, Third Supervisorial District. The Board of Supervisors action should include the following:

1. Adopt the required findings for the project specified in the Planning Commission's action letter dated March 8, 2006, including CEQA findings, (Attachment B);
2. Deny the appeal and uphold the Planning Commission's March 1, 2006 denial of 05APL00000-00027; and,
3. Grant *de novo* approval of Case No. 05LUP-00000-01171 subject to the conditions included in the Planning Commission's action letter dated March 8, 2006

### **Executive Summary and Issue Discussion:**

On November 24, 2005, a Land Use Permit (LUP) was approved by Planning and Development staff for Gerald Gormley, owner of the Ghostriders Tavern, for a change of use within an existing commercial structure. The change of use would allow a building previously permitted as a retail store to be converted for use as a tavern/bar/restaurant. The permit also included signs for Bell Street and Helena Street frontages that received final approval from the Board of Architectural Review.

The approximately 1,250 sq. ft. building is located on a 5,000 sq. ft. parcel at 508 Bell Street in Los Alamos. Existing development onsite consists of the main building and a 247.5 sq. ft. secondary structure containing restrooms and storage. The building is located in a C-2 zone with the boundary closest to the parking area abutting a legal non-conforming residence that is also in the C-2 zone. The site is approximately 200 yards from a church and directly across the street from a newly approved mixed-use building.

Subsequent to LUP approval, communication with the California Department of Alcoholic Beverage Control (ABC) indicated that that agency's regulations may limit the use of the proposed site as a bar due to its close proximity to a residence (within 100 feet). The determination has since been made that this cannot be the sole basis for an ABC permit refusal.

On December 5, 2005 an appeal of the Land Use Permit was filed by Thomas Pahler. The appeal addressed four areas, a challenge of noticing requirements, concerns over adequate parking, concerns over the numbers of patrons, and concerns regarding neighborhood compatibility.

At the Planning Commission hearing of March 8, 2006 the Commission by a vote of 4-1 voted to adopt the findings for the project, deny the appeal and grant *de novo* approval of 05LUP-00000-01171 (see Attachment B). A summary of staff's responses to the appeal points, as well as a more detailed narrative of the Planning Commission's actions is included in the Background section of this Board letter.

### ***Appeal of Planning Commission's Action to the Board of Supervisors:***

On March 17, 2006 an appeal of the Planning Commission's *de novo* approval of Land Use Permit 05LUP-00000-01171 was filed by Thomas Pahler. The appeal addressed two additional areas, the use of only the interior space when computing the necessary parking for the proposed use and placing of conditions on a ministerial permit that would be difficult to enforce.

***Staff Response to Issue Areas:***

***Appeal Issue #1 – Staff Error in Computing Parking Areas***

Planning and Development Department staff is required to evaluate the applications they receive on the information provided at the time of submittal. Staff can not calculate area or required parking based on the past history of a business at another location. Mr. Gormley was advised at the time of the permit approval that he would be restricted to the use of the 900 square feet of patron area he had outlined in his original application. He accepted this restriction noting that for economic reasons he wished to open the tavern as soon as possible. He told staff he would pursue off-site parking in the hope of being able to use the patio area at a later date but would abide by the restriction until that became possible. The parking calculations for the present site are the same as those used for the former site. All spaces meet the size and location requirements outlined in Article III, Division 6-Parking Regulations.

***Appeal Issues #2- Conditions Placed on The Land Use Permit Would Be Difficult to Enforce***

Based on concerns expressed by the appellant and other neighborhood residents as part of the Planning Commission's *de novo* consideration of the project (through the Appeal process), several conditions of approval were placed on the Land Use Permit (see Attachment B). Included among these LUP conditions is a requirement to maintain and document the following for a period of one year in order to provide a monitoring mechanism for measuring compliance with the terms of the LUP:

- a. Occupancy records, including:
  - hours of operation, including days of week, opening and closing times
  - average daily occupancy records, compiled monthly
- b. Landscape records as specified.

In addition to this requirement, the P&D Zoning Enforcement program, which is a complaint process, would respond to any formal complaints received regarding zoning violations on the project site. Violations noted through this mechanism could result in the revocation of the subject LUP.

**Background – Appeal of Land Use Permit Approval to Planning Commission:**

As mentioned above, an appeal of the Land Use Permit approved by staff was filed by Thomas Pahler on December 5, 2005. The appeal points were slightly different than those addressed to the Board of Supervisors. These issues addressed four areas: a challenge of noticing requirements, concerns over adequate parking, concerns over the numbers of patrons, and concerns regarding neighborhood compatibility.

***Staff Response to Issue Areas:***

***Appeal Issue #1 - Deficient Noticing***

The Planning and Development Department (P&D) has an affidavit signed by Gerald Gormley dated November 23, 2005 certifying that the Notice was posted at three (3) locations and would be posted for the Required Appeal period. The Notice was also on display at the P&D office at 624 West Foster Road, Santa Maria. There were no written requests for mailed noticing on file. Therefore the County has met all noticing requirements outlined in Article III, Sec. 35-326.3 Land Use Permits Noticing (see Attachment F).

***Appeal Issues #2 and #3 – Parking***

The proposed project would provide four parking spaces, as required per Article III, including one handicapped and one compact space. All spaces meet the size and location requirements outlined in Article III, Division 6-Parking Regulations. The number of parking spaces required is based upon the amount of square footage devoted to patrons and the number of employees. The existing structure will contain approximately 900 square feet of space devoted to patrons with the remainder of the floor area being designated for kitchen and employee facilities. The business will have no more than two employees. Article III, Section 35-258.2 states that: restaurants, cafes, taverns, etc. are required to provide one parking space per 300 square feet of area devoted to patrons, and one space per two employees. Therefore, 3 spaces are required for patrons and 1 space is required for employees.

***Appeal Issue #4 - Location of business to surrounding residential uses***

The proposed project is consistent with Article III Sec. 35-225, Retail Commercial which explicitly allows the proposed uses. The proposed project conforms to all setback, height, and square footage requirements. The project site is located in the Bell Street Corridor, an area where retail development is to be encouraged as specified by the Los Alamos Community Plan. Historic use of the site includes that of liquor sales in the 1960s. The surrounding parcels contain a variety of commercial enterprises including warehousing, restaurants, antique shops, and a post office. Although the parcels directly to the east and to the south are also zoned Retail Commercial both contain legal non-conforming residences. A church is located approximately 200 yards from the site. A new multi-use building is proposed and has been approved for construction directly across Helena Street from the site.

***Planning Commission's Action:***

At the February 1, 2006 appeal hearing, following discussion of the issues raised by the Pahler appeal of the Gormley Change of Use Land Use Permit, the members of the Planning Commission voted 4-1 to continue the item to the March 1, 2006 hearing. The continuance was intended to provide additional time for: 1) the applicant to respond to a letter introduced at the hearing contending that a prior appeal was withdrawn due to threatening remarks made by the applicant; 2) staff to meet with community members; and 3) to allow Commissioner Montgomery to review the requirements imposed on the project with staff. (Attachment E).

At the Planning Commission hearing of March 1, 2006 following a failed motion to grant the appeal, the Planning Commission voted 4-1 to deny the appeal, 05APL-00000-00027, thereby upholding the P&D approval of Land Use Permit No. 05LUP-00000-01171. The Commission also voted to grant conceptual approval of 05LUP-00000-01171, and continue the item to the consent agenda of the hearing of March 8, 2006, with direction to staff to provide revisions to the conditions of approval identified in a staff memorandum dated February 17, 2006 (Attachment D) and to add a condition addressing requirements for P/C review of the project after one year of operation. (see Attachment C).

At the Planning Commission hearing of March 8, 2006 the Commission by a vote of 4-1 voted to adopt the findings for the project, deny the appeal and grant de novo approval of 05LUP-00000-01171 (see Attachment B).

**Alignment with Board Strategic Plan:**

The recommendations are primarily aligned with actions required by law or by routine business necessity.

**Mandates and Service Levels:**

No change in programs or service levels are anticipated.

Section 35-327.3.1 of Article III (the Inland Zoning Ordinance) of Chapter 35 of the County Code provides that the decisions of the Planning Commission may be appealed to the Board of Supervisors.

Pursuant to Government Code Sections 65355 and 65090, a notice shall be published in at least one newspaper of general circulation.

Pursuant to Government Code Section 65091, mailed notice required to property owners within 300 feet of the project, including the real property owners, project applicant and local agencies expected to provide essential services, shall be done at least 10 days prior to the hearing.

**Fiscal and Facilities Impacts:**

The costs for processing appeals are provided through a fixed appeal fee and funds in P&D's adopted budget. In regards to this appeal, the appellant paid an appeal fee of \$300 to P&D. Costs beyond that fee will be absorbed by P&D. These funds are budgeted in the Permitting and Compliance Program of the Development Review North Division, as shown on page D-296 of the adopted 2005/2006 fiscal year budget.

**Special Instructions:**

The Clerk of the Board shall forward a copy of the Minute Order to Planning & Development, Attention: Cintia Mendoza, Hearing Support.

Planning & Development will prepare all final action letters and notify all interested parties of the Board of Supervisors final action.

**Concurrence:** N/A

**ATTACHMENTS:**

- A. Appeal to the Board of Supervisors dated March 17, 2006
- B. Planning Commission Action Letter dated March 8, 2006
- C. Planning Commission Action Letter dated March 1, 2006
- D. Staff Memorandum dated February 17, 2006
- E. Planning Commission Action Letter dated February 1, 2006
- F. Staff Report to Planning Commission dated December 20, 2005  
(including LUP as attachment B)
- G. Public Comment Letters

Board Letter Prepared by: Shelly Ingram, Planner I