City of Santa Barbara
California

PLANNING COMMISSION
STAFF REPORT

REPORT DATE: November 6, 2014

AGENDA DATE: November 13, 2014

PROJECT ADDRESS: Zoning Information Report Process Improvements

TO: Planning Commission

FROM: Planning Division, (805) 564-5470, extension 4555
Bettie Weiss, City Planner BW
Susan Reardon, Senior Planer SR

I. RECOMMENDATION

Staff recommends the Planning Commission hold a public hearing to review and confirm the outcomes of the Zoning Information Report (ZIR) Working Group and forward recommendations to City Council on potential ZIR process improvements and Zoning Ordinance amendments.

II. BACKGROUND

In November 1974, the City Council established the provision for a ZIR. At that time the report was optional and based solely on a review of City records. A physical inspection of the site was made if requested. The Ordinance recognized "a report based solely on City records would not indicate any violations that may exist on the premises that could only be determined by an on-site inspection." In March 1976, an amendment to the Zoning Ordinance was adopted that made the requirement for a ZIR mandatory prior to entering into an agreement of sale and also made the physical inspection required. Shortly thereafter, an amendment was made to change the requirement that an application for ZIR shall be applied for within five days of entering into an agreement of sale. Since that time several other amendments have been adopted including changing the expiration date from 6 months to 12 months in 1995 and making ZIRs optional for new homes and condominium units in 2010 (See Exhibit A).

In September and October of last year, the Planning Commission held public hearings on concerns raised by the Santa Barbara Association of Realtors (SBAOR) regarding the City's ZIR process. At the conclusion of those hearings, the Planning Commission recommended that a working group be formed to work through the issues and help the Planning Commission formulate recommendations to the City Council on improvements to the ZIR process.

III. DISCUSSION

A ZIR Working Group (see Exhibit F for members and meeting minutes) was formed and has met nine times since January 2014. The Working Group worked on clarifying and streamlining the ZIR process and formulating recommendations for changes to the ZIR process

and Zoning Ordinance. The first several meetings focused on gaining common ground and understanding of the issues, information sources used for preparing a ZIR, the process of preparing a ZIR, how staff classifies and identifies major and minor violations, and the abatement process when violations are identified in a ZIR.

The subsequent meetings focused on the definition of major and minor violations, improvements to the ZIR template, dealing with discrepancies between ZIRs, administrative zoning approval process, the abatement of violations identified in ZIRs, and a potential Zoning Violation Abatement Pilot Program.

As discussed in the following sections, the Working Group worked through changes in a number of areas. These areas include:

- Identification and Categorization of Major and Minor Violations – The Working Group confirmed staff's categorization of major and minor violations for the purposes of referring violations identified in a ZIR for enforcement.
- Changes to the ZIR template and appeal of ZIR findings – The Working Group reviewed major editing of the ZIR template to make it more useful and understandable.
- Appeal Period - The Working Group confirmed that the current 10 day appeal period was appropriate to challenge violations noted in a ZIR.
- Violations overlooked in previous ZIRs- The Working Group discussed and agreed on delayed enforcement for some violations overlooked in previous ZIRs.
- Administrative Zoning Approvals – The Working Group reviewed and refined the types of improvements eligible for Administrative Zoning Approval.
- Changes to the ZIR process – The Working Group made a number of suggestions for further improvement (Section IV.C).

Although the Working Group had consensus that the proposed improvements to the ZIR process are positive, SBOAR Working Group members and Staff continue to have a difference of opinion on the need, usefulness, and appropriate follow-up on the ZIR. Staff understands that discrepancies in ZIRs cause real, and sometimes significant, impacts to people and has recommended improvements to the process to address these issues. A major criticism of the ZIR process by the SBAOR Working Group members continues to be that the City is not accountable or liable for inaccurate reports. The SBAOR members in the Working Group felt that it is unfair for the City to seek abatement of violations, when a prior ZIR did not disclose the violation to the current owner/seller.

The Working Group discussed the pros and cons of removing the requirement of a ZIR at the time a residential property is sold. Some of the SBAOR Working Group members suggested that the ZIR be required at the time a building permit is sought on a property. The primary benefit of eliminating the ZIR requirement altogether or requiring ZIRs at the time a building permit is sought (as opposed to during the sales transaction) is to reduce some of the stress during the residential sale transaction; have less fees associated with a sale; and, eliminate enforcement of violations on the property unless a complaint is filed with the City. The timing of the requirement for a ZIR could be viewed as a benefit or a negative depending on whether you are the buyer or seller.

In Staff's opinion, not requiring ZIRs at the time of sale only pushes the issues down the road. An improvement constructed without the required City approvals/permits is a violation whether or not it is identified in a ZIR. Violations, whether or not they were identified in a previous ZIR, will continue to be required to be abated at the time the next building permit is sought or when a complaint is received. At that time, the current property owner would be required to abate the violation(s), but it would be difficult, if not impossible, to hold the previous property owner responsible. This could lead to more property owners being upset and wishing they knew about the violations when they bought the property.

Many members of the public are not familiar with how to research the legality of structures. The ZIR provides a potential buyer with the City's perspective of the zoning and permitted uses and structures on the property. Providing the ZIR at the time of sale of a residential property gives the seller and buyer the same information on the status of improvements on the property and the opportunity to decide how to resolve any violations. Also, the fact that there are unpermitted improvements on a property could be a disincentive for property owners to obtain a building permit for an improvement in the future and could lead to substandard construction and safety issues to the occupants. Therefore, in Staff's estimation, eliminating the ZIR requirement does not resolve the underlying problem – the property has zoning violations or unpermitted construction.

Additionally, staff believes that ZIRs are a strong incentive for property owners to seek the required City approvals/permits. Most property owners know ZIRs are required when they sell the property and that a site inspection and records check are performed at that time. The elimination of the requirement of ZIRs could directly result in fewer property owners obtaining the proper approvals/permits which would lead to an increase in illegal dwelling units, substandard construction, adverse impacts to neighborhoods, and increased need for enforcement.

A. Identification and Categorization of Major and Minor Violations

For the purposes of determining which violations identified in ZIRs are referred for immediate enforcement, the violations are classified as either major or minor (Exhibit B). Over the years, Staff developed this classification system as a means to triage which violations need to be abated immediately given available staff resources. Major violations are referred for immediate enforcement and follow-up. Minor violations are kept on file and are required to be abated with the next building permit sought for the property. If the minor violation is not abated prior to the next transfer of the residential property, the minor violation is carried forward on the next ZIR. Although the City's enforcement timelines are not tied to the sale, lenders and other parties to the transaction sometimes require the abatement of the violations prior to the close of escrow.

The Working Group spent a lot of time discussing this classification system. The Working Group is in agreement on what violations should be considered as major, and that they should be referred to enforcement immediately. The Working Group also agreed that when major violations are identified on a property, it is appropriate that the minor violations also be referred and abated at the same time.

One of the sticking points the Working Group had was regarding the use of the term "habitable space." Staff would refer the addition of new habitable space for immediate

enforcement. Staff originally started to use the term habitable space because the provisions in the Zoning Ordinance prohibit the change of use of a non-conforming building. Changing an area from residential storage to residential living space has historically been considered a change of use and, therefore, not allowed in non-conforming portions of a building without approval of a Modification.

The identification of new habitable space caused concern for the SBAOR because the term is not defined in the Zoning Ordinance. In response, Staff developed guidelines to describe the elements that make an area considered "habitable." The guidance caused additional concern to SBAOR because they were afraid that if an area had any of the identified elements, staff would automatically determine the space habitable.

Staff has considered SBAOR's concern and proposes to change the term we use from "new habitable space" to "unpermitted floor area or conditioned space[1]". Floor area is currently defined in SBMC §28.04.315. If a violation involves the addition of unpermitted floor area or new conditioned space, it will be considered a major violation and will be referred for enforcement. The non-permitted change of use will continue to be considered a violation; however, it will be classified as a minor violation.

B. Changes to the ZIR Template and Appeal of ZIR Findings

The Working Group reviewed major edits to the ZIR template to make it more understandable and useable for the public (Exhibit C). Some of the more significant changes include:

- Better define the purpose and scope of the ZIR
- Reorganize the information presented with violations listed near the beginning of the report
- Clearly indicate the inspector and their contact information on the front page
- Clarify the language regarding major and minor violations
- Provide information regarding violation abatement timelines
- Clarify the language regarding nonconforming property attributes
- Include the zoning standards as an attachment instead of in the body of the ZIR
- Integrate the "fine print" into relevant sections of the ZIR
- Include a generic list of information sources
- Clearly indicate the procedures for appealing and amending the ZIR
- Encourage property owners to provide information they may have, or have access to, to inform the findings of the report

The Working Group discussed a proposed 5-day review period during which agents could review an e-mailed draft of the ZIR, before the draft ZIR becomes final. After exploring the process, it was agreed that it would be better to maintain the existing policy of the 10-day appeal period rather than interjecting an automatic five-day delay into the process for all ZIRs. The Working Group also discussed establishing a more formal appeal process but concerns were expressed regarding the amount of additional time and fees associated with

[1] Conditioned space is space in a building that is provided with heating or cooling.

that process. The Working Group decided it was best to follow the existing 10-day appeal period.

C. Dealing with Discrepancies between ZIRs

The Working Group spent a lot of time discussing ways to deal with discrepancies between ZIRs. Exhibit D contains a paper based on the discussions of the Working Group. For the most part, the Working Group agreed that the paper was a move in the right direction, however, the SBAOR still maintains that all improvements missed in previous ZIRs be "grandfathered" or legalized.

Staff understands the hardships faced by sellers and buyers when new information is identified in a ZIR, and Staff works diligently to resolve issues and facilitate the approval/permitting process. However, Staff cannot support an automatic legalization of unpermitted improvements or zoning violations, simply because they were not noted on a prior ZIR. Some "as-built" improvements are not constructed to Code and are a true fire or life safety threat. Additionally, grandfathering illegal construction could be seen as an incentive to do improvements without the required City approvals/permits. The City has the responsibility to enforce its Codes to ensure the health, safety, and welfare of the community. At the same time, City Staff is committed to streamlining and simplifying the permitting process as much a possible when a discrepancy between ZIRs is discovered.

A recent example of such a discrepancy involved a second story stairway that did not meet building code requirements and an unpermitted addition/remodel to the first story. In 1974, a Modification was approved to allow a garage and second story addition to encroach into the required front setback. A permit for that addition was issued and upon final inspection for that permit, the City building inspector noted that the permit could not be finaled due to the fact that the interior stairway did not comply with the Code and that the room over the garage was not one-hour protected. Unfortunately, corrections were not made to the stairway, no follow-up inspections were made, and the previous owner allowed this permit to expire.

A ZIR that was prepared in 1998 when that property sold the home did not note any violations with regard to the prior expired permit and yard encroachments. A subsequent ZIR prepared in 2013 noted that additions and alterations made to the dwelling were not reflected on the approved plans and occurred without the necessary additional City approvals/permits. The previous property owner had done a significant remodel of the interior and expanded the kitchen by extending the roof so that it was connected to an existing retaining wall that straddled the neighbor's property line. Other portions of the house had been expanded as well. Because the 1998 ZIR did not disclose the additions and alterations, a decision was made not to require immediate enforcement as would normally be required under City policy.

Given the extent of the violations and difficulties in selling the property "as-is," the property owner pursued permitting the as-built improvements. City staff assisted the owner in processing a Modification to allow the addition to encroach into the setback. Modification fees were not charged and one of the City's Building Plans Examiners, a licensed architect, prepared plans for the applicant at no charge. A substantial interior setback modification was approved by the Staff Hearing Officer.

In this example it would not have been appropriate for the City to grandfather in the violations that were missed in the previous ZIR. The Building Official indicated that the stairway was an immediate safety hazard and needed to be altered to meet minimum Code requirements. The Building Official also had concerns with whether the retaining wall was adequate support for the exterior wall of the residence. In addition, the illegal addition to the residence spanned the neighbor's property line and the neighbor did not approve of the encroachment onto their property.

In regards to major violations that were missed in a prior ZIR, the Working Group agreed that only certain violations would be referred for immediate enforcement: a potential fire or life safety risk; the creation of an illegal dwelling unit; or, the physical loss of required parking. Violations that involve the addition of unpermitted floor area or conditioned space, but that do not create an illegal dwelling unit, would only be referred to enforcement if they appear to cause a potential fire or life safety risk. That determination would be made in consultation with a City building inspector. Given the low incidence of those situations, Staff does not expect the consultation to significantly impact the City building inspectors' workload. There was consensus in the Working Group for delayed enforcement for unpermitted floor area or conditioned space that did not pose a fire or life safety risk. It is important to note that if a complaint is received regarding the addition of unpermitted floor area, the City will begin enforcement on it regardless if it was missed in a previous ZIR.

Staff believes that there are often many responsible parties involved in the construction of unpermitted improvements and with the sale of the property, bringing issues to the City's attention that are not addressed in a ZIR or not categorized the same way as the property owner states would be helpful to all parties. If the disclosure statement the seller provides indicates that a particular improvement was constructed without the required City approvals or permits and the ZIR doesn't state it is a violation, then Staff would hope someone would question the City on whether the particular improvement has a permit. If that were to occur, it would help prevent future problems for subsequent property owners.

D. <u>Administrative Zoning Approval</u>

The Working Group reviewed and refined the types of improvements proposed to be eligible for Administrative Zoning Approval (Exhibit E). The Administrative Zoning Approval process would expedite the resolution of discrepancies found during the preparation of a ZIR by giving Staff the authority to grant zoning clearance for improvements that do not conform to the zoning requirement in instances where there are unclear City records, discrepancies in the record (including discrepancies in ZIRs) and it is evident the improvement was on the site prior to 1974[2].

The Working Group is supportive of the Administrative Zoning Approval process and types of improvements proposed to qualify for Administrative Zoning Approval. There was interest in expanding the applicability of the approvals to all violations found on the property, not just ones that were missed in a prior ZIR, but it was agreed that would be better addressed as part of the New Zoning Ordinance (NZO) process given that expanding staff administrative approvals is part of the work program for that effort.

[2] Year of the adoption of the Ordinance establishing ZIRs.

SBAOR Working Group representatives asked Building and Safety staff if they could have a similar administrative approval process for building permits. Although there is only one type of building permit, there is discretion on what information is required for the permit and the level of review required. Building and Safety staff is committed to streamlining the permit process as much as possible to address ZIR discrepancies as they arise.

E. Encouraging Early Violation Abatement and Application for ZIRs

The ZIR Working Group discussed ways to encourage property owners to voluntarily abate violations on their property. This would help reduce the number of violations identified in ZIRs and relieve some of the stress that occurs during the escrow period. After discussion of some of the potential elements of an abatement program, there was agreement in the Working Group that instead of establishing a separate abatement program, elements of the abatement program could be incorporated into the ZIR process improvements. The Working Group also suggested the City establish a good public relations effort to inform the public of the benefits and appropriateness of a ZIR in addition to just when residential property is being sold.

The Working Group also suggested incentives be established to encourage property owners to obtain a ZIR prior to the property being listed for sale. The SBAOR Working Group members cited cost as a deterrent to obtaining ZIRs early in the sale process. Some SBAOR Working Group members suggested breaking up the payment into two installments, one payable at the time of ZIR application submittal and one at the time escrow closes. The down side of that option is that if escrow does not close, the City would not be paid for the wok completed. Another option proposed by SBAOR was that the fee be reduced if a property owner applies for a ZIR within a certain number of days of signing a listing agreement as an incentive for property owners to obtain the ZIR earlier.

ZIRs are one of the few Planning Division programs that the City Council has designated as being full cost recovery. The Council has stated in the past that it is not appropriate for the tax payer to subsidize private transactions. However, Council has the ability to decide to subsidize the cost if they determine it to be appropriate.

Planning Staff will work further with SBAOR to brainstorm ideas to encourage property owners to obtain ZIRs earlier.

IV. CHANGES TO THE ZIR PROCESS

A. Short-Term

Since the initial discussions on improvements to the ZIR process in August 2013, Staff has made a number of improvements to the ZIR process. These include:

- The new goal to complete 80 percent of ZIRs within 10 working days of application submittal; we are at 81 percent so far this fiscal year
- More collaboration with property owners when discrepancies arise
- Increased early consultation with Building staff during the ZIR preparation process on violations that require permits to identify the information that may be necessary for the building permit

- Increased involvement of the ZIR inspectors in the discretionary review and plan check processes
- Expediting the discretionary review process and waiving planning fees in cases of discrepancies between ZIRs
- The assignment of two Building and Safety plan check positions to handle questions and issues related to ZIR violations as part of their duties

B. In-Progress

As part of the discussions of the Working Group, a number of additional suggestions were made to improve the ZIR process. Planning Staff is currently working on the following additional items:

- Update and standardize procedures for preparing ZIRs and identifying violations (what is called out, omitted, or noted as information only and what is referred for enforcement)
- Create a checklist of items zoning inspectors look for during a site inspection
- Create a frequently asked questions sheet
- Create a handout that explains how to address the identified violation(s)
- Explore a process to retain site inspection photos

C. Longer-Term: Requiring Ordinance Amendments

The proposed Administrative Zoning Approval process requires a Zoning Ordinance Amendment approved by five members of City Council. Once an Ordinance Amendment is adopted by City Council, staff will implement the Administrative Zoning Approval process. In addition, subsequent to City Council review Staff will begin implementation of the improved ZIR template.

V. CONCLUSION:

Over the years, City staff and SBAOR have worked together to resolve issues with the ZIR process. This working relationship has worked well and has been beneficial to everyone. This recent collaborative effort to improve the ZIR process is a work in progress that can be revisited for further refinement and reconsideration in the future. A number of suggested improvements have been made and additional improvements will be made upon direction and adoption of ordinance amendments by the City Council. The SBAOR Working Group members suggested a mandatory check-in with the Planning Commission or City Council after a certain period of time to see how the proposed process improvements are working. Staff supports this idea and will suggest to the City Council that Staff return with a status report on the process improvements a year after the adoption of related Zoning Ordinance amendments.

Therefore, the Working Group recommends the Planning Commission review and confirm the outcomes of the ZIR Working Group and make recommendations to the City Council on ZIR process improvements including:

1. Initiation of an amendment to the Zoning Ordinance to establish an Administrative Zoning Approval process

2. Implementation of proposed improvements to the ZIR template
3. The changes to the ZIR process described above and in Exhibit D, including:
   a. Delayed enforcement of some improvements in the instances of discrepancies between ZIRs
   b. Updating and standardizing procedures for preparing ZIRs and identifying violations
   c. Creating a checklist of items zoning inspectors look for during a site inspection, a Frequently Ask Question sheet, and a handout explaining how to abate zoning violations
   d. Exploring a process to retain site inspection photos

Exhibits:

A. ZIR Ordinance Chronology and 1974 Council minutes
B. Classification of Major and Minor Violations Cited in ZIRs
C. Revised ZIR templates
D. Dealing with Discrepancies and Abatement of Violations
E. List of Administrative Zoning Approvals
F. Working Group Minutes

Ordinances pertaining to Zoning Information Reports Chronology

Ordinance 3702; adopted November 19, 1974

- Added Section 22.23, Zoning Information Report to the Zoning Ordinance
  - Report was optional
  - Information based on City records
  - Physical inspection made if requested
  - Primary purpose was to provide information to potential buyer of residentially used property concerning the zoning and permitted use of the property
  - Cost: $20; an additional $35 if physical inspection plus $10 each additional unit
  - Under normal circumstances report available no later than 5 working days after application received
  - Contents: basic parcel/zoning information; any discretionary or administrative acts of record; any special use/development restrictions; known non-conformities or violations; information on building permits issued; required parking and type; and, if physical inspection, results included in report
  - Ordinance recognized *"a report based solely on City records would not indicate any violations that may exist on the premises that could only be determined by an on-site inspection"* and *"any report issued pursuant to this section shall not constitute authorization to violate any ordinance or law, regardless of whether the report issued pursuant to this section purports to authorize such violation or not"* (§22.23.F)

Ordinance 3826, amended 28.87.220; adopted March 23, 1976

- Made ZIRs required prior to the entering into an agreement of sale
- Made physical inspection required
- Cost: $25. Removed $35 for physical inspection
- Contents of the report:
  - Changed "information on building permits issued for the property" to "the results of a physical inspection for compliance with the Zoning Ordinance"
  - Removed required parking & type from required contents
- Removed §22.23.F, "a report based solely on City records would not indicate any violations that may exist on the premises that could only be determined by an on-site inspection" since a physical inspection was now required
- Added expiration of report of 6 months
- Added exemption for newly constructed houses

Ordinance 3843, adopted June 9, 1976

- Changed requirement to get a ZIR prior to entering into an agreement of sale to "no later than five days after entering into an agreement." Required report to be given to buyer no later

than three days prior to consummation of the transfer of title. Buyer may waive the three day prior requirement but in any event the report shall be provided prior to the consummation of the transfer of title.

Ordinance 3986, adopted March 13, 1979

- Added "under normal circumstances the report will be available no later than five working days after the application is received by the City"
- Added proof of receipt of ZIR required prior to consummation of transfer of title.
- Added affect of non-compliance

Ordinance 4106, adopted June 23, 1981

- Removed reference to the fee being $25 and stated "pay a fee as established by resolution of the City Council."

Ordinance 4932, adopted December 12, 1995

- Changed "under normal circumstances the report will be available no later than five working days after the application is received by the City" to no later than 15 working days
- Changed reference from "Chief of Building and Safety" to "Community Development Director"
- Changed the expiration date of a ZIR from six month to 12 months

Ordinance 5396, adopted September 26, 2006

- Required a statement of whether the property had a Building Sewer Lateral Report prepared within five years prior to the preparation of a ZIR and an advisory statement regarding potential problems by a poorly maintained sewer lateral to be included in ZIRs

Ordinance 5537, adopted November 23, 2010

- In addition to minor word/sentence changes, the Ordinance exempted the following from the requirement to obtain a ZIR:
    - New homes under construction pursuant to a valid building permit
    - New homes where the final building permit inspection on the home was issued within three month of the date the owner entered into the agreement for sale of the home
    - Condominium units
- Added a statement that it is unlawful for any owner to consummate the transfer of title of any residential property without providing tranferee a ZIR as required by Ordinance

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City Council minutes

Following further discussion of the scope of the proposed master plan and whether or not it should be developed in-house, Mayor Pro Tempore Schatz moved, seconded by Councilmember Lowance to accept the Commission and staff recommendations that a 25-year parks and recreation master plan, which would be reviewed every 5 years, be developed.

Roll call: Affirmative Council All

Follwoing the roll call, Councilmember Utterback suggested that $100,000 of the $130,000 spent yearly by the City on advertising should be used to develop a master plan, that such an expenditure would be beneficial to the City in the long run.

Councilmember Martinez moved, seconded by Councilmember Rypins, to continue further decisions on the master plan until November 12, 1974 in order that Council have time to carefully consider the matter.

Roll call: Affirmative Council All

Mr. Scott advised Council that Mr. Willsie could not be present on that date, and the matter was instead continued to November 19, 1974, there being no objection of Council.

ORD. RE: ZONING INFO. REPT.

The proposed ordinance relating to a zoning information report was presented by Mayor Pro Tempore Schatz who explained that the ordinance had been referred to the Ordinance Committee from the Planning Commission, and that the proposed ordinance provided that a zoning information report could be furnished to the buyer of residential property from the seller. Edward Heron, member of the Santa Barbara Counties Board of REaltors, was recognized and reported that planners and interested individuals had worked on the ordinance for four months. He said that the long term effect of the ordinance would be a reduction in zoning and building violations. In answer to questions from Council he explained that the proposed ordinance was not manditory but that its effect would be that almost all residential real estate transactions would include the report as a protection to the buyer and realtor. City Attorney Cappello concurred in the opinion thatif the report were available it would be included in most residential real estate transactions.

Further discussion ensued with respect to the proposed ordinance, how it would be administered and at what cost, the pros and cons of a manditory ordinance, the wording of the ordinance, etc.

Councilmember Lowance moved, seconded by Councilmember Martinez, that the fee for the zoning information report as specified in paragraph D be increased from $15.00 to $20.00.

Roll call: Affirmative: Councilmember Lowance, Martinez, Rypins, Mayor Pro Tempore Schatz; Negative: Councilmember Chavalas, Utterback. The motion carried by a vote of 4 to 2.

Councilmember Lowance moved, seconded by Councilmember Martinez, that the fee for the physical inspection of the first dwelling unit as specified in paragraph D be increased from $25.00 to $35.00.

Roll call: Affirmative: Councilmember Lowance, Martinez, Rypins, Mayor Pro Tempore Schatz; Negative: Councilmember Chavalas, Utterback. The motion carried by a vote of 4 to 2.

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Councilmember Lowance moved, seconded by Councilmember Rypins, that the fee for the physical inspection of each additional dwelling unit as specified in paragraph D be increased from $5.00 to $10.00.

Roll call: Affirmative: Councilmembers Lowance, Martinez, Rypins, Mayor Pro Tempore Schatz; Negative: Councilmembers Chavalas, Utterback. The motion carried by a vote of 4 to 2.

In response to a comment from Councilmember Lowance that paragraph D did not clearly state the responsibility of the seller to furnish the report, Mr. Cappello suggested that the wording "When said report is requested" be added to the beginning of paragraph D.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SANTA BARBARA ADDING SECTION 22.23 TO PART 22 OF ORDINANCE NO. 2585, THE ZONING ORDINANCE OF THE CITY OF SANTA BARBARA, RELATING TO A ZONING INFORMATION REPORT.

incorporating the phrase suggested by the City Attorney was introduced as Bill No. 2742, and read for its first reading by title only on motion of Councilmember Lowance, seconded by Councilmember Martinez.

Roll call: Affirmative Council All

In response to a request from Councilmember Martinez, the City Attorney agreed to prepare an ordinance for introduction November 12, 1974, making a zoning information report manditory. The City Attorney further suggested that enforcement of a manditory ordinance could prove to be a very expenisve administrative procedure and that possibly the City Administrator should prepare cost estimates.

Later in the meeting Councilmember Martinez suggested that another ordinance be prepared placing the responsibility for providing the zoning information report with the real estate agencies rather than with the City zoning division. Mr. Cappello said he would check to see if this was pre-empted by State law.

The meeting was recessed at 3:27 p.m. until 3:40 p.m. when it was called to order by Mayor Pro Tempore Schatz with the following roll call:

Present: Councilmembers Chavalas, Lowance, Martinez, Rypins, Utterback, Mayor Pro Tempore Schatz.

City Administrator Scott
City Attorney Cappello
City Clerk Newton

Absent: Mayor Shiffman

RD. RE: USES IN -X ZONE INTRO'D

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SANTA BARBARA AMENDING SECTION 13.02 OF PART 13 OF ORDINANCE NO. 2585, THE ZONING ORDINANCE OF THE CITY OF SANTA BARBARA, RELATING TO PERMITTED USES IN C-X ZONE.

which adds a zoning provision for radio and television transmitting and broadcasting stations, was introduced as Bill No. 2743 and read for its first reading by title only on motion of Councilmember Lowance, seconded by Councilmember Rypins.

Roll call: Affirmative Council All

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ALT ORDS RE ZONING INFO RPT

City Council Minutes

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SANTA BARBARA ADDING SECTION 22.23 TO PART 22 OF ORDINANCE NO. 2585, THE ZONING ORDINANCE OF THE CITY OF SANTA BARBARA, RELATING TO A ZONING INFORMATION REPORT

was presented for introduction, and

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having been introduced November 6, 1974 as Bill No. 2742, was presented for adoption. Mayor Pro Tempore Schatz pointed out that the ordinance for introduction provided that the zoning information report would be mandatory, and the ordinance for adoption, Bill No. 2742, would not be a mandatory requirement.

Councilmember Martinez said that he had asked the City Attorney at the last Council meeting to prepare a third possible ordiannce which would place the burden of proof of a zoning information report with the realtor, and leave the City out of the matter, thereby relieving the City of the financial burden of having to hire additional staff to prepare the reports.

The City Attorney said he would find out if such an ordinance were possible or if it would be pre-empted by State law.

At the request of Councilmember Martinez, the two proposed ordinances were continued for introduction and adoption, respectively, to November 19, 1974, pending an ordinance prepared by or report of the City Attorney, on order of Mayor Pro Tempore Schatz, with the full consent of Council.

At the request of Councilmember Lowance, the City Administrator was directed to prepare a cost estimate of preparing a zoning information report, on order of Mayor Pro Tempore Schatz, with the full consent of Council.

ORD RE USES IN C-X ZONE

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SANTA BARBARA AMENDING SECTION 13.02 OF PART 13 OR ORDINANCE 2585, THE ZONING ORDINANCE OF THE CITY OF SANTA BARBARA, RELATING TO PERMITTED USES IN C-X ZONE

which adds a zoning provision for radio and television transmitting and broadcasting stations, having been introduced November 6, 1974 as Bill No. 2743, was presented.

Councilmember Martinez moved, seconded by Councilmember Rypins, to adopt the ordinance, reading by title only.

Mayor Pro Tempore Schatz explained that the ordinance was necessary so that television and radio stations would no longer be considered non-conforming uses, there being no existing zoning provision in the City for such use. The specific question of the KEYT television station was discussed and it was explained that the station is a legal non-conforming use and that the temporary trailer located at the station was an illegal use and the station had been so notified by the City Planning Director.

Councilmember Martinez withdrew his motion, but Councilmember Rypins would not withdraw her second, and the motion was put to a vote following discussion by Council. Councilmember Rypins and the Community Development Director stated that Santa Barbara should have a zone to provide for this

City Council minutes

sufficient for answering questions on staffing size, patterns, and service delivery because of the varied conditions in each city, and that a great deal of additional research would be necessary before valid, comparable figures could be developed.

Mayor Shiffman suggested that staff should consider how much time and effort it would take to pursue this matter, and if it could be done for 1% or 2% of the fire and police budget, then it might be a worthwhile endeavor.

Councilmember Chavalas expressed dissatisfaction with the report saying it lacked information he requested such as the number of employees, the police budget, territory to be policed, etc. The City Administrator said the Personnel Office had additional backup information which was not included in the report which could be provided to Mr. Chavalas.

Councilmember Martinez moved, seconded by Councilmember Schatz, to accept the report.

Roll call: Affirmative Council All.

ALT ORDS RE ZONING INFO RP

Two ordinances relating to a zoning information report requirement--a mandatory ordinance for introduction and a voluntary ordinance for adoption--were presented. City Attorney Cappello reported that a third possible ordinance making the real estate broker responsible for the report rather than the City, as requested by Councilmember Martinez November 12, was in his opinion pre-empted by State law.

Mayor Shiffman and Councilmember Martinez stated that they favored that the requirement for the report should be part of escrow procedures, and Mayor Shiffman suggested it apply to all property not just residential property.

H. Edward Heron, member of the Southern Santa Barbara County Board of Realtors, made a presentation in which he said that Government Code Section 38.780 limited this type of report to residential property and he raised several questions and objections with respect to the mandatory ordinance.

Vigorous and lengthy discussion ensued during which it was explained that if the voluntary ordinance was passed, that did not preclude the passage of the mandatory ordinance at a later date.

Councilmember Lowance moved to introduce, reading by title only, the following ordinance relating to a mandatory report:

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SANTA BARBARA ADDING SECTION 22.23 TO PART 22 OF ORDINANCE NO. 2585, THE ZONING ORDINANCE OF THE CITY OF SANTA BARBARA, RELATING TO A ZONING INFORMATION REPORT.

There was no second to the motion and Councilmember Lowance stated that because there had been no second, he would not exercise his prerogative to introduce without a motion of Council.

Councilmember Martinez moved, seconded by Councilmember Lowance, to refer the above ordinance to the Council Ordinance Committee for a report as soon as possible on the costs of implementing the ordinance and other questions raised in the discussion today.

Roll call: Affirmative Council All.

Following discussion on whether the voluntary ordinance should be adopted as an interim measure if the Council was considering adopting the mandatory ordinance at a later date, Councilmember Schatz moved, seconded by

Councilmember Chavalas, to waive full reading of the ordinance for adoption relating to a voluntary zoning information report.

ORD 3702 RE ZONING INFO RPT

ORDINANCE NO. 3702

AN ORDINANCE OF THE CITY OF SANTA BARBARA ADDING SECTION 22.23 TO PART 22 OF ORDINANCE NO. 2585, THE ZONING ORDINANCE OF THE CITY OF SANTA BARBARA, RELATING TO A ZONING INFORMATION REPORT

having been introduced November 6, 1974 as Bill No. 2742, was read for its second reading by title only and adopted on motion of Councilmember Schatz, seconded by Councilmember Chavalas. Councilmember Lowance objected to the motion saying that the information could be just as easily supplied by the realtor on a voluntary basis.

Roll call: Affirmative: Councilmembers Chavalas, Rypins, Utterback and Mayor Shiffman; Negative: Councilmembers Lowance, Martinez and Schatz. The motion carried by a vote of 4 to 3.

Prior to roll call, Mayor Shiffman clarified that Section 6 of the Ordinance, "Any known nonconformities or violations of any ordinances or law" referred to information in the records of the City and did not require phyiscal inspection; if the buyer wanted a physical inspection he would be required to pay the fee stipulated in Section D of the ordinance.

SITE INSPECTION/ ROCHE PROPERTY

The meeting was recessed at 10:45 a.m. on order of Mayor Shiffman, with the full consent of Council, in order that Council could make a physical inspection of the property in question for the appeal of Kathleen D. Roche. The meeting was resumed at 11:45, on order of Mayor Shiffman, with the following roll call.

Present: Mayor Shiffman
Councilmembers Chavalas, Lowance, Martinez, Rypins, Schatz and Utterback

City Administrator Scott
City Attorney Cappello
City Clerk Newton

APPEAL/ROCHE FROM PLANNING COMMSSN

The appeal of Martin & Northart, Inc., agent for Kathleen D. Roche, from the Planning Commission's decision denying application for a modification of provisions of Section 5.00-A of City Zoning Ordinance 2585 as applied to City Parcel 15-202-28 located in the 500 block of Owen Road in an A-2 One Family Residence Zone, in order to not provide the required street frontage of 100 feet on a public street for two proposed parcels, having been continued from November 12, 1974, was taken up at this time.

Mayor Shiffman explained that the hearing had been held November 12, and the motion of Councilmember Martinez, seconded by Councilmember Chavalas, to grant the modification for three lots under conditions set forth in the Planning Commission recommendation for two lots with a twenty foot roadway, had been tabled pending physical inspection of the property by Council at 10:30 a.m. on this date. The inspection having been made and there being no questions from Council or staff, the motion was put to a vote.

Roll call: Affirmative: Councilmembers Chavalas, Martinez, Rypins, Schatz and Utterback, and Mayor Shiffman; Negative: Councilmember Lowance. The motion carried by a vote of 6 to 1.

LEASE ASSGNMT/ FAIRVIEW GOLF CENTER

The Airport Commission recommendation for approval of assignment of the Fairview Golf Center lease, was taken up at this time out of order, on

Classification of Major and Minor Violations Cited in ZIRs

Major Violations

1. Illegal dwelling units.
2. Addition of new floor area or conditioned space.
3. Loss of parking. This includes the physical removal of the garage or carport; loss of access to the garage/carport; the conversion to another use; built-in physical obstructions such as walls or rooms (office, storage, laundry, etc.); change in the garage door from 2-car to 1-car w/ pedestrian door
4. Improvements within 50 feet of the coastal bluff or on the bluff face
5. Other violations that pose an immediate fire or life safety risk.

Minor Violations

Any other violation(s) that does not fall under the above categories. Examples include but are not limited to:

- Storage building, shed, trellis, pottery shed, misc structures (sinks, showers, chicken coops, work benches, etc) in required setback or open yard
- Cabinets, workbench, washer/dryer, laundry sink in garage that are not encroaching into the minimum interior dimension
- Decks or patios over 10 inches in height in required setback
- Attached patio covers
- Interior remodels that don't include additional square footage
- Air conditioning units, pool equipment, water heaters and softeners in required setbacks
- Expansion of paved areas accessible to vehicle in required setbacks
- Fountains in interior setbacks

28.04.315 Floor Area, Net.

The net floor area of a building shall be calculated in accordance with the following general rule and any applicable special rules:

A. **GENERAL RULE.** Net floor area shall be defined as the area in square feet of all floors confined within the exterior walls of a building, but not including the area of the following: exterior walls, vent shafts, courts, and any areas with a ceiling height of less than five (5) feet above the finished floor.

B. **SPECIAL RULES.**

1. The area occupied by stairs or an elevator shaft within the exterior walls of a building shall be counted only on one floor of the building.

2. Freestanding accessory buildings that do not require a building permit for construction or installation are excluded from the net floor area calculation.

STAFF's Draft per direction
From ZIR Working Group – Minor Violations

ZIR FORM #1

Zoning Information Report
PROPERTY ADDRESS
ZIR20XX-00XXX

REPORT DATE: *JUNE 23, 2014*
EXPIRATION DATE: *JUNE 23, 2015*
PREPARED BY: *ZONING INSPECTOR, CONTACT INFORMATION*

I. INTRODUCTION

A Zoning Information Report (ZIR) is required by the City of Santa Barbara on all sales of residential property, with a few exceptions (SBMC §28.87.220). If your property also contains non-residential uses, those uses and related improvements were not inspected as part of this ZIR. The purpose of the ZIR is to provide information to the buyer on residential zoning standards for this property and to identify violations of any City ordinance or law. The ZIR is a good faith effort to provide information based on a site inspection and review of available City records.

The ZIR is a report; it is not an entitlement document or a permit. If there are inconsistencies or errors in this report, or on previous reports or plans, the ZIR cannot be used to legalize any unpermitted construction. Only a building permit with valid City approvals can legalize construction. **The Zoning Inspector is neither a Building Inspector nor a licensed surveyor, and the ZIR will not include a review of compliance with the Building Codes nor confirm the exact location of property lines.** Property line locations are an estimate and unless shown on archive plans, the interior and rear property lines are assumed to coincide with any interior or rear fence(s). City timelines for abatement of major violations is dependent on health and safety concerns and not tied to an escrow period.

II. SITE INSPECTION

On (DATE), a site inspection was conducted and the following buildings and structures were observed on the property. Please note that the items described below include all buildings and structures on site at the time of the inspection and **this description is not a determination of the legal status of any buildings or structures on site:**

One-story duplex with a covered side porch (approx. 44 ft. x 7 ft) with washer/dryer hook-up inside kitchen closet. Detached one-car garage with exterior stairway leading to a roof deck (approx. 17 ft. x 13 ft.) above the garage. Detached arbor/trellis structure (approx. 9 1/2 ft. x 7 1/2 ft.) Detached shed (approx. 9 1/2 ft. x 9 ft.)

III. VIOLATIONS

MAJOR/MINOR/NO VIOLATIONS HAVE BEEN IDENTIFIED FOR THIS PROPERTY

Comment [sfr1]: Only one of these terms (Major/Minor/No) will print out. For this example this ZIR found minor violations.

The violations described below have been identified for this property. For the purposes of this report, these violations are considered minor and are not required to be abated at this time and have not been referred for enforcement. However, the current or future property owner will accept full responsibility for all non-permitted work and will be required to abate all ZIR violations either prior to or concurrently

EXHIBIT C

with their next plan submittal for a building permit. If the violations are not abated prior to the next transfer of this property to a new property owner, they will be carried forward on the next ZIR prepared for this property.

1. The fence along the front lot line exceeds the maximum allowable height of three and one half feet within ten feet of the front lot line. No permits could be located for this fence.
2. The roof deck above the garage encroaches into the required interior setback and was constructed without the required building permit.
3. The exterior stairway to the roof deck was constructed without the required building permit.
4. The arbor/trellis structure encroaches into the required interior setback.
5. A new wall with a closet with washer/dryer hook-ups has been constructed in the kitchen without the required permit.

☐ If this box is checked, a hedge near the driveway and/or street corner might create a visual obstruction. Fences, screens, walls and/or hedges must comply with SBMC 28.87.170.

☐ If this box is checked, existing items such as trash can(s), wood pile, pond and/or fountain might encroach into the required setbacks. See Section VIII below for the required setbacks for this property.

All questions regarding abatement of the zoning violations should be directed to the City's Planning and Zoning Counter at 630 Garden Street, or (805) 564-5578. All questions regarding building permits or abatement of the building violations should be directed to the City's Building and Safety Counter at 630 Garden Street, or (805) 564-5485. For information on how to apply for a building permit to correct violations, please review the "As-Built Construction Plan Submittal Requirements" available at the Building and Safety Division Counter located at 630 Garden St. or online at: http://www.santabarbaraca.gov/services/planning/forms/building.asp.

IV. PROPERTY DESCRIPTION

LOT SIZE (Per County Assessor Records): 1.10 Acres; 47,916 sq.ft.

ZONE (See Attached Zone Reqs.): A-1, Single Family Residence Zone

SLOPE: (Approximate): 25%

UNIT DESCRIPTION(S):

Unit #: A **This is a legal dwelling unit.**	Legal	Non-Permitted
Bedrooms	2	0
Full Baths	2	0
Half Baths	0	0
Sinks (other than kitchen sinks)	0	0

Unit #: B **This is a legal dwelling unit.**	Legal	Non-Permitted
Bedrooms	1	0
Full Bath	1	0
Half Baths	1	0
Sinks	0	0

PARKING:

Number of Parking Spaces Existing on Site: 1 covered, 0 uncovered

Number of Parking Spaces Legally Recognized: 1 covered, 0 uncovered

Note: All required parking spaces shall be available for parking at all times, and garages shall not be used for storage that prevents access to required parking spaces (SBMC §28.90.060 and §28.90.100.G)

IV. PROPERTY ATTRIBUTES

NONCONFORMING:

A building, structure, or use is defined as legal **non-conforming** if it met the rules in effect when it was permitted, but because of subsequent zoning changes, the structures do not conform to today's zoning standards. Non-conforming properties may be maintained, improved, or altered with certain limitations described in the zoning ordinance (SBMC §28.87.030.D). Please be aware that property line locations are an estimate for the purposes of this report and that unless shown on City archive plans, the interior or rear property lines are assumed to be an interior or rear fence.

Front Setback: Non-Conforming, Dwelling encroaches

Interior or Rear Setback: Non-Conforming, Garage encroaches

Density: Non-Conforming

NOTES AND APPROVALS:

City records show the following City discretionary approvals and important notes for this property: (If none, this area will be blank.)

Examples: No record of discretionary land use permits.

There are no original building permits or plans on file for the dwelling therefore, no verification can be made as to the number and legality of the existing configuration of rooms.

In November of 1999, a Pre-residential Seismic Inspection was done by the City. This inspection is a voluntary inspection; however, the report did note that the existing foundation and pony walls were completely unacceptable and that a new foundation was required. There are no permits on record for any foundation work.

PARCEL TAGS:

The following special districts or other attributes of the property are on file for this property: (If none, this area will be blank.)

Demolition Review Study Area

All structures 50 years or older that are proposing partial or full demolition alterations are required to be reviewed by Planning prior to building permit issuance.

GMP Development Area

Riviera

Zoning Compliance Decl. Rcvd

11-26-13 - ZCD received per document #2013-0074321, recorded on Nov. 21, 2013.

Comment [sfr2]: Only the items that have been determined to be non-conforming will print out in the ZIR.

Comment [sfr3]:
For the notes part - This is where we'd add any relevant information not covered by another section of the ZIR we want to convey. We would also note any inconsistencies in information we have but aren't going to call out as a violation.

V. EXPIRATION DATES, AMENDMENTS TO THIS ZIR, AND APPEALS

EXPIRATION DATE:

This ZIR expires **one year** from the Report Date. A one year time extension of this ZIR can be applied for prior to the expiration date of this ZIR. The time extension requires an additional physical inspection and application fee.

AMENDING THE ZIR:

The City encourages property owners to provide any supplemental property information they may have to inform the conclusions of this report. Please contact the preparer of this report if you have general questions regarding the findings of this report or want to provide supplemental information to inform the conclusion of this report. Questions related to the abatement of violations can be directed to the appropriate staff noted under the "Violations" section above.

Once violations are corrected on the property, it is not necessary to amend the current ZIR. Either the final approval of the issued building permit will serve as documentation, or when the property is for sale again the subsequent ZIR will show that the violations no longer exist. The new property owner is not required to contact City Staff to amend this report once the violations have been abated.

APPEALS:

If you want to appeal the findings of this ZIR, you must do so within 10 days of the date of this ZIR. To file an appeal, submit a written letter or email to the preparer of this ZIR stating the grounds claimed for the appeal and any supporting documentation on the specific improvement or content in the ZIR that is in dispute. No fee is required for this appeal if it is filed within 10 days of the date of this ZIR. Staff time to research and resolve any appeals filed after the 10 day appeal period will be subject to the hourly rate fee as established by the City Council.

VI. RESOURCES USED FOR THE PREPARATION OF THIS ZIR

_____Archive Plans
_____Street and/or Planning File
_____Sanborn Maps
_____Aerial Photographs
_____Historic Photographs
_____City of Santa Barbara Architectural & Historic Resource Survey
_____County of Santa Barbara Residential Building Record (Supplied by Property Owner)

The above items can be reviewed at the City's Planning and Zoning Counter located at 630 Garden Street. **In addition, the entire contents of the City street and planning files can be viewed online at www.SantaBarbaraCA.gov\PlanningCentral.**

Additional information regarding regulations that pertain to properties within the City of Santa Barbara, environmental constraints that may pertain to the property, and the City's review process, please contact the Planning and Zoning Counter at (805) 564-5578 for more information or visit our Planning Central webpage at www.SantaBarbaraCA.gov\PlanningCentral.

PROPERTY ADDRESS
A.P.N.: XXX-XXX-XXX
Zoning: A-1

Zoning Information Report #ZIR20XX-00XXX was prepared by:

(Inspector's name, title, email and phone number)

June 27, 2014

_____
Signature

GENERAL ZONING INFORMATION

A-1, SINGLE FAMILY RESIDENTIAL

Zone:	**A-1 (SBMC§28.15)**
Front Setback	35 feet
Interior & Rear Setback	15 feet
Required Open Yard Area	1,250 sq. ft. + Min. Dimensions + Location + Sloped lot req. + Exceptions
Maximum Height Limit	30 feet (Measure per SBMC§28.04.140)
Required Off-street Parking Spaces	2 covered or meet other provisions outlined in SBMC§28.90.100
Distance Between Main Buildings	20 feet (Measure per SBMC§28.04.245)
	Allowable encroachments into setbacks, open yard, etc: SBMC§28.87.062
Secondary Dwelling Unit (Granny Unit)	See "Secondary Dwelling Unit Guidelines" handout and SBMC§28.94.030.Z

FENCES, SCREENS, WALLS AND HEDGES:

Santa Barbara Municipal Code §28.87.170 regulates the height of fences, screens walls and hedges based on their location on the property. Plans in City records that show fences, screens, walls or hedges as "existing" do not necessarily legalize such items unless the project description included permitting these items. Over-height hedges that existed prior to 1957 are non-conforming to the height limit. Sufficient evidence must be presented to the Community Development Director in order to determine that the hedge existed in its present location in 1957 and is non-conforming.

DISCRETIONARY REVIEW:

Please be advised that some construction is subject to design review approval or discretionary review prior to submitting for a building permit. If design review or discretionary review is required, the project will be subject to environmental review, as required by the California Environmental Quality Act (CEQA). If you would like additional information on how or when these processes are required, please contact the Planning and Zoning Counter at (805) 564-5578 for more information or visit our Planning Central webpage at www.SantaBarbaraCA.gov\PlanningCentral.

Receipt of Zoning Information Report
PROPERTY ADDRESS
ZIR20XX-00XXX

This is to certify that I/We _____, the BUYER(s), or my/our authorized agent has received a copy of the Zoning Information Report. I/we understand that if violations exist on the property, there may be follow-up enforcement of these violations as specified in the Zoning Information Report. If there is an attached Notice of Enforcement, an enforcement case will be created, and follow-up enforcement will begin immediately.

Failure to abate these violations in a timely manner may result in the City's refusal to issue building permits and subsequent enforcement action. As the new owner (buyer), I/we understand that I am/we are responsible for the abatement of the violations.

Executed at _____ on _____.
City Date

I declare the above to be true under penalty of perjury.

Buyer's Name _____
Print

_____
Signature of Buyer or Authorized Agent

_____
Mailing Address of Buyer (If different from property address)

Pursuant to Santa Barbara Municipal Code Section 28.87.220, a copy of the above referenced Zoning Information Report must be delivered to the buyer of the property no later than three (3) days prior to the transfer of title to the property.

PRIOR TO THE DATE OF TRANSFER OF TITLE
THIS RECEIPT MUST BE SIGNED, DETACHED AND RETURNED TO:

City of Santa Barbara
Planning Division
P.O. Box 1990
Santa Barbara, CA 93102-1990
FAX #: (805) 897-1904

STAFF's Draft per dirction
from ZIR Working Group – Major Violation example

ZIR FORM #2

Zoning Information Report
PROPERTY ADDRESS
ZIR20XX-00XXX

REPORT DATE: *JUNE 23, 2014*
EXPIRATION DATE: *JUNE 23, 2015*
PREPARED BY: *ZONING INSPECTOR, CONTACT INFORMATION*

I. INTRODUCTION

A Zoning Information Report (ZIR) is required by the City of Santa Barbara on all sales of residential property, with a few exceptions (SBMC §28.87.220). If your property also contains non-residential uses, those uses and related improvements were not inspected as part of this ZIR. The purpose of the ZIR is to provide information to the buyer on residential zoning standards for this property and to identify violations of any City ordinance or law. The ZIR is a good faith effort to provide information based on a site inspection and review of available City records.

The ZIR is a report; it is not an entitlement document or a permit. If there are inconsistencies or errors in this report, or on previous reports or plans, the ZIR cannot be used to legalize any unpermitted construction. Only a building permit with valid city approvals can legalize construction. **The Zoning Inspector is neither a Building Inspector nor a licensed surveyor, and the ZIR will not include a review of compliance with the Building Codes nor confirm the exact location of property lines.** Property lines are an estimate and unless shown on archive plans, the interior or rear property lines are assumed to coincide with any interior or rear fence. City timelines for abatement of major violations is dependent on health and safety concerns and not tied to an escrow period.

II. SITE INSPECTION

On **(DATE)**, a site inspection was conducted and the following buildings and structures were observed on the property. Please note that the items described below include all buildings and structures on site at the time of the inspection and **this description is not a determination of the legal status of any buildings or structures on site**:

One-story duplex with a covered side porch (approx. 44 ft. x 7 ft) with washer/dryer hook-up inside kitchen closet. Detached one-car garage with exterior stairway leading to a roof deck (approx. 17 ft. x 13 ft.) above the garage. Detached arbor/trellis structure (approx. 9 1/2 ft. x 7 1/2 ft.) Detached shed (approx. 9 1/2 ft. x 9 ft.)

III. VIOLATIONS

MAJOR/MINOR/NO VIOLATIONS HAVE BEEN IDENTIFIED FOR THIS PROPERTY

Comment [sfr1]: Only one of these terms (Major/Minor/No) will print out. For this example this ZIR found major violations.

The violations described below have been identified for this property. Non-permitted dwelling units, non-permitted additions of habitable floor area, non-permitted removal of required parking, and new non-permitted development on the coastal bluff face are considered major violations. Please note that the

property contains one or more major violations and the violations have been referred to the Building and Safety Division for immediate code enforcement due to the possibility of Health and Safety risks. There may be improvements listed below that are not considered major violations, however since there are major violations indentified on your property, they must be abated concurrently with the major violations. City timelines for abatement of major violations is dependent on health and safety concerns and not tied to an escrow period.

SEE ATTACHED NOTICE OF ENFORCEMENT

1. The rear bedroom and half-bathroom have been converted to an illegal dwelling unit by installing new walls to create separate rooms, converting the half-bathroom to a full bathroom, adding doors and windows and the construction of a kitchen (sink, counter, stove and a refrigerator) without the required permits.
2. The fence along the front lot line exceeds the maximum allowable height of three and one half feet within ten feet of the front lot line. No permits could be located for this fence.
3. The roof deck above the garage encroaches into the required interior setback and was constructed without the required building permit.
4. The exterior stairway to the roof deck was constructed without the required building permit.
5. The arbor/trellis structure encroaches into the required interior setback.
6. A new wall with a closet with washer/dryer hook-ups has been constructed in the kitchen without the required permit.

☐ If this box is checked, a hedge near the driveway and/or street corner might create a visual obstruction. Fences, screens, walls and/or hedges must comply with SBMC 28.87.170.

☐ If this box is checked, existing items such as trash can(s), wood pile, pond and/or fountain might encroach into the required setbacks. See Section VIII below for the required setbacks for this property.

All questions regarding abatement of the zoning violations should be directed to the City's Planning and Zoning Counter at 630 Garden Street, or (805) 564-5578. All questions regarding building permits or abatement of the building violations should be directed to the City's Building and Safety Counter at 630 Garden Street, or (805) 564-5485. For information on how to apply for a building permit to correct violations, please review the "As-Built Construction Plan Submittal Requirements" available at the Building and Safety Division Counter located at 630 Garden St. or online at: http://santabarbaraca.gov/services/planning/forms/building.asp.

IV. PROPERTY DESCRIPTION

LOT SIZE (Per County Assessor Records): 0.10 Acres; 17,424 sq.ft.

ZONE (See Attached Zone Reqs.): R-3, Limited Multiple-Family Residence Zone

SLOPE: (Approximate): 5%

UNIT DESCRIPTION(S):

Unit #: A **This is a legal dwelling unit.**	Legal	Non-Permitted
Bedrooms	2	0
Full Baths	2	0
Half Baths	0	0
Sinks (other than kitchen sinks)	0	0

PROPERTY ADDRESS
A.P.N.: XXX-XXX-XXX
Zoning: R-3

Unit #: B **This is a non-permitted dwelling unit.**	Legal	Non-Permitted
Bedrooms	1	0
Full Bath	0	1
Half Baths	1	0
Sinks	0	1

PARKING:

Number of Parking Spaces Existing on Site: 1 covered, 0 uncovered

Number of Parking Spaces Legally Recognized: 1 covered, 0 uncovered

Note: All required parking spaces shall be available for parking at all times, and garages shall not be used for storage that prevents access to required parking spaces (SBMC §28.90.060 and §28.90.100.G)

IV. PROPERTY ATTRIBUTES

NONCONFORMING:

A building, structure, or use is defined as legal non-conforming if it met the rules in effect when it was permitted, but because of subsequent zoning changes, the structures do not conform to today's zoning standards. Non-conforming properties may be maintained, improved, or altered with certain limitations described in the zoning ordinance (SBMC §28.87.030.D). Please be aware that property line locations are an estimate for the purposes of this report and that unless shown on City archive plans, the interior or rear property lines are assumed to be an interior or rear fence.

Front Setback: Non-Conforming, Dwelling encroaches

Interior or Rear Setback: Non-Conforming, Garage encroaches

Density: Non-Conforming

NOTES AND APPROVALS:

City records show the following City discretionary approvals and important notes for this property: (If none, this area will be blank.)

Examples: No record of discretionary land use permits.

There are no original building permits or plans on file for the dwelling therefore, no verification can be made as to the number and legality of the existing configuration of rooms.

In November of 1999, a Pre-residential Seismic Inspection was done by the City. This inspection is a voluntary inspection; however, the report did note that the existing foundation and pony walls were completely unacceptable and that a new foundation was required. There are no permits on record for any foundation work.

PARCEL TAGS:

The following special districts or other attributes of the property are on file for this property: (If none, this area will be blank.)

Demolition Review Study Area

All structures 50 years or older that are proposing partial or full demolition alterations are required to be reviewed by Planning prior to building permit issuance.

GMP Development Area

Comment [sfr2]: Only the items that have been determined to be non-conforming will print out on the ZIR form.

Comment [sfr3]: For the notes part - This is where we'd add any relevant information not covered by another section of the ZIR we want to convey. We would also note any inconsistencies in information we have but aren't going to call out as a violation.

Downtown

Zoning Compliance Decl. Rcvd

11-26-13 - ZCD received per document #2013-0074321, recorded on Nov. 21, 2013.

V. EXPIRATION DATE, AMENDMENTS TO THIS ZIR, AND APPEALS

EXPIRATION DATE:

This ZIR expires one year from the Report Date. A one year time extension of this ZIR can be applied for prior to the expiration date of this ZIR. The time extension requires an additional physical inspection and application fee.

AMENDING THE ZIR:

The City encourages property owners to provide any supplemental property information they may have to inform the conclusions of this report. Please contact the preparer of this report if you have general questions regarding the findings of this report or want to provide supplemental information to inform the conclusion of this report. Questions related to the abatement of violations can be directed to the appropriate staff noted under the "Violations" section above.

Once violations are corrected on the property, it is not necessary to amend the current ZIR. Either the final approval of the issued building permit will serve as documentation, or when the property is for sale again the subsequent ZIR will show that the violations no longer exist. The new property owner is not required to contact City Staff to amend this report once the violations have been abated.

APPEALS:

If you want to appeal the findings of this ZIR, you must do so within 10 days of the date of this ZIR. To file an appeal, submit a written letter or email to the preparer of this ZIR stating the grounds claimed for the appeal and any supporting documentation on the specific improvement or content in the ZIR that is in dispute. No fee is required for this appeal if it is filed within 10 days of the date of this ZIR. Staff time to research and resolve any appeals filed after the 10 day appeal period will be subject to the hourly rate fee as established by the City Council.

VI. RESOURCES USED FOR THE PREPARATION OF THIS ZIR

_____Archive Plans
_____Street and/or Planning File
_____Sanborn Maps
_____Aerial Photographs
_____Historic Photographs
_____City of Santa Barbara Architectural & Historic Resource Survey
_____County of Santa Barbara Residential Building Record (Supplied by Property Owner)

The above items can be reviewed at the City's Planning and Zoning Counter located at 630 Garden Street. **In addition, the entire contents of the City street and planning files can be viewed online at www.SantaBarbaraCA.gov\PlanningCentral.**

Additional information regarding regulations that pertain to properties within the City of Santa Barbara, environmental constraints that may pertain to the property, and the City's review process, please contact the Planning and Zoning Counter at (805) 564-5578 for more information or visit our Planning Central webpage at www.SantaBarbaraCA.gov\PlanningCentral.

PROPERTY ADDRESS
A.P.N.: XXX-XXX-XXX
Zoning: R-3

Zoning Information Report #ZIR20XX-00XXX was prepared by:

(Inspector's name, title, email and phone number)

June 27, 2014

_____
Signature

GENERAL ZONING INFORMATION

R-3, Limited Multiple-Family Residence Zone

Additions or Alterations	Projects which only involve additions or alterations are subject to existing "Base Density" or "Variable Density" requirements outlined in SBMC§28.21.
New Units	Projects which involve new units must comply with either "Base Density" requirements (SBMC§28.21) or "AUD" requirements (SBMC§28.20). "Variable Density" is temporarily suspended as described in SBMC§28.21.050.
Net Lot Area Requirements for Residential Units	See SBMC§28.20
Average Unit-Size Density Incentive Program (AUD)	
Base Density	
< 5,000 sq. ft.	1 unit
5,000-6,999 sq. ft.	2 units
7,000-13,999 sq. ft.	3 units
14,000 sq. ft. <=	3,500 sq. ft. of lot area per unit
Front Yard Setback	
1- or 2-story structures	10 feet
3-story structures	15 feet (See Exception SBMC§28.21.060.A.2)
Parking not facing street	10 feet
Parking facing street	20 feet
Interior yard Setback	
1- or 2-story structures	6 feet
3-story structures	10 feet (See Exception SBMC§28.21.060.B.2)
Garage/Carport/Uncovered Parking	6 feet (See Exception SBMC§28.21.060.B.3 and SBMC§28.90.001.H)
Rear Yard Setback	
Ground floor portion of structures	6 feet
2- or 3-story portion of structures	10 feet
Garage/Carport/Uncovered Parking	3 feet (See Exception SBMC§28.90.001.H)
Outdoor Living Space Method A	
1. 10% Open Space	See SBMC§28.21.081.A
2. Common Open Area	See SBMC§28.21.081.A.2
3. Private Outdoor Living Space	15 feet x 15 feet (See SBMC§28.21.081.A.3)
Unit Size	Ground Floor Upper Floor
Studio	100 sq. ft. 60 sq. ft.
1 Bedroom	120 sq. ft. 72 sq. ft.
2 Bedroom	140 sq. ft. 84 sq. ft.
3+ Bedroom	160 sq. ft. 96 sq. ft.

Min. Dimensions	10 feet 6 feet
Outdoor Living Space Method B	15% Lot + Min. 20 ft. dimensions + Location (See SBMC§28.21.081.B)
Maximum Building Height	3 stories not to exceed 45 feet (Measure per SBMC§28.04.140). Solar Access Ord (SBMC§28.11) may further limit height
Distance Between Main Buildings	(Measure per SBMC§28.04.245)
1-story building to 1-story building	10 feet
1-story building to multi-story building	15 feet
Multi-story building to multi-story bldg	15 feet
	Allowable encroachments into setbacks, open yard, etc: SBMC§28.87.062
Required Off-Street Parking Spaces (SMBC§28.90)	
One House on the property	2 covered
Multiple Houses or Duplexes	1 covered & 1 uncovered per unit
Multi-Family (3+ attached units)	
Studio	1 1/4 uncovered spaces per unit
1-Bedroom Units	1 1/2 uncovered spaces per unit
2+-Bedroom Units	2 uncovered spaces per unit
Guest Spaces	1 per 4 units if 6+ units in the complex
Bicycle Parking	1 bicycle parking space for every 7 vehicle parking spaces required.

FENCES, SCREENS, WALLS AND HEDGES:

Santa Barbara Municipal Code §28.87.170 regulates the height of fences, screens walls and hedges based on their location on the property. Plans in City records that show fences, screens, walls or hedges as "existing" do not necessarily legalize such items unless the project description included permitting these items. Over-height hedges that existed prior to 1957 are non-conforming to the height limit. Sufficient evidence must be presented to the Community Development Director in order to determine that the hedge existed in its present location in 1957 and is non-conforming.

DISCRETIONARY REVIEW:

Please be advised that some construction is subject to design review approval or discretionary review prior to submitting for a building permit. If design review or discretionary review is required, the project will be subject to environmental review, as required by the California Environmental Quality Act (CEQA). If you would like additional information on how or when these processes are required, please contact the Planning and Zoning Counter at (805) 564-5578 for more information or visit our Planning Central webpage at www.SantaBarbaraCA.gov\PlanningCentral.

NOTICE OF ENFORCEMENT
(PROJECT ADDRESS)

The property contains one or more major violations and the violations have been referred to the Building and Safety Division for immediate code enforcement due to the possibility of Health and Safety risks. Non-permitted dwelling units, non-permitted additions of habitable floor area, non-permitted removal of required parking, and new development on the coastal bluff face are considered major violations. Any minor violations that were identified on the property were also included in the referral to the Building and Safety Division.

An enforcement case (ENF20_____) has been created and forwarded to the Building and Safety Division. A Building Inspector will be assigned to the case for enforcement of the violations described in this ZIR. You may call and schedule a follow-up inspection to determine the type of permits required for the abatement of your violations. **Contact the Building and Safety Division at (805)564-5470 to speak to the inspector assigned to your enforcement case.**

There are several options for abatement of these violations. They include:

a) The issuance of a building permit to allow the improvement(s) to remain, if found to comply with all City Codes and Ordinances. Prior to the issuance of the building permit, discretionary review and approval may be necessary;

b) The issuance of a building permit to demolish the improvement(s); or

c) A combination of a) and b) above.

For information on how to apply for a permit to correct violations, please review the **"As-Built Construction Plan Submittal Requirements"** available at the Building and Safety Division Counter located at 630 Garden St. or online at: http://santabarbaraca.gov/services/planning/forms/building.asp.

Please note that the property owner of record is responsible for abating these violations in a timely manner. There is no City requirement that these violations be abated prior to the close of escrow. An appropriate schedule for abatement is determined working with the Building Inspector. However, if the violations have not been abated by the time escrow closes, the new property owner of record becomes responsible for the abatement of the violations.

The failure of any past, present or future property owner to fully abate these violations may result in the refusal to issue future building permits, referral to the City Attorney's Office, and/or ultimately, Superior Court action.

Receipt of Zoning Information Report
PROPERTY ADDRESS
ZIR20XX-00XXX

This is to certify that I/We _____, the BUYER(s), or my/our authorized agent has received a copy of the Zoning Information Report. I/we understand that if violations exist on the property, there may be follow-up enforcement of these violations as specified in the Zoning Information Report. If there is an attached Notice of Enforcement, an enforcement case will be created, and follow-up enforcement will begin immediately.

Failure to abate these violations in a timely manner may result in the City's refusal to issue building permits and subsequent enforcement action. As the new owner (buyer), I/we understand that I am/we are responsible for the abatement of the violations.

Executed at _____ on _____.
City Date

I declare the above to be true under penalty of perjury.

Buyer's Name _____
Print

_____
Signature of Buyer or Authorized Agent

_____
Mailing Address of Buyer (If different from property address)

Pursuant to Santa Barbara Municipal Code Section 28.87.220, a copy of the above referenced Zoning Information Report must be delivered to the buyer of the property no later than three (3) days prior to the transfer of title to the property.

PRIOR TO THE DATE OF TRANSFER OF TITLE
THIS RECEIPT MUST BE SIGNED, DETACHED AND RETURNED TO:

City of Santa Barbara
Planning Division
P.O. Box 1990
Santa Barbara, CA 93102-1990
FAX #: (805) 897-1904

Paper on Dealing with Discrepancies in ZIRs and Abatement of Violations Identified in ZIRs

Background

For the purposes of the ZIR, violations are categorized into two categories; major and minor. Major violations include the following actions taken without the benefit of required approvals or permits: the creation of illegal dwelling unit(s), new floor area or conditioned space, the physical loss of required parking, an improvement on the face of an ocean bluff, or violations that pose an immediate fire or life safety risk. Because major violations have the potential to create health and safety hazards or to negatively impact the neighborhood, they are referred to enforcement staff for follow-up and abatement. Violations that do not fall within one of those categories are classified as minor violations. Minor violations are not referred to enforcement staff, and remain as part of the public record. Minor violations are required to be abated prior to or concurrent with the next building permit that is sought for the property. Exceptions to this requirement are made only for permits involving work which is necessary to secure life and limb, or to ensure the safety of the property (See Attachment). City timelines for the abatement of major violations are set based on health and safety concerns and are not tied to an escrow period.

Over the last four years (2010-2013), on average 82% of ZIRs have had some sort of violation. Of those, 83% of the violations were minor and 17% were major.

Discrepancies between ZIRs- Planning process

On average, City staff prepares 45 ZIRs each month. Of this number, approximately 2-4 ZIRs have some type of inconsistency or discrepancy between the current ZIR and a previous ZIR. This is a small percentage of the total number of ZIRs. The vast majority of those discrepancies involve improvements that are considered minor for the purposes of the ZIR and are not referred for enforcement. However, if the property owner or buyer wishes to abate the minor violation at the time of the transfer of the property, City staff works with the property owner or buyer. The most common examples include: over-height hedges, storage sheds in setbacks, decks and trellises, the number of permitted bedrooms/bathrooms, conversion of understory/attic areas, full bathrooms in detached accessory buildings, and additional floor area.

During the preparation of a ZIR, if it is determined that the findings of the current ZIR do not match the findings of the previous ZIR, more research is performed before staff finalizes the ZIR to verify the status of the improvements in question. This research involves a number of sources, including: Sanborn Maps, consultation and/or additional site inspection with City building inspectors, historic survey documentation, and aerial photographs. Staff also consults with the property owner or real estate agent to discuss the discrepancy and to ask if they have any information which could help establish when the improvement in question first appeared on the site. Staff sometimes asks the property owner to obtain the County Assessor's Residential Building Record which can help establish when the improvement in question first

appeared on the property. Records that establish when an improvement was constructed help determine what City Codes were in effect at the time, and what standards and permits were necessary. Unfortunately in some instances, the property owner has construed this consultation as the City views them as "guilty until proven innocent" when the City was seeking additional information to inform the conclusion of the ZIR.

If the conclusion of this additional research is that the improvement was constructed consistent with City regulations, then this determination to resolve the discrepancy is clearly documented in the ZIR to avoid future questions on how the conclusion was made. If the conclusion of this additional research is that the improvement does not have the required City approvals and/or permit, it is listed as a violation in the ZIR. If the improvement in question is a minor violation, it is not referred for enforcement, unless there are also major violations identified onsite.

If the improvement in question is a major violation then it is referred for enforcement. Enforcement and abatement typically entails one or more of the following paths: if the work complies with existing codes (Zoning, Building, etc.) and discretionary review is not required (Modification, Design Review or other approval), then a building permit may be issued for the improvement as it exists; if the improvement complies with applicable Codes but the improvement requires discretionary review, a permit may be issued consistent with discretionary approval or conditional approval; or, if the improvement does not comply with existing codes or the improvement does not receive required discretionary approval, the issuance of a demolition permit for the removal of the improvement.

Currently, staff does not have the authority to waive zoning standards if the improvement in question conflicts with zoning requirements. Therefore, discretionary approval of a Modification of the requirement would be needed. When there is a conflict between ZIRs, staff makes the process as painless as possible: Planning fees, such as those for Modifications or Design Review, are waived; minimal information is requested of the applicant; and the project is scheduled for the next available Staff Hearing Officer meeting for a decision. The ZIR inspector processes those applications to streamline the process. In the last six years, only three projects that had discrepancies between ZIRs were heard by the Staff Hearing Officer that required modifications.

As part of the ZIR process improvements, Staff is proposing a new Administrative Zoning Approval process in order to provide an administrative process to consider and approve minor reductions or waivers of zoning standards when there are unclear city records, discrepancies in the record (including discrepancies in ZIRs), and it is evident that the improvement was on the site prior to 1974[1]. To establish this new administrative process Council must approve an amendment to the Zoning Ordinance.

Staff proposes to allow the following types of improvements with Administrative Zoning Approvals:

[1] Year of the adoption of the Ordinance establishing ZIRs.

1. Encroachments into setback, private outdoor living space, open yard or distance between buildings encroachment, such as:

    a. Hardscape improvements in a setback – i.e. fixed objects in the landscape such as planters above 10", built-in steps, fountain and pond (no pump), screens, decorative features, etc. This does not include built in BBQs or raised fire pits.
    b. The conversion of a carport to a garage in a required setback or vice versa.
    c. First story window changes in a setback and second story window changes with consent review by the applicable design review body.
    d. Alterations in the front setback such as windows, doors, skylight, façade change, etc
    e. Change of use in required setbacks. This includes conversion of existing unfinished or finished understory or attic space to occupiable or habitable space in setbacks.
    f. Small, uniform additions within any setbacks. Said addition should be a minimum of 5 feet from the interior property line. Encroachments into the front setback shall not exceed 20% of the required front setback.
    g. Alterations to the roof pitch in any setback.
    h. Storage buildings less than 120 sq.ft. with no utilities constructed prior to 1975 located in the interior setback.

2. If residence/structure already encroaches into interior setback (i.e. it is legal non-conforming), allow certain minor improvements to encroach further:

    a. Chimneys if more than three feet from any property line.
    b. Cantilevered architectural features at least 3' above adjacent grade or finished floor which do not provide additional floor space within the building may encroach up to two feet if more than three feet from any property line.
    c. In the front setback only, uncovered balconies not providing additional floor space within the building may encroach up to two feet.
    d. Covered but unenclosed or uncovered entrance landings or steps.

3. Oversized accessory building or garage, built before 1975. Current size limit for accessory buildings is 500 sq.ft. and for garages 750 sq.ft. if property is zoned A-1 or A-2. The garage size limit for all other residential zones is 500 sf.

Again, Staff is proposing that this a new Administrative Zoning Approval process be only used in instances where there are unclear city records, discrepancies in the record (including discrepancies in ZIRs) and it is evident that the improvement has been there prior to 1974. If the improvement is a new violation or if it does not qualify for Administrative Zoning Approval and the property owner proposes to keep the improvement, then a modification of the zoning requirement (if a modification is available) would have to be requested. In instances of discrepancies between ZIRs, fees would continue to be waived and the project permitting would be expedited.

As part of the New Zoning Ordinance process currently underway, staff will be analyzing and proposing the expansion of the types of improvements that could qualify for Administrative Zoning Approvals.

In addition to this new Administrative Zoning Approval process, staff proposes that in the case of inconsistencies/discrepancies between ZIRs, staff would only refer the creation of an illegal dwelling unit and the physical loss of parking for enforcement. The creation of new floor area or conditioned space would only be referred if it appears to create an immediate health or safety risk. The risk to health and safety would be determined in consultation with the City's Building Inspectors. These three items have the potential to cause serious health and safety risks, cause the most impacts to the neighborhood, and are broader community issues.

Discrepancies between ZIRs and abatement of ZIR violations- Building Permit process

In terms of with dealing with discrepancies in ZIRs in the building permit process, the process is similar to what is done for any violation. If an improvement requires a building permit, there is no option to relieve a property owner of that requirement. However, the City is committed to streamlining the permitting process as much as possible.

To streamline the process, the Building Division has dedicated two plan check positions to handle questions and issues related to ZIR violations. This allows for more consistency in addressing ZIR violations. In addition, Planning staff consults with Building staff during the ZIR preparation process on issues/violations that require permits. Building staff will give Planning staff an indication of the information that will be necessary for the building permit.

Building staff is also flexible in addressing the abatement of violations from ZIRs that involve "as-built" non-habitable square footage and minor exterior improvements (i.e. minor violations such as fountains, patio covers, deck or patios, small storage buildings, etc.) by allowing building permits to be issued without site or floor plans or by allowing hand-drawn plans on City-provided graph paper if they are required. City staff determines whether a site plan is necessary, or whether the improvement could be documented by a detailed written description on the building permit.

Depending on the scope of the "as-built" improvement, some improvements could qualify for an over-the-counter permit. As much as possible, Building staff allows for this option.

If an improvement does not qualify for an over-the-counter permit and is determined to be a minor violation, it could typically be addressed by providing minimal information on a site plan. A site plan would be necessary to document the location of the improvement(s) on the site in relation to the property lines, setbacks, and required open yard. In some instances, only the immediate area of the improvement would be necessary to be shown on the plan. If the project is for the removal of the as-built improvement, a scaled site plan showing property lines, required setbacks, where the improvement is currently located, and an indication on whether it would be removed from the site or relocated on site would be necessary.

If the violation involves the addition of new floor area or conditioned space to the residence, then full plans and code compliance are necessary to be submitted for a building permit.

As part of the process improvements, the ZIR inspector is more involved in the building permit plan check process for applications for the abatement of violations found in ZIRs. This helps streamline the plan check process because the ZIR inspector is familiar with the site and

violations and can make a reasonable determination on what documentation needs to be provided for zoning and planning purposes.

Conclusion

Staff has taken steps to improve the accuracy and consistency in the preparation of ZIRs. However, realizing that discrepancies may continue to be discovered, Staff is proposing a number of ways to address discrepancies between ZIRs. Staff has proposed limiting immediate enforcement to cases of illegal dwelling units, loss of required parking, and floor area or conditioned space that pose an immediate health and safety risk. All other violations will be noted and kept in the file but will not be referred to enforcement. Staff has also proposed the Administrative Zoning Approval process to consider and approve minor reductions or waivers of zoning standards when there are unclear city records, discrepancies in the record (including discrepancies in ZIRs), and it is evident that the improvement was on the site prior to 1974.

In regards to the permitting process, the City is committed to streamlining the City discretionary review and permit processing process. If a violation existed on a property at the time of a previous ZIR and was not identified as a violation, Planning fees are waived and the project would be expedited.

In terms of the building permit process, the City is committed to streamlining the building permit process for all projects submitted for a building permit. As such, Council approved additional funding with this year's budget to fund additional staffing for the overall plan check process. Zoning staff has been reviewing its plan check procedures to address issues which have arisen in the overall plan check process, including the amount and type of information requested to be submitted and the timeline for review. In addition, the Land Development Team Supervisors have been meeting regularly about the plan check process and potential improvements to it. Those two improvement processes dovetail into the issues the ZIR Working Group has been working on. Specifically in the area of addressing violations that have been identified through the ZIR process, building staff also carefully reviews the scope of the improvements to determine if the project could qualify for over the counter permit and whether site or floor plans are necessary. The ZIR inspector is more involved in building permit/plan check process and helps in the determination on what the appropriate documentation should be for the abatement of the violations.

Attachment:

Building Permit Issuance with Pending Enforcement

Counter Policies & Procedures

BUILDING PERMIT ISSUANCE WITH PENDING ENFORCEMENT

INTRODUCTION

When the City receives a development application on a lot with outstanding violations, a permit is not issued unless the violation is corrected as part of the permit. All violations must be corrected on one permit, they cannot be piecemealed. Violations include: all pending or active ENF cases, expired permits, and any violations from past ZIRs. Exceptions are made only for permits involving work which is necessary to secure life and limb, or to ensure the safety of the property. The purpose of this policy is to establish when and what type of permit may be issued on a property with enforcement pending.

POLICY

Building permits shall not be issued unless all identified violations are abated as part of the permit. However, permits for the following types of repair work may be issued without including or addressing the violation(s) as long as the scope of work for that permit does not involve the improvement that is the subject of the violation. Design Review may still be required.

1. Permits for reroof of a building, without changing the pitch or configuration of the roof

2. Permits for electrical or other utility upgrade, including changing out a meter for a larger one, or rewiring, re-plumbing, and sewer line replacement.

3. Any work which is repair on an existing property, such as replacing a termite-damaged deck or wall. This does not include replacing existing windows or doors with new windows or doors of a different material or size.

4. Emergency repairs, such as retaining walls, in a situation where life or property is immediately threatened.

5. New or replacement solar panels or electric vehicle charging stations are allowed to proceed without abating violations as an incentive to these types of projects.

If there is a question of whether the application goes beyond necessary repair, the Building and Safety Division should be consulted to determine if it is a true health and safety concern. Even minor permits must comply; examples of minor permits that are not considered a safety concerns include: pool permits, new air conditioners, repaving driveways.

Potential Administrative Zoning Approvals

In instances where there are unclear city records, discrepancies in the record (including discrepancies in ZIRs) and it is evident that the improvement was on the site prior to 1974[1]:

1. Encroachments into setback, private outdoor living space, open yard or distance between buildings encroachment, such as:

   a. Hardscape improvements in a setback – i.e. fixed objects in the landscape such as planters above 10", built-in steps, fountain and pond (no pump), screens, decorative features, etc. This does not include built in BBQs or raised fire pits.

   b. The conversion of a carport to a garage in a required setback or vice versa.

   c. First story window changes in a setback and second story window changes with consent review by the applicable design review body.

   d. Alterations in the front setback such as windows, doors, skylight, façade change, etc

   e. Change of use in required setbacks. This included conversion of existing unfinished or finished understory or attic space to occupiable or habitable space in setbacks.

   f. Small, uniform additions within any setbacks. Said addition should be a minimum of 5 feet from the interior property line. Encroachments into the front setback shall not exceed 20% of the required front setback.

   g. Alterations to the roof pitch in any setback.

   h. Storage buildings less than 120 sq.ft. with no utilities constructed prior to 1975 located in the interior setback.

2. If residence/structure already encroaches into interior setback (i.e. it is legal non-conforming), allow certain minor improvements to encroach further:

   a. Chimneys if more than three feet from any property line.

   b. Cantilevered architectural features at least 3' above adjacent grade or finished floor which do not provide additional floor space within the building may encroach up to two feet if more than three feet from any property line.

   c. In the front setback only, uncovered balconies not providing additional floor space within the building may encroach up to two feet.

   d. Covered but unenclosed or uncovered entrance landings or steps.

3. Oversized accessory building or garage, built before 1975. Current size limit for accessory buildings is 500 sq.ft. and for garages 750 sq.ft. if property is zoned A-1 or A-2. The garage size limit for all other residential zones is 500 sf.

[1] Year of the adoption of the Ordinance establishing ZIRs.

City of Santa Barbara

Community Development Department

ZIR Working Group Meeting Minutes

Date/Time: January 30, 2014 9:00 A.M.

Location: City of Santa Barbara – Community Development Building
Community Development Conference Room, 2nd Floor
630 Garden Street
Santa Barbara, CA 93101

Present: Susan Reardon, Senior Planner
Bettie Weiss, City Planner/Acting Community Development Director
Deborah Schwartz, Planning Commissioner
John Campanella, Planning Commissioner
June Pujo, Planning Commissioner
Krista Pleiser, SBAOR
Bob Hart, SBAOR
Jim Caldwell, SBAOR/Realtor
Adrienne Schuele, SBAOR/Realtor
Laurel Abbott, SBAOR/Realtor

Susan went over the objectives, focus, and proposed approach on working on the issues of the working group. She also gave a status on the City meeting the new objective of completing 80% of the ZIRs within 10 days of application submittal. For the period of Oct.-Dec. 2013, 93% were completed within 10 working days. She also explained that staff has seen a decrease in the number of ZIR applications submitted prior to escrow and an increase in the number of ZIR applications submitted more than 5 days after entering into escrow. She requested SBAOR remind their membership know that it is important to get the ZIR applications in early.

Bob explained SBAORs position regarding their desire to have ZIRs be optional, however to some degree that is an open issue as they are committed to do the best they can with this ZIR working group.

Adrienne wants to address the underlying problems and suggested the group work on the format of the ZIR form first, and explained that she did work with the City of Ventura when they were updating their forms.

Deborah suggested we start with big picture and philosophy of the parties involved, find areas of agreement and where to look for changes/improvements.

June stated the most important aspect is the reliability and the legal complications.

Bettie stated it's important to understand why and how we got to this problem. The process has evolved over time so there is a lack of consistency between old ZIRs and present procedures and quality.

Bob said it was very important to get the City Attorney's point of view. He feels the City's point of view when discrepancies arise is very different from other jurisdictions. He gave examples of Goleta and Carpinteria where he said those cities seem more likely to forgive the situation if they missed something.

Deborah stated it's important for the City to stand by its work product and we need to work on a fair and appropriate way to deal with possible violations whether they are newly discovered or not. During real estate transactions is the prime time to identify possible violations.

June questioned whether the City has a range of information from past decades and how many problems with old ZIRs and plans.

Bettie stated that the information is not easy to get, but we know enough to be clear there are real issues and we believe the group will see those issues and we can work to improve the system.

Laurel stated that when the ZIR is identifying a new issue there is a lot of collaboration on how to solve it. It's the discrepancies with prior ZIRs that are the larger issue.

Bob explained that when the City requests information from the seller, they feel that they are assumed guilty until they prove their innocence.

Susan explained that when the City requests information from the property owner it's to help resolve record gaps or inconsistencies.

Bettie suggests that the group first work through what is done from the start and have a process for dealing with possible violations (minor and major) when there is no discrepancy from a prior ZIR. Then look at the discrepancy cases and develop more tools and approaches to solve those problems (with more flexibility than we have now).

John questioned what the disclosure and responsibilities were for the realtors, what level of inquiry they do. It's important for knowledge for fair and informed decision and expectation for each party in transaction. What are the remedies and price associated with them?

Adrienne gave the example of the City of Ventura where for $24.000 the City of Ventura will provide a computer printout of information in their computer database within 24 hours. The buyer is responsible to interpret the information.

Deborah stated that over time major violations could happen and if we took the City of Ventura's approach, we may not know about it for years.

Jim stated that in the City of Goleta they respond to complaints from the neighbors on possible violations. He also wants this group to better define major vs. minor violations.

John requested information from the SBAOR and City on materially important information.

June stated that ZIRs are important for the confidence for buyers. Important to know what the City knows about a property.

Deborah stated that this meeting had good progress. Next meeting it would be good to discuss major vs. minor violations from both the City and realtor's prospective.

John stated he'd like to hear what the "material effect" is from the realtors and how it affects the value.

Jim stated that when there are major violations, it makes sense for everything to come into the equation.

June stated that the educational component and complexity is important to understand.

It was agreed that the next meeting would focus on:

- Major/ minor violations
- Information on the complexities of the City's decisions;
- Definition of material fact – have the realtors describe what that covers/means

City of Santa Barbara

Community Development Department

ZIR Working Group Meeting Minutes

Date/Time: February 26, 2014 10:00 A.M.

Location: City of Santa Barbara – Community Development Building
Community Development Conference Room, 2nd Floor
630 Garden Street
Santa Barbara, CA 93101

Present: Susan Reardon, Senior Planner
Bettie Weiss, City Planner/Acting Community Development Director
Deborah Schwartz, Planning Commissioner
John Campanella, Planning Commissioner
June Pujo, Planning Commissioner
Krista Pleiser, SBAOR
Bob Hart, SBAOR
Jim Caldwell, SBAOR/Realtor
Adrienne Schuele, SBAOR/Realtor
Laurel Abbott, SBAOR/Realtor
George Estrella, Chief Building official (left 10:40 A.M.)
Larry Cassidy, Building Inspector Supervisor
David Eng, Planning Technician

Susan Reardon provided an overview of the resources used to inform zoning inspections and the Zoning Information Reports:

1) **Archive Plans**: These are approved plans that are stored at the City and available for viewing by appointment at the City's record counter.
2) **Street and Planning Files**: These are stored at the City. These records are scanned and are available for viewing online and at the City's record counter.
3) **Sanborn Map**: Sanborn maps were originally used to assess properties for fire insurance risk. Locally they were updated until the 1960s. They provide a marker of historic conditions of buildings in Santa Barbara from which to compare ZIR inspection findings. They are available for viewing at the City's planning counter. Susan Reardon provided a brief explanation of how to read a Sanborn Map.
4) **County Residential Building Records**: These records are created by the County Assessor and provide information on the use, statistics, and condition of a building over time. Sometimes the permit history is noted. Susan Reardon explained that these records are useful when there are gaps in the City records or when the records are unclear. She noted that the County only provides these records to property owners or their designees.
5) **City of Santa Barbara Historic Survey**: The surveys provide images, building statistics, and brief narratives and assessments of residences within a historic survey area. They sometimes include the permit history of the building. The historic surveys are an ongoing program begun in the 1970s, and have been conducted over time by volunteers, contracted groups, and City staff. Historic survey records are stored at the planning counter and may be viewed upon request.
6) **Other/Aerial Photos**: Old/historic photos and aerial imagery are also used to help establish when an improvement first appeared. Photographs are sometimes provided by a property

owner or they may be in the City's project files. The City's Public Works Department has some aerial photos. UCSB has a more extensive aerial surveys catalog.

Bettie Weiss emphasized that the City welcomes all sources of information to help staff make the appropriate determinations in ZIRs.

The group entered into a discussion about errors and inconsistencies in ZIRs prepared over time. Deborah Schwartz asked whether there is a training manual and consistent training for City staff preparing ZIRs. Susan Reardon noted that training material is being prepared.

Deborah Schwartz noted that the language used to describe violations often varies depending on the staff person preparing the report. She suggested using standardized language in the ZIRs to provide more consistency. Susan Reardon explained that standardized language is often used in ZIRs. However, she and several others in the group also acknowledged that the unique circumstances of certain properties and violations would necessitate customized language.

Deborah Schwartz asked whether there is a checklist of documents and resources used in ZIR preparation. If not, she suggested incorporating one in the future.

The group entered into a discussion about gaps in records, specifically the time period when the County issued building permits in the City. Susan Reardon explained that in these cases, the City would rely on other sources of information.

The group entered into a discussion about the use of private inspectors. John Campanella suggested that it may be useful for findings from private inspectors to be included into City files. Bettie Weiss noted that a problem with this is the need for this information to be verified by City staff. Deborah Schwartz asked to continue the discussion of private inspectors to a future time.

Adrienne Schuele added that a major issue that needs to be examined is how the City should take ownership of errors made by its staff.

Susan Reardon provided an overview of major and minor violations:

1. **Major Violations**
    a. Illegal dwelling units (IDUs)
    b. Addition of new habitable space
    c. Illegal conversion or loss of required parking
    d. Improvements within 50 feet of coastal bluff or on the bluff face

2. **Minor Violations** are all other violations.

Susan Reardon noted that the City does not require violations to be abated within the escrow period and this is a common misunderstanding among agents and property owners.

Deborah Schwartz suggested clearly defining each of the four major violations (e.g. what is the difference between a dwelling and habitable space?) John Campanella also suggested comparing that with what the definitions are from realtors' standpoint.

Adrienne Schuele asked how the group should address the 1000s of inaccurate ZIRs. Susan Reardon disagreed with the assessment that there are 1000s of incorrect ZIRs.

Larry Cassidy explained the building inspectors' role in evaluating violations and took questions from the group. He explained that areas used for living, eating, or sleeping are what make a room "habitable." Noting that building inspectors cannot inspect everything on a property due to time constraints, he also explained that inspectors focus on basic characteristics such as the number of bedrooms and bathrooms, design review requirements, high fire area requirements, and life and safety requirements. He emphasized that if something is overlooked by an inspector, it does not mean it is approved. The group discussed how it is also common for changes to be made out in the field. Bettie Weiss urged that all changes be documented to prevent discrepancies later on.

John Campanella asked whether architects use approved archive plans to base new proposed plans on, whether realtors are coaching buyers to know the right questions to ask when buying, and whether buyers are provided with any supplemental information during the buying process.

Laurel Abbott returned to the topic of privatizing the ZIR process and the role private planners could play by investigating issues and potential violations beforehand.

Krista Pleiser referred to a program used by the City of San Marino where city-trained private inspectors abate violations beforehand. Bettie Weiss explained that this idea has been considered but that given the added time that private inspectors would need to access records and archives, investigations would be prolonged and the cost would not be significantly different. She also expressed concern that without City involvement, the parties involved would not know the City's position on the status of an improvement.

Deborah Schwartz suggested looking into an amnesty program (e.g. City of Ventura) under which property owners would be able to turn themselves in for violations beforehand without financial penalty. Bettie Weiss indicated that Ventura's amnesty program only pertained to the legalization of second units.

In discussing abatement of building violations, June Pujo asked whether stamped plans or inspector sign-offs prevail. Larry Cassidy replied that plans do usually and addressed the role of field changes. However, he noted that conformance to the adopted building code trumps everything. June Pujo followed with a question regarding zoning violations to which Bettie Weiss responded by saying that staff often makes judgment calls based on practicality and whether it's "close enough."

Deborah Schwartz suggested the City prepare a handout that could be given to the property owner that informs them how to address the identified violation.

Bob Hart revisited the topic of missing City files. Bettie Weiss acknowledged that some records are missing, especially County-issued building permits during the 1970s. She explained that other resources would be relied upon to identify a time of a particular improvement and apply appropriate ordinances to.

The group concluded the meeting by suggesting items for future discussion.

Susan Reardon listed the following items:

1. Continuing discussion of major versus minor violations.
2. Discuss administrative approvals (Susan Reardon to send a list to members)

Other members suggested the following additional items:

1. Understanding better what the realtors do for their clients in terms of disclosures and the ZIR process.
2. The statewide buyer advisory and real estate transfer disclosure statement from realtors.
3. The issue of grandfathering, legitimizing a violation, and the difference between these.

City of Santa Barbara

Community Development Department

ZIR Working Group Meeting Minutes

Date/Time: March 12, 2014 10:00 A.M.

Location: City of Santa Barbara – Community Development Building
Public Works Conference Room
630 Garden Street
Santa Barbara, CA 93101

Present: Susan Reardon, Senior Planner
Bettie Weiss, City Planner/Acting Community Development Director
Deborah Schwartz, Planning Commissioner
John Campanella, Planning Commissioner
June Pujo, Planning Commissioner
Krista Pleiser, SBAOR
Bob Hart, SBAOR
Jim Caldwell, SBAOR/Realtor
Adrienne Schuele, SBAOR/Realtor
Scott Vincent, Assistant City Attorney
George Estrella, Chief Building Official
Larry Cassidy, Building Inspector Supervisor
David Eng, Planning Technician

Susan Reardon reviewed the minutes of the February 26, 2014 ZIR Working Group Meeting.

ZONING VIOLATION ABATEMENT TIMEFRAMES

Deborah Schwartz asked whether any ZIR documents provide a timeframe for abatement.

Susan Reardon responded that the City does not require the violations to be abated prior to the close of escrow.

George Estrella stated that timelines are created when an enforcement case is started. The owner is typically given 30 days to contact the City. He stated that one of the goals of enforcement from Building and Safety's perspective is to establish a working dialogue with the property owner to ensure that progress is being made toward abatement.

Bettie Weiss noted that lenders sometimes play a role in when violations are abated. Adrienne Schuele added banks' strict standards often require all violations to be addressed immediately.

George Estrella asked whether realtors are encouraging property owners to address potential violations before a property is listed. Adrienne Schuele said realtors will encourage agents and sellers to obtain a ZIR as soon as a property is listed and that the buyer is responsible for researching the property. Bettie Weiss noted that one idea is to include information in the water bill about obtaining ZIRs.

Adrienne Schuele referenced the Transfer Disclosure Statement, where owners are to provide all material facts about their property. Things are more complicated when issues are revealed after an offer is made.

CATEGORIZING VIOLATIONS

Deborah Schwartz asked for clarification about non-conformities. Bettie Weiss explained that something is legal non-conforming if it was built and permitted under a previously adopted code.

Deborah Schwartz also sought clarification in the Fine Print for when violations needed to be abated immediately or in the future. Bettie Weiss was open to revising the Fine Print and suggested that group members provide input on this.

In response to a question about whether violations run with the land, Scott Vincent explained that the owner of a property is responsible for the condition of that property at that point in time. Adrienne Schuele noted that the hand-off of violations between old and new property owners is unique in each case, depending on circumstances surrounding the lender, buyers, or sellers.

George Estrella emphasized that the ZIRs are not health and safety inspections; they are zoning inspections. Bettie Weiss added that zoning inspectors do not report on everything (eg. kitchen remodels). George Estrella noted that some of the "minor" zoning violations could actually be "major" building violations.

Adrienne Schuele asked whether inspectors were liable for not disclosing all violations. Scott Vincent explained that state laws grant immunity to inspectors for this.

Adrienne Schuele felt that there are a lot of undocumented construction changes made in the field that are inspected and signed off on. Larry Cassidy noted that this is no longer the case and that practice has changed. George Estrella added that inspectors will inspect a property and try to assess when an addition or alteration was done.

June Pujo pointed out that there are health and safety issues for Zoning and those for Building and Safety. She suggested that the ZIR should identify major issues only as it relates to zoning. Bettie Weiss explained that the City does not feel constrained to give only zoning information in the ZIR. The ZIR gives information regarding work done without permits to convey the permit record and other information that City is aware of.

Adrienne Schuele said that she would like to see all of the information sources used for ZIRs provided to the buyer, adding that the City of Ventura prints out all building permits and property information for a $24 fee.

Bettie Weiss said that she would like to inform the public as much as possible of the range of information available and that the information the City of Ventura provides is currently available on our City's website. Efforts could be made to package this information and perhaps realtors could be trained on how to access it.

June Pujo acknowledged the importance of site inspections for major violations but questioned whether every building violation including minor ones should be listed.

Adrienne Schuele felt that a key problem remains, older incorrect ZIRs that create inconsistencies during inspections.

June Pujo stated that we need to better define what the report focuses on. Bettie Weiss agreed that the City does not want to raise a red flag on certain violations when it is not significant. Items such as a floor plan that deviates somewhat with an actual home could perhaps be listed as an informational item. She added that in any case, the City wants to err on the side of redundancy.

Krista Pleiser noted that the City of Monterey Park was eliminating their ZIR program.

George Estrella felt that ZIRs in general and despite their imperfections do maintain neighborhoods and helps the City and its housing stock. Bettie Weiss expressed concern about what would happen without ZIRs. June Pujo agreed that there is a value to ZIRs. However, there should be a focus on neighborhood compatibility issues and perhaps other violations can be listed as informational.

Deborah Schwartz raised the issue of amnesty for illegal dwelling units to which Scott Vincent responded and said that the City Attorney could draft a program and advise City Council to encourage and incentivize owners to volunteer violations on their properties.

Bob Hart reiterated the issue of properties receiving clean reports year after year, followed by a finding of a violation.

Bettie Weiss suggested the possibility for an ordinance change to grant approval of certain violations that do not adversely impact others. Bob Hart cited the example of a carport that is partially in the setback.

ZIR AMNESTY AND INCENTIVE PROGRAM

Krista Pleiser proposed an amnesty program that encourages property owners to obtain a ZIR for a discounted fee. She also suggested that after a certain period, only these ZIRs are used as a reference for future inspections. Jim Caldwell agreed that this would be a good option to consider. Krista Pleiser cited the City's sewer lateral inspection program as a successful effort to model.

Bettie Weiss said that City Council could consider subsidizing ZIRs. Jim Caldwell felt that this would be a good move on the City's part; if the City values ZIRs, they should be incentivized.

Bettie Weiss touched upon the City's impending overhaul of the zoning ordinance and how it could be written to better address zoning violations in the future. Scott Vincent added that the City could consider removing standards for violations that do not hurt anyone.

INCORPORATING EXTERNAL SOURCES OF INFORMATION IN ZIRS

Krista Pleiser also suggested that photos and simple floor plans should be recorded for ZIRs. Adrienne Schuele noted that there are some services that provide this. June Pujo noted that this would be an added expense.

Bettie Weiss asked whether home appraisal and home inspection reports could be provided to the City.

Scott Vincent said that information from City inspections could be combined with drawings and other information provided by the agent and owner. June Pujo questioned whether this approach would complicate things.

Krista Pleiser said she would share examples from the City of San Marino that show the level of documentation provided by their privatized ZIR process. She also emphasized that public relations would play a big role in improving the ZIR process.

NEXT STEPS

The group identified several tasks and discussion items for the following ZIR working group meeting.

1) The next working group meeting will focus on how to resolve discrepancies between the findings of a prior ZIR and what is on the site today when we think the City made an error in the previous ZIR.
2) Krista Pleiser will draft a conceptual ZIR amnesty and incentive program for discussion.
3) Staff will send the existing ZIR form to group members to review and comment on.
4) Realtors will provide what they consider "major" and "minor" violations for discussion.

ADJOURNMENT

Meeting adjourned at 12:15 P.M.

City of Santa Barbara

Community Development Department

ZIR Working Group Meeting Minutes

Date/Time: April 17, 2014 9:00 A.M.

Location: City of Santa Barbara – City Hall
735 Anacapa Street
Santa Barbara, CA 93101

Present: Susan Reardon, Senior Planner
Bettie Weiss, City Planner/Acting Community Development Director
Deborah Schwartz, Planning Commissioner
John Campanella, Planning Commissioner
June Pujo, Planning Commissioner
Krista Pleiser, SBAOR
Laurel Abbott, SBAOR/Realtor
Jim Caldwell, SBAOR/Realtor
Adrienne Schuele, SBAOR/Realtor
Scott Vincent, Assistant City Attorney
George Estrella, Chief Building Official
Larry Cassidy, Building Inspector Supervisor
Chris Agnoli, SBAOR/Realtor (sat in for Bob Hart)
David Eng, Planning Technician

Susan Reardon reviewed the minutes of the March 13, 2014 ZIR Working Group Meeting.

ADMINISTRATIVE ZONING APPROVALS

The group discussed a list of proposed items that could potentially qualify for administrative zoning approvals.

Bettie Weiss explained that when appropriate the administrative approval process could be incorporated into the ZIR process to expedite resolution of discrepancies found during an inspection. As the City's Staff Hearing Officer, Susan Reardon, for example, could provide administrative sign-offs on discrepancies on an addendum letter to the ZIR. Building and Safety would be involved whenever the case warrants it.

Both Larry Cassidy and George Estrella agreed that this would be a good approach to take. However, George Estrella offered the caveat that as-built improvements would need to meet current building and safety codes, and these would be reviewed on a case-by-case basis.

June Pujo asked whether there is a simplified building permit process (i.e. short-form versus long-form permit). Larry Cassidy explained that there is just one type of building permit but what is involved or required depends on the specific case.

The group asked how many cases are referred to building each year. Susan Reardon explained that 600-700 ZIRs are done each year but she would need to research further how many cases are referred to Building and Safety.

Susan Reardon touched upon discrepancies in ZIRs and noted that the discrepancies found today mainly has to do with ZIRs prepared during the late-1990s to mid-2000s. Discrepancies have been largely attributed to a particular staff member and also changing administrative standards for particular violations to be either called out, omitted, or noted as information only. On this, Deborah Schwartz stressed standardization of procedures and interpretations that remain consistent over time and staffing changes.

Deborah Schwartz asked for clarification on the intent and scope of the ZIR. George Estrella reiterated that ZIRs are not health and safety inspections. In the instance of ZIR violations, Building and Safety only responds to violations that Zoning notes in the ZIR. In the end, Building and Safety looks at whether an item meets current code, and applies a common sense approach to whether it is safe to leave an alteration as-is. Bettie Weiss added that the intent of the ZIR is to convey to a buyer what City records and site inspection reveal.

Adrienne Schuele cited the ZIR's purpose to provide information and felt that the City has taken the program beyond its original intent by pursuing full compliance of each property with the code. However, Susan Reardon clarified that the Municipal Code calls for any known non-conformities and violations of any ordinance or law to be reported. The group entered into a discussion of incorrect information in ZIRs.

Deborah Schwartz asked to refocus the discussion on the list of administrative approvals provided. She also asked to develop a flowchart of the entire ZIR process and to explore the "amnesty" program further. George Estrella pointed out that with certain building violations, there cannot be amnesty.

June Pujo commented that the list looked fine overall and that the possibility of administrative approval of the items is promising. She felt that the more significant issue is how items referred to Building and Safety would be handled. She asked whether a similar administrative approval process could be applied to building violations.

George Estrella explained that Building and Safety has an obligation to act on all building violations that it finds, as they are referred to them or if they discover it during an inspection for an otherwise "minor" violation.

Scott Vincent noted that the items on the list need further definition and refinement and asked for clarification on improvements that have existed "a very long time." Susan Reardon noted that this term usually pertains to improvements that have existed on the site prior to the 1960s, but would like discussion on that. Scott Vincent also expressed concern that administrative approval of unpermitted improvements that do not meet current standards would negate the effectiveness and equitable application of those standards to all properties. Bettie Weiss clarified that the administrative approvals process would only be in the context of previous and possibly inaccurate ZIRs. Susan Reardon noted that there was consideration for broader application of administrative approvals of items in list numbers 1 and 2 (akin to administrative approvals for fence and hedge heights), but unless there is support from Planning Commission and City Council to do so, the approvals will only be used in the context of ZIRs.

Adrienne Schuele, Jim Caldwell, and Laurel Abbott stressed that they want all information disclosed.

Bettie Weiss acknowledged that part of the reason issues have arisen from the ZIR program is that administrative procedures have changes over time and that the City's records are sometimes not always complete for each property.

The group returned to the topic of administrative sign-offs on unpermitted work. George Estrella explained that if he comes across something that appears old and is safe, he is apt to sign it off. But again, any serious violations would need to be addressed immediately.

Scott Vincent stated that the ZIR is to inform buyers and protect public safety. We need consistency and transparency going forward and a description of the enforcement timeline.

SUSPENDED ENFORCEMENT

The group explored focusing on using the ZIR primarily as an informational report to homebuyers and holding off on enforcement of violations. Homebuyers could abate the violation on their own time. George Estrella expressed his concern that this only delays the inevitable enforcement process. He also clarified that this approach may apply for unpermitted improvements that appear to have existed for a long time and do not pose any health and safety issues; however, it could not be use to remedy issues that do pose health and safety concerns.

Bettie Weiss suggested the approach of not immediately enforcing on and referring violations to Building and Safety that are not gross violations. She asked the group whether this was a suitable approach for the future.

John Campanella stated we should explore a free pass. In instances of discrepancies, either require abatement of all violations (whether major or minor) when the next building permit is sought or prior to the next sale of the property. The timing of abatement should be clearly stated on the ZIR form.

Adrienne Schuele asked whether Building and Safety would enforce on items presented to them by a buyer with a ZIR. George Estrella explained that they would not. Several group members expressed support for suspended enforcement.

GOALS

The group entered into a discussion of goals as the working meetings draw to a close. Deborah Schwartz asked staff to draft a policy document for the ZIR process. Bettie Weiss asked the group to focus on comments on the form for the next meeting.

Deborah Schwartz also asked whether the group would have input into the portions of the new ordinance that pertain to ZIRs. Bettie Weiss explained that the group would not be working directly with the new ordinance, but through its discussions on the ZIR documents and procedures would inform development of the new ordinance.

Bettie Weiss urged group members from the real estate community to think about whether the direction the discussions and proposed changes to ZIR policy are alignment with their goals. Deborah Schwartz added that she would like the see the entire group develop a unified voice on its position on ZIRs.

Laurel Abbott commented that not referring improvements to enforcement would alleviate some of the animosity with the public.

NEXT STEPS

The group identified several tasks and discussion items for the following ZIR working group meeting.

1) Group members will review the ZIR form independently and provide comments for discussion at the following meeting.
2) Revisit the "amnesty" program.

ADJOURNMENT

Meeting adjourned at 11:00 A.M.

City of Santa Barbara

Community Development Department

ZIR Working Group Meeting Minutes

Date/Time: April 24, 2014 10:00 A.M.

Location: City of Santa Barbara – David Gebhard Public Meeting Room
630 Garden Street
Santa Barbara, CA 93101

Present: Susan Reardon, Senior Planner
Bettie Weiss, City Planner/Acting Community Development Director
Scott Vincent, Assistant City Attorney
Deborah Schwartz, Planning Commissioner
John Campanella, Planning Commissioner
June Pujo, Planning Commissioner
Krista Pleiser, SBAOR
Bob Hart, SBAOR
Laurel Abbott, SBAOR/Realtor
Jim Caldwell, SBAOR/Realtor
Adrienne Schuele, SBAOR/Realtor

At this meeting the group discussed changes to the ZIR form. June Pujo and City staff had provided written suggested revisions to the existing ZIR form so the discussion focused on those two documents.

There was consensus to strengthen the purpose statement. An explanation on what the ZIR does and doesn't provide should be included. Emphasize the report is information based and not a complete inventory of entire site, nor a disclosure document as that term in used in the real estate community. Explain the process, what the ZIR is based on, and provide a generic list of what was used to prepare the ZIR. Include a list and link to information sources to help public be able to access City records. The "fine print" section should be removed from the ZIR form and the relevant/important information in the fine print should be placed in the sections that it refers to. The important stuff should not be buried in the fine print but highlighted in the appropriate sections.

Deborah Schwartz stated there should be an explanation on what the time limit means. Scott Vincent stated that the seller could use the ZIR to satisfy the ordinance requirements until it expires. Bettie Weiss stated that information could be added to the ZIR application form regarding extensions.

Adrienne Schuele suggested a draft ZIR be put out first that explains the ZIR findings. Bettie Weiss stated that would extend the time before a final ZIR is prepared.

Adrienne Schuele stated that there could be more discussion during the site inspection and that may clear some issues up. Laurel Abbott stated inspectors should call agents more often with issues. Susan Reardon stated that if agents are not readily available to respond to the issues it could add time to the completion of the ZIR. It was suggested that the inspector give a specific period of time for the realtor to get back to the inspector or the ZIR will be finalized without their input.

Bettie Weiss suggested a new section be added to the ZIR which discusses remedies and next steps to address identified violations, including administrative approvals. Scott Vincent suggested an illegal status box could be added which includes items that were determined to be illegal.

Adrienne Schuele stated that the City should save photos. John Campanella stated the City should limit saved photos to the ones that show the violations. Scott Vincent stated that the photos could be used to not only document violations but also establish a baseline.

Susan Reardon stated that property owners have expressed concerns in the past regarding privacy and safety issues with having photos of their property and the inside of their homes available in the street file and accessible via the City's website for the general public. Adrienne Schuele stated that the photos could be kept separate. Susan Reardon stated staff would have to explore that option further to ensure that the general public's concerns are met.

Deborah Schwartz suggested a glossary and possibly links to the definitions be added to the ZIR with definitions of terms used in the ZIR. Scott Vincent suggested a sentence could be added to the introduction section of the ZIR that indicates the terms used in the document are based on definitions in Chapter 28.04 of the City's Zoning Ordinance.

Adrienne Schuele stated more information on items that could affect future development or improvements on the site should be provided in the ZIR. Susan Reardon stated that staff could print out the MEA form and attach it to the ZIR. The MEA indentifies environmental constraints on a property.

All agreed that the statement regarding smoke detectors should be removed from the form.

June Pujo stated that time and space in the ZIR should be devoted to what is important.

Scott Vincent questioned why bedrooms are included for single family residences. Deborah Schwartz suggested that bedrooms be taken out for single family residences.

John Campanella questioned whether the fact that a property is in a historical district or included on the structures of merit, landmarks, or potential list is currently identified in the ZIR. Susan Reardon stated that it is.

June Pujo stated that being on the potential historic resources list may raise concerns with some property owners. Adrienne Schuele stated that it is good for people to know that information.

Adrienne Schuele questioned how staff determines that something is within a setback. Scott Vincent suggested wording be added that describes what the setback is based on, i.e. site plan, on-site observation.

Adrienne Schuele stated she liked staff use of the terms "appears to be" and "might be."

Discussion also occurred on the property description section of the ZIR form. The group discussed what should and shouldn't be included in the property description. There was consensus that the

property description should be what was observed on site and that the violations should be noted in a separate section. A distinction should be made on what is on site and what is permitted.

June Pujo suggested a table be provided. Susan Reardon provided the table that is currently in the Planning Commission staff report as an example but noted that all the information on that table would not be included in the ZIR.

Bettie Weiss suggested two columns; what was observed and what is permitted.

Scott Vincent suggested three columns; zoning standard, what was observed, and what is permitted.

Bettie Weiss stated there is a big difference between major and minor violations. By matter of City policy staff has indentified what violations are referred for immediate enforcement. Discussions could occur with the Planning Commission and City Council to confirm what staff classifies as a major or minor violation and what staff refers for immediate enforcement.

Deborah Schwartz questioned what happens in a subsequent ZIR if a building permit is never pulled and there are minor violations identified in a previous ZIR. Susan Reardon stated that if the violations still remain on site they would be identified in the subsequent ZIR and would still not be referred for enforcement. However, if a neighbor calls and files a complaint on the minor violation the City would deal with it at that time.

NEXT STEPS

1) Group members will review the ZIR form independently and provide written comments to Susan Reardon for incorporation into a revised draft ZIR.

2) Individual group members will email Susan Reardon their list of key items/topics they feel we haven't discussed completely or haven't discussed at all.

   Topics identified at the meeting included:
   a. How to respond to discrepancies
   b. Association's wish list/ideas on how to address discrepancies, their priorities, and what they could live with
   c. Pros/cons of making ZIRs optional
   d. Definitions such as habitable space, major/minor violations, non-conforming

ADJOURNMENT

Meeting adjourned at 12:00 P.M.

City of Santa Barbara

Community Development Department

ZIR Working Group Meeting Minutes

Date/Time: June 3, 2014 10:00 A.M.

Location: SBAOR Offices
1415 Chapala Street

Present: Susan Reardon, Senior Planner
Bettie Weiss, City Planner
Deborah Schwartz, Planning Commissioner
John Campanella, Planning Commissioner
June Pujo, Planning Commissioner
Krista Pleiser, SBAOR
Bob Hart, SBAOR
Laurel Abbott, SBAOR/Realtor
Jim Caldwell, SBAOR/Realtor
Adrienne Schuele, SBAOR/Realtor
Scott Vincent, Assistant City Attorney
George Estrella, Chief Building Official
Larry Cassidy, Building Inspector Supervisor
Lonnie Cassidy, Building Plan Check Supervisor
David Eng, Planning Technician

Susan Reardon reviewed the minutes of the April 17 and April 24, 2014 ZIR Working Group meetings and asked the group for comments.

The objectives for the day's meeting were:

1) Discuss the administrative approval and permitting process and find consensus on the list of administrative approval items developed from previous group discussion.
2) Pros and cons of making ZIRs optional.
3) Clarify definitions (e.g. major versus minor violations, habitable space, and non-conforming space.

Susan Reardon also asked group members to provide comments to her on the ZIR form at their earliest convenience.

Laurel Abbott asked for further discussion on the issue of discrepancies, which had not been resolved. Susan Reardon agreed that the issue had not been fully discussed and asked the group to provide any comments.

Adrienne Schuele raised the issue that ZIRs are not exhaustive inspections and may leave out building violations that property owners are surprised they need to address later. She and Krista Pleiser said that there is a misperception among the public that a clean ZIR is a finding of no zoning and building violations.

Bettie Weiss explained that the ZIR states that it is not a building inspection. She suggested that this information could be included on other forms such as the application form, and that new language could be incorporated to direct the public to other types of inspections (e.g. private inspections) or the building counter for additional property information. Laurel Abbott added that the scope of the ZIR could be better defined. Scott Vincent also suggested that information on open and expired permits could be included from Tidemark. June Pujo cautioned against providing a level of information in the ZIR that goes beyond its primary purpose as a zoning report, as including additional information could be more time consuming and costly than desired.

Adrienne Schuele raised the issue of "clean" ZIRs that are not really so due to discrepancies or omissions. George Estrella explained that unless the violation is "major" the other violations are provided only as information. Bettie Weiss agreed with June Pujo that the City does not want to have the ZIR become something more than a zoning report but it does wants to provide as much information as possible (e.g. Master Environmental Assessment maps). Bettie Weiss explained that the expectation that the ZIR is a comprehensive report that addresses all of the City's codes is not realistic and perhaps more could be done to explain that to the public.

John Campanella referenced Buyer's Advisory documents and suggested that the ZIR could dovetail with the information categories in those documents: zoning, building, and code compliance. Bettie Weiss noted that the ZIR looks at zoning code and building permits, but does not get involved with building codes. John Campanella suggested that this should be clearly explained. Bettie Weiss and June Pujo noted that additional inspections such as a home inspection would provide the building code compliance information that the ZIR does not.

Lonnie Cassidy noted that the public often inaccurately assumes that the City departments and divisions operate as one entity, which is not the case. Different divisions such as Building and Safety and Planning operate under different regulations.

Bettie Weiss steered the discussion to examine the pros and cons of the ZIR, with consideration of the working group's efforts to improve it. She summarized the group's desire to highlight major violations in a prominent box on the report and have other violations listed elsewhere. Krista Pleiser added that the lists could also be organized by how violations could be remedied.

Bettie Weiss asked the group how various parties would be affected if the ZIR were eliminated.

Laurel Abbott explained that in most cities, permit planners, architects, and inspections do the ZIR. Bettie Weiss relayed her discussions with private sector planners and explained that they do their best to provide their interpretations of zoning issues. However, the City's interpretations are what matters and is ultimately necessary. June Pujo explained that as a private planner, she would need to consult with the City to provide reliable information and did not see a scenario where the City was not involved. She felt that having the City conduct the ZIR was the most efficient option.

Adrienne Schuele revisited the issue of discrepancies in ZIRs and expressed her concern about the City's interpretation of information at different times. Bettie Weiss reiterated the City's approach to discrepancies that arise in ZIRs, which is to make an assessment based on all available information available in City records and any info the owner provides.

Deborah Schwartz referred to the ZIR process in the City of San Marino. Krista Pleiser summarized the process in the City of San Marino where city-certified private inspectors conduct inspections using a form provided by the City. The inspectors submit the form to the City, which then verifies the information against their records. Bettie Weiss stated that San Marino is very limited on what is inspected.

Deborah Schwartz asked whether the City would consider issuing a certificate of compliance for inspections and stand by it. Scott Vincent explained that the City could do that but would not recommend it unless there is a more robust and detailed process that involves more documentation such as photos and floor plans.

Krista Pleiser noted that buyers are often uncertain about what City inspectors are looking for and suggested a checklist that property owners can reference. She noted the types of items examined by inspectors for the City of San Marino, some of which include building items. George Estrella explained that the City's existing ZIR program is not equipped to ensure building code compliance.

Bettie Weiss asked the group about pros and cons of immediate enforcement as part of the ZIR program. She acknowledged that lenders might want to see all issues resolved immediately despite the buyer and selling agreeing to handle violations at a later date. Laurel Abbott explained that it is more appropriate to address violations in conjunction with new building improvements since property owners are more financially prepared to address violations when they are already funding discretionary building improvements. Adrienne Schuele added that it is often inconvenient or not possible to address discrepancies within the 30-day escrow period. Susan Reardon stated that there is no City requirement to abate violations before escrow closes.

Laurel Abbott asked whether there could be an expedited permitting process for addressing certain violations. Bettie Weiss explained that if the violations are minor enough, City Council could grant Planning staff the ability to address and approve zoning issues quickly. However, it will be unlikely that this could be done for violations that require a building permit, which must abide by a separate set of codes.

Scott Vincent noted that City staff already dedicates a large amount of resources toward resolving ZIR discrepancies quickly and was unsure what more could be done to improve the process.

Lonnie Cassidy noted that Building and Safety counter staff is proactive about helping speed minor violations through the process but a major roadblock is the ability of the public to provide required information in their submittals, especially from those who are unfamiliar with the City's permitting process.

Bob Hart noted from personal experience that meeting the City's project submittal requirements can be difficult, even for minor improvements. Bettie Weiss acknowledged that Planning often has more stringent plan requirements that warrant simplification. Susie Reardon explained that Planning is currently examining what is truly necessary on plan submittals. George Estrella concurred that some levels of planning review could be simplified and done administratively.

Deborah Schwartz felt that as long as zoning laws exist, it is the City's authority and responsibility to follow-through and ensure compliance. In carrying this out, she suggested four areas that could be improved:

1) Streamlining
2) Consistency
3) Clarity
4) A clear set of inspection items

Deborah Schwartz also suggested further exploration of an incentive program to encourage property owners to voluntarily address zoning and building violations.

Bob Hart also asked the group to consider zoning waivers or exceptions for certain violations that neighbors agree to and do not affect the general public. Susan Reardon noted that this is something that will be considered with the new zoning ordinance. Bettie Weiss explained that the City has an obligation to enforce the regulations in the Code. June Pujo asked whether suggestions from the group could be incorporated into the new zoning ordinance. Bettie Weiss and Susan Reardon explained that the ZIR process would be improved to the extent that it can, in response to input from the working group. Other concerns will be considered for implementation in the new zoning ordinance.

Adrienne Schuele did not feel that the point of sale is the most effective way to enforce on violations. June Pujo agreed that the process can be cumbersome but felt that having enforcement occur during the point of sale is a more objective enforcement tool, if it focuses on the right things. Bettie Weiss felt that letting buyers know of violations later on could be more problematic for them. Deborah Schwartz added that the ZIR process reduces an antagonistic neighborhood environment.

John Campanella sought clarification on legal nonconforming items. Bettie Weiss confirmed that legal nonconformities are not violations. Susan Reardon added that legal nonconformities are called out in ZIRs because that affects what improvements could happen on the property.

Bob Hart asked whether the ZIR fee is essentially a tax on selling a home in the city. Deborah Schwartz noted that industry professionals would charge a fee that is comparable to what the City charges. Bob Hart also asked whether the small number of properties that have significant issues warrant the mandatory inspection. Bettie Weiss noted that the ZIR is a deterrent to illegal work, and City Council is of the opinion that the ZIR is a necessary and an effective tool.

The group briefly discussed a voluntary abatement program as a pilot program.

Laurel Abbott suggested communicating to the public the City's recent collaborative effort to improve the ZIR process and letting people know that the changes are a work in progress that can be revisited for further refinement and reconsideration.

Bob Hart noted that the City has been responsive to past concerns regarding timeliness of ZIRs and staff has helped address issue.

NEXT STEPS/ CONCLUSION

Bettie Weiss explained that the improvements will be presented to the working group and asked the group to convey to the public that it has completed the first phase of brainstorming, and once finalized by the working group, will be presented the improvements to Planning Commission and City Council. At the same time, City staff will consider the resources available to implement the improvements.

Deborah Schwartz and Krista Pleiser will put together a conceptual program for a voluntary abatement program.

Susan Reardon will draft the procedural improvements and communication items.

Scott Vincent asked how staff will respond to issues that buyers want addressed immediately. Bettie Weiss explained that the amount of resources available to quickly and adequately respond to issues found in the ZIR or in a voluntary abatement program will be considered.

Bob Hart also wanted confirmation that minor violations are not immediately enforced on and could technically be passed on to future buyers. The group agreed that this could be clarified in the ZIR report.

ADJOURNMENT

Meeting adjourned at 11:46 A.M.

City of Santa Barbara

Community Development Department

ZIR Working Group Meeting Minutes

Date/Time: July 22, 2014 10:00 A.M.

Location: City of Santa Barbara – Public Works Main Conference Room
630 Garden Street
Santa Barbara, CA 93101

Present:
Susan Reardon, Senior Planner
Bettie Weiss, City Planner
Deborah Schwartz, Planning Commissioner
John Campanella, Planning Commissioner
June Pujo, Planning Commissioner
Bob Hart, SBAOR/Realtor
Jim Caldwell, SBOAR/Realtor
Adrienne Schuele, SBAOR/Realtor
Scott Vincent, Assistant City Attorney
George Estrella, Chief Building Official
Larry Cassidy, Building Inspector Supervisor
Lonnie Cassidy, Building Plan Check Supervisor
David Eng, Planning Technician

Susan Reardon presented drafts of new ZIR forms, which incorporate input from the group members and staff. Some of the changes and features of the new form include the following:

1) Reorganization of information, with violations listed first.
2) Reworded language regarding nonconforming property attributes.
3) Draft and final report dates.
4) Inspector and contact information listed on the front.
5) The integration of the "fine print" into relevant sections of the ZIR

The group entered into a discussion regarding the proposed 5-day review period during which agents can review an e-mailed draft of the ZIR, before it is accepted as a final document. After exploring the process, it was agreed that it would be better to keep with the existing policy of the 10-day appeal period.

Adrienne Schuele raised the question of how ZIRs will be handled if new information prompts an amendment after this period. Susie Reardon noted that depending on when the new information was received and what the information was, a memo to the file or an amended ZIR would be prepared.

Adrienne Schuele stressed the importance of communicating with property owners if inconsistencies are found among different ZIRs for the same property. Susie Reardon explained that staff has been reaching out to property owners when this does occur.

June Pujo stressed that procedures for appealing and amending a ZIR be made available and Susie Reardon and Bettie Weiss assured the group that this information would be included on the ZIR form.

Susie Reardon clarified for the group that the main difference between the two proposed ZIR forms is in the violations section area.

Deborah Schwartz asked how County records fit into the ZIR. Bettie Weiss explained that the City does not typically go to County records and that homeowners typically submit County records to the City. Susie Reardon touched on the checklist proposed to be included in the ZIR, which indicates all of the information sources used to develop a ZIR.

Deborah Schwartz recommended that the phrasing in the major and minor violation forms be consistent. Scott Vincent felt that the language should be different to avoid confusion when staff highlights a particular paragraph, depending on the type of violation selected.

Deborah Schwartz also asked for clarification of the term "original plans." Susie Reardon explained that "original plans" refers to plans for the initial construction at a property.

Several members asked about the need for two ZIR forms. Susie Reardon clarified that there will only be one ZIR form but depending on the type of violation identified, the violations would be identified as either "minor" or "major." If one or more of the violations are major violations, all of the other violations will be included on the form with the major violations.

Bob Hart asked whether abatement was tied to close of escrow. Bettie Weiss explained that they were not, but would be subject to the timeline established by the building inspector. If no major violations are involved, minor violations do not need to be addressed until a building permit is pulled. Lonnie Cassidy explained that building permits for roofs and HVAC would not trigger review of minor violations on file. Bettie Weiss stated that the types of building permits that trigger the abatement of minor violations will be spelled out for the public.

June Pujo felt that the way major and minor violations are presented on the form may be confusing to the public. For example a minor violation appears as a major violation when it is listed together in a ZIR with major violations. Bettie Weiss agreed that this could be worked on.

June Pujo also asked whether County Assessor information or a survey could be used to inform an inaccurate ZIR, with regard to lot sizes and property lines. Bettie Weiss explained that the City would welcome the information. Scott Vincent suggested that a noted could be added to ZIR application form encouraging property owners to volunteer supplemental property information. Bettie Weiss agreed that this would be a good idea, and to include the request it on the application and the ZIR itself.

June Pujo appreciated the contact information on the form but felt that the public should be directed to the ZIR preparer. Susan Reardon explained that the majority of questions regarding abatement are one's that can be answered by planning counter staff.

Adrienne Schuele felt that the form should clearly state that it is not a building and safety report. Susan Reardon said that she could better highlight this information. George Estrella added that the language should use the generic term "building code" rather than reference the Uniform Building Code.

John Campanella appreciated the information regarding abatement timelines and that they are dependent on health and safety concerns rather than escrow periods.

Bob Hart asked for clarification on the terminology legal nonconforming.

The group entered into a discussion of what is considered habitable space and whether it should be tied to the definition used by Building and Safety. Because habitable space is a major factor in determining whether violations are major, Adrienne Schuele felt that the term needed to be defined. Deborah Schwartz and others felt that defining habitable space was too large of an undertaking for the group, and felt it would be better addressed by the new zoning ordinance. Susan Reardon said she could draw up guidelines and examples of habitable space for the purpose of the ZIR.

Susan Reardon discussed the Master Environmental Assessment. As much of the information may not be relevant to the typical homebuyer, the group agreed that the document should not be included in the ZIR.

Susan Reardon also discussed providing a list of expired building permits. Because the scanned street file provides a more comprehensive permit history, the group decided to forgo providing a list, and direct people to the street file online.

Susan Reardon turned the discussion to resolving discrepancies. Loss of parking would continue to be an immediately enforceable violation. The conversion of non-habitable to habitable space would be noted as a violation but would only be referred for immediate enforcement if it's deemed to be a health and safety hazard. This assessment could be made in conjunction with a City Building Inspector.

Adrienne Schuele asked that mention of building permits in the draft paper also note the minor permits that would not trigger enforcement action. She also felt it was important to specify the number of reports that have had discrepancies.

The group entered into a discussion of the impacts that discrepancies have had on past ZIRs. Scott Vincent noted that one issue might be that the reports are requested at the last minute. Jim Caldwell cited cost as a deterrent to obtaining them early in the sales process. Bettie Weiss pointed out that the cost is a matter of policy with the City Council and that if a case could be made for the City to subsidize the cost, it could be an option. Jim Caldwell suggested breaking up the payment for the ZIR into two payments, of which the latter would be paid at the close of escrow. Adrienne Schuele echoed Jim Caldwell's concern about the cost of the ZIR. Bob Hart suggested that a reduced fee could be offered as an incentive for property owners to obtain the ZIR earlier.

Adrienne Schuele asked to clarify who "enforcement" is on the draft document, and suggested that "a very long time" to be 25 years instead of 50. June Pujo asked whether the mention of major and minor violations is consistent with the list of major and minor violations previously drafted. She asked how much unpermitted square footage would trigger a major violation. Susan Reardon explained that any new habitable space would be a trigger.

NEXT STEPS/ CONCLUDING COMMENTS AND QUESTIONS

Deborah Schwartz and Krista Pleiser will meet to develop a conceptual program for a violation abatement program. The group agreed to a short meeting to discuss this at a date to be determined.

The group agreed to email Susan Reardon their comments on the ZIR forms and draft paper.

Staff is targeting to return to the Planning Commission in late September or October.

ADJOURNMENT

Meeting adjourned at 11:54 A.M.

City of Santa Barbara

Community Development Department

ZIR Working Group Meeting Minutes

Date/Time: September 23, 2014 10:30 A.M.

Location: SBAOR Offices
1415 Chapala St

Present: Susan Reardon, Senior Planner
Bettie Weiss, City Planner
Scott Vincent, Assistant City Attorney
Larry Cassidy, Building Inspector Supervisor
Lonnie Cassidy, Building Plan Check Supervisor
Deborah Schwartz, Planning Commissioner
John Campanella, Planning Commissioner
Bob Hart, SBAOR/Realtor
Krista Pleiser, SBAOR/Realtor
Adrienne Schuele, SBAOR/Realtor

The primary purpose of this meeting was to discuss the Draft Zoning Violation Abatement Pilot Program.

Adrienne Schuele brought up the issue of her understanding of the original intent of the ZIR as being information only and how it has morphed over time to enforcement. She wants someone to take liability for the ZIR.

Bob Hart noted that there has been progress on the timely preparation of ZIRs and the clarification of major and minor violations but the group still hasn't addressed inaccurate reports and the fact that there is no accountability or reliability.

Bettie Weiss acknowledged that the realtor's want the City to "grandfather" the improvements and the City is saying it is a problem and we need to deal with it. We proposed expanding staff's ability to approve/authorize improvements more readily.

Adrienne Schuele stated that the City should just provide the information and let the buyer interpret it.

Bettie Weiss stated that an important component of the ZIR for the buyer is the City's interpretation of the information and the City puts a lot of importance on our interpretation.

Scott Vincent pointed out that the error in a ZIR is usually of omission, not an affirmation that the improvement was o.k. He indicated that there are several reasons for that. One is that the improvement didn't exist at that time or that it did but was not indicated as a violation. Regardless of that fact it is still a violation.

Bettie Weiss stated that the ZIR is a disincentive to do illegal work.

John Campanella stated that the City's interpretation of the information is important and that the City interprets information every day. City Ordinances change and it is important to know if an improvement is non-conforming. The interpretation on whether an improvement is non-conforming is important and that interpretation should not change. The City needs to stand by the interpretation of non-conforming.

Deborah Schwartz questioned where the gap is in SBAORs view when there is missing information by the prior ZIR. How can we get closer? She acknowledged that nobody's perfect and that the City has moved. What is reasonable that SBAOR can stand by?

Bob Hart indicated that is hard for him to say for the people who relied on a previous ZIR.

Krista Pleiser stated that it is important that the interpretation stands up over time, and she questioned why other communities don't have ZIRs

Bettie Weiss stated that staff uses as liberal of an interpretation as possible in missed instances.

John Campanella stated that his opinion is that professional private inspectors do not take 100% of the liability for their inspections. The inspectors have disclaimers in their contracts.

Deborah Swartz questioned what type of coordination happens between Planning and Building staff.

Lonnie Cassidy stated that one of the ZIR inspectors has good Building Code knowledge as they used to work in the Building Division and that there are two plan checkers assigned to ZIRs that the ZIR inspectors can discuss building issues with. Building staff also requires minimal or no plans for building permits for minor violations.

Adrienne Schuele requested that the archive plans be bought to the site inspection so issues could be discussed on site. Bettie Weiss stated we could look into that but there is limited time allotted for the site inspections as there are multiple scheduled in a day.

Regarding the draft Violation Abatement Program, Deborah Schwartz indicated that public education and communication is an important component.

Krista Pleiser indicated that the draft Program was modeled after the Sewer Lateral Program. The idea is that the City would go to the site and inform the property owner what needs to be fixed. The property owner could then budget for it.

Bettie Weiss questioned whether the City would issue the report without any enforcement and questioned what the incentive would be for a property owner to apply for this report.

Krista Pleiser indicated that it was envisioned that the City would follow-up on violations and Deborah Schwartz indicated that an incentive could be that there would be no penalties, permitting fees or inspection fees. The incentives would have to be figured out.

Susan Reardon expressed concerns whether a property owner would request this report because there are many violations that, for a variety of reasons, a building permit cannot be issued, they just need to be removed from the site. In general, property owners do not want the City in their business.

Krista Pleiser stated that the Program was envisioned more for minor violations.

John Campanella thought the Program could be beneficial for the aging population who know they may have to sell the house in the near future. It would give them the ability to find out what items need to be fixed. Susan Reardon stated that the existing ZIR process could meet that need. A property owner can come in and apply for a ZIR at any time, not just when they are in the process to sell their home or thinking of selling their home.

Adrienne Schuele stated that we should not sustain the concept that it is easier to ask forgiveness than to get the original approval.

Deborah Schwartz indicated that there would be a time limit for the Program to help prevent the unintended consequence of the Program being an incentive for illegal construction.

Bob Hart suggested that instead of the Violation Abatement Program, the City could have a pre-sale ZIR for a reduced fee.

John Campanella indicated that the preliminary ZIR would need to be clearly marked that it is not to be used for the transfer of the property. A final ZIR would need to be obtained prior to the transfer of the property. He felt that a benefit of that approach would be that the homeowner could then address any violation on their own time line.

Bob Hart suggested with this approach there could possibly be an extension of the timeline for enforcement for major violations as an incentive.

There was agreement in the group that instead of establishing a separate Violation Abatement Program, elements of the Program could be incorporated into the ZIR process improvements. The City should establish a good public relations effort to inform the public of the benefits and appropriateness of a ZIR beyond just when residential property is being sold. Incentives should be established to encourage property owners to obtain a ZIR prior to the property being listed for sale.

Questions were raised regarding the policy guidance for the definition of residential habitable space that was emailed to the group and whether the group would be able to review the draft Planning Commission staff report before it was finalized. After discussion, it was decided by the group that date of the Planning Commission hearing on the working group's efforts would be pushed back to November to give the group time to review the draft Planning Commission staff report and then meet one more time to discuss the draft Planning Commission staff report.

NEXT STEPS

Susan Reardon will email the group members the draft Planning Commission staff report and reschedule the Planning Commission hearing to November.

The group will meet in October to discuss the recommendations of the working group and draft Planning Commission staff report.

ADJOURNMENT

Meeting adjourned at 12:40 P.M.

City of Santa Barbara

Community Development Department

ZIR Working Group Meeting Minutes

Date/Time: October 21, 2014 10:00 A.M.

Location: City of Santa Barbara – PW Water Resources Conference Room
617 Garden Street
Santa Barbara, CA 93101

Present: Susan Reardon, Senior Planner
Scott Vincent, Assistant City Attorney
Deborah Schwartz, Planning Commissioner
John Campanella, Planning Commissioner
June Pujo, Planning Commissioner
Bob Hart, SBAOR/Realtor
Krista Pleiser, SBAOR/Realtor
Laurel Abbott, SBOAR/Realtor
Adrienne Schuele, SBAOR/Realtor
George Buell, Community Development Director
Andrew Stuffler, Chief Building Official
Larry Cassidy, Building Inspector Supervisor

The primary purpose of this meeting was to discuss the draft Planning Commission staff report that was prepared for the November 13th Planning Commission public hearing.

Adrienne Schuele indicated she had changes to the minutes and that she would forward them to Susan Reardon.

Laurel Abbott questioned whether staff has implemented some of the changes we have discussed because she has noticed some changes on recent ZIRs. Susan Reardon stated staff has.

Laurel Abbott indicated that the real estate market is moving into a more normal market and that this is a good time to see how the process improvements work out. An idea that was brought up was to implement the process improvements and wait a couple of years to see how the improvements work before they are finalized.

June Pujo indicated that the discussion under major and minor violations should be clear on whether it was a pre-existing categorization, a clarification of a general idea, or a brand new concept.

Regarding the pros and cons of ZIRs, Adrienne Schuele stated that she doesn't mind one more document. Her concern is when interpretations change from year to year.

Susan Reardon responded that the purpose of the update and standardizing of the procedures for preparing ZIRs and identifying violations is to help prevent changing interpretations and provide more consistency in the preparation of ZIRs.

Deborah Schwartz stated that the work the group has been doing is to clarify, streamline, and codify the process so that any staff person could pick up, utilize and implement consistently. She also stated that the staff report should clearly state where we found consensus, where we have an agreement gap, and where we have an agreement on a path forward.

John Campanella stated that interpretation or calls made need to get into the record. A new interpretation of old rules should not take precedence over what was interpreted at the time the ZIR was prepared.

Krista Pleiser stated that a buyer could look at the City's website and see the street file which contains the permits and City approvals.

Scott Vincent acknowledged that, but stated that the ZIR provides Staff's interpretation of the facts and historical record in City files and compares them with the findings of the physical inspection of the property.

June Pujo suggested a summary section be added that indicates what the working group accomplished, what was clarified, what was streamlined, what was created so the process would be handled more consistently, and what is still being worked on.

Bob Hart acknowledged that when we started this process, timing of the ZIR was a big issue. ZIR inspections were scheduled after the escrow period or just the day before. SBAOR members were upset and now timing is a non-issue for them.

Laurel Abbott stated that she was not sure that all property owners know they need a ZIR and some banks won't let City zoning inspectors on foreclosed property. She questioned how we could make property owners aware of the requirement.

Susan Reardon stated that several months ago she put information in the water bill insert informing property owners of the requirement of a ZIR and what information the ZIR provides.

Laurel Abbott questioned what happens when a property owner sells the property without obtaining a ZIR.

Susan Reardon stated that when we find out about it, usually when the new owner is seeking a building permit, we require that a ZIR be obtained at that time since it is a Zoning Ordinance requirement. The City's fee resolution gives staff the ability to charge a double fee for an after the fact ZIR.

June Pujo questioned whether we could put information regarding the ZIR requirement in the property tax bill. Scott Vincent said we don't administer that program and would be surprised it the Assessor's office would agree to that.

Susan Reardon questioned the group if there was consensus on the classification of minor and major violations and on the proposed policy guidance on identifying habitable space.

The group indicated that there was consensus on the classification of major/minor violations. SBAOR members had concern with the policy guidance on habitable space. Calling a space

habitable without a clear definition is a major concern for them because it affects whether an improvement is referred for enforcement.

Adrienne Schuele stated that not establishing a definition at this time is kicking the problem down the road.

Susan Reardon stated that the guidance for identifying habitable space would be included in the ZIR procedures for consistency in the determination of what constitutes habitable space.

Susan Reardon also acknowledged that revisions to the non-conforming provisions in the Zoning Ordinance will be a major component of the New Zoning Ordinance process currently underway. The current Zoning Ordinance doesn't allow the change of use of the portion a building that is within a required setback. Staff has used the term habitable space when an area has been converted from non-habitable areas to another use. She indicated staff will re-evaluate the use of term habitable space and what we are actually trying to identify in the ZIR and possibly use another term.

Deborah Schwartz suggested that the staff report be tighten to clarify the term for the purposes of the Planning Commission discussion and any request staff may have of the Planning Commission for action.

June Pujo questioned whether staff was using the revised ZIR form yet.

Susan Reardon responded that revising the form in our computer database will be a major work item that staff will work on after Council direction.

Krista Pleiser stated that she believes the ZIR should be amended if the violations identified in it are abated.

Susan Reardon indicated that if the abatement required a building permit, the building permit would be the record that the violation was abated. If a building permit is required for the abatement of the violation, then staff would need to verify that the violation was removed which would involve an additional site visit.

Krista Pleiser suggested that a property owner could submit a before and after photo to show the improvement was gone and that a check box could be added to the ZIR form that the violation has been abated.

Susan Reardon stated she would make note of that suggestion for inclusion in the ZIR procedure document on how to address situations where the violations have been abated. What is the process- amend ZIR, memo to file, photos?

Adrienne Schuele questioned how the Building Division felt about delayed enforcement in dealing with discrepancies.

Larry Cassidy responded that his staff currently makes that decision quite often. The zoning inspector will come and talk to his staff and show pictures to determine if the improvement is something that needs to be addressed immediately.

Larry Cassidy also stated that violations that pose an immediate fire or life safety concern need to be added to the list of major violations that would be referred for immediate enforcement.

Adrienne Schuele stated that we need to be clear that there would still be enforcement, even with delayed enforcement, if a complaint were received regarding the violation.

June Pujo commented that the comprehensive checklist under the In-Progress Section of the report will help create transparency and consistency.

Krista Pleiser questioned the 50 year period proposed as part of the Zoning Administrative Approval Process. Laurel Abbott suggested that specifying a year would be better than a revolving time period.

Susan Reardon indicated that a date could be specified. She suggested 1975 when there was a major Zoning Ordinance change or 1974 which was when the first provisions for a ZIR were codified.

Deborah Schwartz questioned what items identified in the Changes to the ZIR process section would require more sustained staffing resources. She stated if there are any, they should be pointed out for City Council.

Susan Reardon stated that at this time, the only item that staff believes could take more resources long term is the goal to complete 80% of the ZIRs within 10 working days of application submittal.

Deborah Schwartz suggested that the section regarding cost of the ZIRs be merged with the abatement violation section since the groups focus when discussing the cost of the ZIR was related to trying to encourage property owners to request ZIRs earlier. If you get a ZIR earlier, you find out the violations earlier.

Adrienne Schuele requested the information regarding the original ZIR ordinance, amendments to the ordinance, and original Council minutes be attached to the Planning Commission staff report.

Krista Pleiser requested that the suggested review period of the ZIR process improvements be included in the Planning Commission staff report.

ADJOURNMENT
Meeting adjourned at 12:00 P.M.