



City of Santa Barbara California

III.

PLANNING COMMISSION STAFF REPORT

REPORT DATE: May 28, 2015
AGENDA DATE: June 4, 2015
PROJECT: Zoning Information Report (ZIR) Process Improvements - Minor Zoning Exceptions
TO: Planning Commission
FROM: Planning Division, (805) 564-5470, extension 4555
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I. RECOMMENDATION

Staff recommends the Planning Commission consider and discuss a proposal that would authorize the Community Development Director to grant Minor Zoning Exceptions (MZE) in the case of a discrepancy or error in Zoning Information Reports (ZIRs). The outcome of today's discussion will be forwarded to the City Council Ordinance Committee for their consideration.

II. BACKGROUND

Planning Staff has been working with the Santa Barbara Association of Realtors and the City's Planning Commission to address issues that have arisen regarding the preparation of ZIRs. The issues include timeliness of report preparation, discrepancies between ZIRs, report reliability and understandability, and violation identification. In January 2014, following public hearings before the Planning Commission and City Council, a ZIR Working Group was formed to clarify and streamline the ZIR process and formulate recommendations for improvements to the ZIR process and Zoning Ordinance. One of the recommendations of the ZIR Working Group was the establishment of a process to allow administrative approval of minor reductions or waivers of zoning standards in the instances of discrepancies between ZIRs, thus expediting the resolution of discrepancies found during the preparation of a ZIR. In order to be eligible for a Minor Zoning Exception, the error in the prior ZIR must involve a material failure to identify a zoning violation or an errant characterization of the legality or illegality of an existing improvement on the real property.

The ZIR Working Group reviewed and recommended types of physical improvements that could be eligible for a MZE. Along with other proposed ZIR process improvements, the list of recommended improvements eligible for a MZE was conceptually reviewed at a public hearing before the Planning Commission in November 2014. The City Council initiated an amendment to the Zoning Ordinance to establish an administrative zoning approval process in February 2015.

III. DISCUSSION

Staff originally created the list of eligible improvements which could qualify for a MZE based on what staff experienced in the past with ZIR discrepancies. Staff refined the list by reviewing the types of improvements that currently qualify for Design Review administrative approval and the types of projects typically supported by the Staff Hearing Officer (SHO) and that do not typically raise significant public controversy at a SHO hearing. The proposed types of improvements eligible for a MZE are included in the attached Exhibit and include, but are not limited to:

- Conversion of a required garage to another use, as long as the number and configuration of parking spaces required at the time of the conversion is provided for on site.
- Decks less than 200 sq.ft. in size, not extending above the finished floor level of the first floor, ground floor building additions less than 250 sq.ft., and trash enclosures in the required setback, open yard, or distance between buildings.
- Conversion of a legal non-conforming carport to a garage or vice versa.
- An accessory building less than 120 square feet which constructed prior to August 1, 1975 and which is not considered a separate residential unit and not located in front yard or required open yard.
- Accessory building(s) or garage(s) which exceed the size limits established by SBMC28.87.062.B.3 and were built prior to August 1, 1975.
- Additions to residences which currently exceed the required maximum Floor to Lot Area Ratio (FAR), if the addition is interior only and located within the existing legal building volume (i.e., loft, cellar, etc.)

The proposed findings for a MZE include specific standards that need to be met, including the time at which the improvement had to have first been on the site. The ZIR Working Group recommended that the improvement had to be on the site since 1974, which was when the first ordinance pertaining to ZIRs was adopted by the City Council. Staff is proposing 1980 instead, which would include the time period when the City made major changes to the Zoning Ordinance and when the County of Santa Barbara ceased granting building permits for the City. After 1980 the City records are more complete.

It is important to note that improvements authorized by a MZE may still require a building permit. The City does not have the ability to waive a building permit. However, Planning and Building Staff have been working together to streamline the permit process for these types of projects. The majority of these projects qualify for expedited building permit review with minimal information required and the building permit serves as documentation of the existing situation on the site.

IV. NEXT STEPS

The Planning Commission's comments and recommendations will be forwarded to the Council Ordinance Committee for their consideration when they review a draft Ordinance establishing the MZE process. Staff anticipates the draft Ordinance will be presented to the Council Ordinance Committee later this summer. Subsequent to the Council Ordinance Committee's

review, the draft Ordinance will be scheduled for a public hearing before the Planning Commission for a formal recommendation to the City Council. Staff anticipates the Planning Commission public hearing will occur in the Fall.

Exhibit:

Minor Zoning Exceptions Ordinance Outline

Minor Zoning Exceptions Ordinance Outline

Minor Zoning Exceptions

Minor Exceptions to the Zoning standards are administrative actions under the general direction of the Community Development Director without public notice or hearing. Minor Zoning Exceptions are available as an option to request relief from certain zoning standards only in the case of a discrepancy or error found in a Zoning Information Report and when the improvement has been in place, in its current form on the site prior to January 1, 1980 or as otherwise specified in this Section. In order to be eligible for a Minor Zoning Exception, the error in the prior Zoning Information Report must involve a material failure to identify a zoning violation or an errant characterization of the legality or illegality of an existing improvement on the real property.

Eligible Improvements

1. Additions or alterations to existing structures that are legal nonconforming as to setbacks, open yard, residential density, or distance between buildings, such as:
 - a. The conversion of a carport to a garage or vice versa.
 - b. New, enlarged or relocated first story windows within an interior or rear setback.
 - c. Exterior building alterations on any floor within the front setback such as windows, doors, skylight, façade change, etc.
 - d. Conversion of a required garage to another use, with adequate replacement parking provided.
 - e. Ground floor additions of less than 250 square feet to existing buildings that do not result in a new residential unit.
 - f. Alterations to the existing roof pitch which result in a roof pitch of 4/12 or less.
 - g. Alterations to the roof height that do not result in an increase in building height of more than one foot.
 - h. New, addition or alteration to cantilevered architectural features at least three feet above adjacent grade or finished floor (whichever is higher), and which do not provide additional floor space within the building (such as cornices, canopies, or eaves), or chimneys may encroach up to two feet. However, no cantilevered architectural feature or chimney shall be located closer than three feet from any property line, except roof eaves, which may be located as close as two feet from any property line.
 - i. Within the front setback only, uncovered balconies not providing additional floor space within the building may encroach into the required setback up to an additional two feet.

- j. Addition of covered or uncovered entrance landings not extending above the finished floor level of the ground floor and not exceeding three feet measured in perpendicular dimensions (excluding the area under any handrail required under the California Building Code as adopted and amended by the City) may encroach three feet into any setback. However, no covered entrance landing shall be located closer than two feet from any property line.
2. New or expanded hardscape, landscape, or site improvements that encroach into setbacks, open yard, or distance between buildings, including but not limited to:
 - a. Decks with a total net area of less than 200 square feet and not extending above the finished floor level of the first floor;
 - b. Fountain and ponds;
 - c. Trash enclosures; and,
 - d. Decorative features, etc.However, this does not include BBQs, exterior fireplaces, or raised fire pits, which are prohibited in setbacks.
 3. Accessory building that is:
 - a. less than 120 net square feet; and
 - b. not considered a separate residential unit; and
 - c. was constructed prior to August 1, 1975; and
 - d. is not located within the front yard or required open yard.
 4. Accessory building(s) or garage(s) which exceed the size limits established by SBMC §28.87.062.B.3 and were built prior to August 1, 1975.
 5. Additions to residences which exceed the required maximum allowed Floor to Lot Area Ratio (FAR), in effect at the time the errant ZIR was prepared, if the addition is interior only and located within the existing legal building volume (i.e., loft, cellar, etc.)

Findings

Minor Exceptions to zoning standards may be granted by the Community Development Director or their designee in accordance with subsection XX above if all of the following findings are made:

1. There are material discrepancies or errors in Zoning Information Reports prepared for the property. The error in the prior Zoning Information Report involves a material failure to identify the subject improvement as a zoning violation or an errant

characterization of the legality or illegality of the existing improvement on the real property.

2. Substantial evidence has been provided that indicates the improvement has been in place, in its current form on the site prior to January 1, 1980 or as otherwise specified in this Section.
3. The Minor Exception does not result in an alteration that would constitute a "demolition" as that term is defined in SBMC §22.22.020.
4. Building additions are not located closer to any property line than the existing legally non-conforming building.
5. For improvements in setbacks, the improvement is located in general compliance with the Single Family Design Board's Good Neighbor Guidelines.
6. For improvements in the open yard or minimum distance between buildings, the site will maintain adequate yard areas to provide light and air, separation of buildings, privacy and enjoyment of occupants, and preservation of residential amenities.
7. For garage conversions, the number and configuration of parking space(s) required at the time of the conversion is provided on site.
8. For improvements that increase the height of the building, the increased height complies with all applicable height and building story limitations.

Conditions

In granting the Minor Exception, the Community Development Director may prescribe any appropriate conditions as may be necessary to reduce potential adverse effects on neighboring properties or to preserve residential amenities.

Decisions

A decision on the Minor Exception request pursuant to this Section is final and effective when the decision is made.

