



# City of Santa Barbara California

## PLANNING COMMISSION MEMORANDUM

**REPORT DATE:** January 16, 2014  
**AGENDA DATE:** January 23, 2014  
**PROJECT:** Amendment to Santa Barbara Municipal Code §28.87.170  
 (Fences, Screens, Walls and Hedges)  
**TO:** Planning Commission  
**FROM:** Planning Division, (805) 564-5470, extension 5564  
 Renee Brooke, AICP, Senior Planner *RLB*

### I. BACKGROUND

On December 5, 2013, the Planning Commission held a public hearing and provided direction to staff on proposed Municipal Code amendments related to fences, screens, walls and hedges and the accompanying draft *Fences, Screens, Walls and Hedges Guidelines*. The minutes of that meeting are attached as Exhibit A.

Subsequently, staff held a similar discussion with the Historic Landmarks Commission (HLC) on December 18, 2013 and received additional public and HLC input on the proposed amendments. The draft minutes of that meeting are attached as Exhibit B.

### II. DISCUSSION

The purpose of this hearing is to present the proposed Municipal Code amendments (Exhibit C) and draft guidelines to help implement the ordinance (Exhibit D), and request that the Planning Commission make a recommendation to City Council for their adoption.

After reviewing the comments and direction provided to staff over the course of six public hearings, we understand that although there is a range of opinion on various points, we believe that the Planning Commission and the majority of members on the other advisory boards consulted since April 2013 (Neighborhood Advisory Council, Single Family Design Board and HLC) agree with the general direction of the proposed amendments. For that reason, staff made only minor, primarily “clean-up” revisions to the proposed amendments since the version presented to the Planning Commission on December 5, 2013. Requests by the public or Commissioners for clarity or a better understanding of how the regulations would be applied in certain situations were addressed by providing additional diagrams in the guidelines and further describing the site-specific factors that may warrant an exception to the standards.

The staff report for the December 5, 2013 Planning Commission meeting, which explains the proposed amendments recommended at that time, is attached as Exhibit E. This memorandum only highlights the notable changes made to the ordinance and guidelines since that prior meeting.

### Proposed Ordinance Amendments

The following notable changes were made to the proposed ordinance amendments since December 5, 2013:

- Subsection 28.87.170.A.6 (Wall) was added to the list of proposed definitions
- Subsection 28.87.170.B.2 was revised for legal clarity
- Minor changes were made to subsections 28.87.170.B.3 (Height Measurement) and 28.87.170.B.3 (Separation), none of which alter their intended meaning
- The findings contained in Subsection 28.87.170.D.1 (Administrative Review and Approval – Community Development Director) were slightly revised for clarity and an additional finding (28.87.170.D.1.d) is being proposed specifically for screens or hedges.
- Subsection 28.87.170.E. was reorganized for clarity

Other, more significant changes suggested, such as increasing the allowed height, by right, of hedges within interior setbacks to 12 feet, were further discussed by staff and ultimately not recommended. We believe the proposed height limit of eight feet, with the potential for an exception to allow a hedge to grow up to 12 feet with the adjacent property owner's agreement, better protects the general welfare of the community. Staff also explored separating the hedge regulations into a separate section of the ordinance and determined that many sections would end up being repeated unnecessarily and since the regulations are generally very much the same among fences, screens, walls and hedges, they could continue to be handled in one section.

### Fences, Screens, Walls and Hedges Guidelines

Substantive changes to the proposed *Fences, Screens, Walls and Hedges Guidelines* include:

- Additional diagrams (Figures 4 and 5) were provided to clarify how height is measured in a variety of circumstances
- Figure 14 was added to clarify how the maximum size of an entryway arbor would be measured
- The Administrative Review and Approval of Minor Exceptions section (beginning on page 8) was significantly expanded to further explain the site-specific factors that may warrant an exception to the height limits.
- The Design Review section (page 11) was added to explain the relationship and role of the design review boards and staff when considering exceptions to the height limits.

### **III. RECOMMENDATION**

Staff recommends that the Planning Commission consider the proposed Municipal Code amendments and accompanying *Fences, Screens, Walls and Hedges Guidelines*, and make a recommendation to the City Council for their adoption.

#### Exhibits:

- A. Planning Commission Minutes, dated December 5, 2013
- B. HLC Draft Minutes, dated December 18, 2013
- C. Draft Ordinance Amending Section 28.87.170 of the Santa Barbara Municipal Code
- D. Draft *Fences, Screens, Walls and Hedges Guidelines*
- E. Planning Commission Staff Report (without Exhibits), dated November 26, 2013



# City of Santa Barbara

## Planning Division

### PLANNING COMMISSION MINUTES

December 5, 2013

#### **CALL TO ORDER:**

Chair Schwartz called the meeting to order at 1:00 P.M.

#### **I. ROLL CALL**

Vice Chair Deborah L. Schwartz, Commissioners Bruce Bartlett, John P. Campanella, Sheila Lodge, June Pujo, and Addison Thompson.

**Absent: Mike Jordan**

#### **STAFF PRESENT:**

Bettie Weiss, City Planner

Renee Brooke, Senior Planner

N. Scott Vincent, Assistant City Attorney

Steve Foley, Supervising Transportation Planner

Derrick Bailey, Supervising Transportation Engineer

Peggy Burbank, Project Planner

Julie Rodriguez, Planning Commission Secretary

#### **II. PRELIMINARY MATTERS:**

A. Action on the review of the following Draft Minutes and Resolutions:

1. Draft Minutes of September 19, 2013
2. Resolution 012-013  
Safety Element Recommendation to City Council
3. Draft Minutes of October 3, 2013
4. Resolution 013-013  
State Street, Cota Commuter Lot, and Coast Village Road Farmer's Markets

#### **MOTION: Lodge/Bartlett**

Approved the minutes and resolution 012-013 of September 19, 2013 as corrected.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0. Absent: 1 (Jordan)

**MOTION: Lodge/Bartlett**

Approved the minutes of October 3, 2013 and resolution 013-013 as corrected.

This motion carried by the following vote:

Ayes: 4 Noes: 0 Abstain: 2 (Campanella, Thompson) Absent: 1 (Jordan)

- B. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

None.

- C. Announcements and appeals.

Ms. Brooke made the following announcements:

1. Peggy Burbank, Project Planner, will be retiring from the city next week.
2. The Staff Hearing Officer's decision for 101 S. La Cumbre Road was appealed and is scheduled for Planning Commission consideration on December 12, 2013.

- D. Comments from members of the public pertaining to items not on this agenda.

Chair Schwartz opened the public hearing at 1:10 P.M. and, with no one wishing to speak, closed the hearing.

**III. NEW ITEM:**

**ACTUAL TIME: 1:11 P.M.**

**APPLICATION OF JAMES ZIMMERMAN, ARCHITECT FOR ROBERT AND JAN KOPF, 1222 SHORELINE DRIVE, APN 045-214-021, E-3/SD-3 ZONES, LOCAL COASTAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL (5 DU/AC) (MST2013-00207)**

The proposed project involves demolition of an existing one-story single family residence and detached garage, and construction of a new two-story, 1,680 square-foot single family residence and 440 square-foot detached garage on a 5,662 square-foot lot in the East Mesa Neighborhood. The discretionary application required for this project is a Coastal Development Permit (CDP2013-00005) to allow the proposed development in the Appealable Jurisdiction of the City's Coastal Zone (SBMC § 28.44.110).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to California Environmental Quality Act Guidelines Section 15303 (a): New Construction or Conversion of Small Structures, Single Family Residence.

Case Planner: Peggy Burbank, Project Planner

Email: PBurbank@SantaBarbaraCA.gov

Phone: (805) 564-5470, ext. 4582.

Peggy Burbank, Project Planner, gave the Staff presentation.

James Zimmerman, Architect, gave the Applicant presentation.

Chair Schwartz opened the public hearing at 1:22 P.M., with no one wishing to speak, the public hearing was closed.

**MOTION: Thompson/Pujo**

**Assigned Resolution No. 014-13**

Approved the project, making the amended findings for the Coastal Development Permit as outlined in the Staff Report, dated November 27, 2013, subject to the Conditions of Approval in Exhibit A of the Staff Report.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Jordan)

Chair Schwartz announced the ten calendar day appeal period.

**IV. DISCUSSION ITEM**

**ACTUAL TIME: 1:42 P.M.**

**MUNICIPAL CODE AMENDMENTS RELATED TO FENCES, SCREENS, WALLS AND HEDGES (SBMC §28.87.170)**

The purpose of this discussion is to present the proposed Municipal Code amendments and accompanying draft guidelines and receive input on the proposal. At a subsequent Planning Commission meeting, staff will present a proposed final ordinance and guidelines and request that the Planning Commission make a recommendation to City Council for their adoption.

Case Planner: Renee Brooke, AICP, Senior Planner.

Email: RBrooke@SantaBarbaraCA.gov

Phone: (805) 564-5470, ext. 4466.

Renee Brooke, AICP, Senior Planner, gave the Staff presentation. Steve Foley, Supervising Transportation Planner, and Derrick Bailey, Supervising Transportation Engineer, provided clarification in responding to the Commission's questions.

Chair Schwartz opened the public hearing at 2:23 P.M.

The following people provided public comment:

1. Lori Smyth commented in support of staff's direction on the code amendments. Suggested allowing adjoining neighbors to work out the hedge height that works for them. If there is disagreement, then mediation can be provided by Zoning staff. Disagrees with complaint-based enforcement. Would like to see some bamboo types used as hedges. Safety and privacy should be as important as air and light.

2. Kathleen Dagg would like to see the city follow up on complaints and enforce the code.
3. Marcos Lazaro, Santa Barbara Association of Realtors, supports the current suspension of the hedge ordinance with the exception of when it poses a threat to residents.
4. Steve Cook wondered why the ordinance does not apply to more zones. Does not think that "hedge" is clearly defined; would also like to see slopes defined. Suggests looking at the use of promotion as opposed to enforcement in getting more community support and compliance.
5. Richard Powell believes that the 8' height limit should be kept. Expressed support for the proposed amendments.
6. Pamela Stafford acknowledged Staff's work with community in hearing concerns. Would like to see height variance live with the owner and not the property. When the property changes hands, it would revert to regular heights, but new owner could opt to keep it at time of purchase.
7. Diane Powell supports the proposed amendments and appreciatively acknowledged Staff's work with the community. Asked if neighbors would receive notice when staff receives an exception request.
8. Grant Castleberg would like consideration for hedge height exceptions in areas where hedges are needed as a sound barrier.
9. Dr. A.E. Keir Nash suggested hedges buffer noise and dust and submitted a handout of recommendations.
10. Marguerite Nash thanked staff for the proposed amendments and wants allowance for a higher hedge along front property lines for safety and dust.
11. Jane Frederick suggested more clarification of definitions proposed. Need to define 'grade' with regard to walls/hedges. Terms are used such as natural grade, above grade, below grade, etc. Did not find a clear process of resolution for complaints, other than being complaint-driven and suggested Staff review the complaint process for code violations. With larger cars, asked for consideration of a 15 by 20 triangle adjacent to driveways to take into account longer length of cars.
12. Greg Knudson felt that the 3.5 height restriction does not work for all neighborhoods. The ten-foot front setback for R-3 and R-4 Zones may not allow for anything other than 3.5 fences or walls. On lots where cars can turn around on-site, a 7' triangle might be adequate for site visibility.
13. Vickie Ondracek suggested that there be guidelines to protect residence privacy from public views, especially when a site sits below the road level. Administrative exceptions appear more for interior property lines and would like to see the same for front property lines.
14. Mary Fox was concerned with unregulated Y intersections. She has pursued enforcement for three years, but has received no resolution. Echoes need for definition of 'grade'. Enforcement has not been consistent. Encourages exploration of trees on property line that impact a neighbor's sun exposure.
15. Milt Hess would like clarification on whether a hedge on top of a wall is measured from the base of the wall or the base of the hedge.

16. Florence Sanchez sees more hedges being put in the Upper East Side for traffic and privacy. Sees 23 properties as non-compliant and wonders what will become of them.
17. Fred Sweeney, President of Upper East Association, reported the board has not taken a position on the amendments. As a Single Family Design Board Member, he regularly deals with hedges and it's important to understand the purpose of the ordinance and that it came about in 1957 when large tracks were built on flat land. Neighborhoods vary by many degrees and that needs to be considered. One ordinance may not solve everything for all neighborhoods and perhaps may require looking at individual neighborhoods.

With no one else wishing to speak, the public hearing was closed at 2:54 P.M.

Chair Schwartz called a recess at 2:54 P.M and reconvened the meeting at 3:03 P.M.

Scott Vincent, Assistant City Attorney, suggested affirmative defense as another potential solution to allow neighbors to agree to a height that exceeds the ordinance limit. An affirmative defense could be demonstrated after a complaint is filed and would better represent the temporal nature of the agreement among neighbors.

Commissioner's Comments:

1. Commissioner Lodge is in agreement with all of the proposed changes and thinks they are going in the right direction. Has concerns with the allowances proposed for all-way stop controlled intersections.
2. Commissioner Campanella is also in agreement with most changes. Suggested considering different neighborhoods rather than a 'one size fits all' approach. Referenced Upper East Side neighborhood in comparison to other neighborhoods. Thinks that height could be higher than 3.5' in some cases and asked for more flexibility in that regard.
3. Commissioner Bartlett stated that rather than tweak a 1957 ordinance, we should look at what we really want to see. Does not think the 'one size fits all' approach is best way to go. Pleased with flexibility that Staff is proposing. Agrees with safety standards and thinks the safety triangles are responsive and appropriate. Likes that neighbors on interior lot lines can come to agreement rather than go through an enforcement approach. Agrees with Commissioner Campanella that public realm along the front property line areas are the biggest issue. Lower heights were appropriate when we had single story homes, but now homes are two story and higher hedges may be appropriate. Scale the hedge to the home. Grade should be considered. Thanked Staff for efforts made. If the ordinance changes lead people away from enforcement, then it will be money that was well spent.
4. Commissioner Pujo thinks this is a great start, but needs more flexibility on some provisions. Need to get a handle on what will end up being enforced and what can be expected. Concerned with treatment of hedges – believes hedges need to be looked at differently than fences and walls; hedges grow and may not always be

compliant. Hedges provide greenery but are difficult to enforce. Hedges need greatest flexibility of all and should be noted that way in the Ordinance. If neighbors agree, then the concept of 'affirmative defense' gives an accurate assurance to the hedge owner that adjoining neighbor will not seek enforcement, but only at the time that agreement is made; not in perpetuity. Problems arise when neighbors change and no longer agree. Agrees that 8' is not enough for interior lot line hedges; should go to 12'. Fences and walls along front property lines should consider design and character. In areas where we have design guidelines, perhaps looked at by design review board when making a decision.

5. Commissioner Thompson agrees that hedges, fences, and walls should not be lumped together. Most comments received refer to this Ordinance as the 'hedge ordinance'. Most complaints received are about hedge heights. Fences and walls are structures. Hedges are landscaping elements that bring about potential problems that a fence and wall do not. We should consider looking at these separately. We should apply these regulations to all zones in the city; not just residential. It is difficult to craft one set of rules that will apply to the entire city. Perhaps different heights depending on lot size should be considered. One size fits all with enough flexibility is going to be difficult. The entryway could be only 2'3" wide. 18 square foot limit for arbors is too small if you can go to 8' high. Flexibility for administrative review and approval is good. Capability of adding additional height in some circumstances is good. Exceptions for guard rails are a good idea. Need to recognize the character differences of neighborhoods in the city.
6. Commissioner Schwartz thanked the public for the years of feedback provided and Staff for the work that has been done. Agrees with Commissioners Thompson and Pujo that hedges are in a different realm than fences and walls. Not sure if they should be addressed in a separate ordinance or not. Moving in a more flexible direction and allowing Staff to make some exceptions is reasonable. Challenge will be in providing a template for the public that provides clarity and consistency so when the public comes to the City with a request or complaint there are clear guidelines. Hedge heights on interior lot lines are a different issue than streetscape with the public right of way. More rigor and higher standards with tighter standards are more appropriate for the public right-of-way. Flexibility should be allowed for interior lot lines. Does not want to see the city engage in constant mediation between neighbors. Our neighborhoods have distinct character and differences, yet we cannot have an ordinance for each neighborhood. Need to strike a balance. We need more feedback from the public from different neighborhoods.
7. Commissioner Bartlett added that hedges should comply with the Solar Access Ordinance, hence 12' height should be OK on interior lot lines and create privacy without diminishing light. Commissioner Pujo agreed.
8. Commissioner Thompson noted that though the guidelines are titled fences, screens, wall, and hedges, they do not have any mention of hedges.



**DISCUSSION/ACTION ITEM****2. MUNICIPAL CODE AMENDMENTS (SBMC §28.87.170)**

**(2:05)** Staff: Renee Brooke, AICP, Senior Planner, Community Development Department  
(Presentation and discussion of proposed amendments to the Santa Barbara Municipal Code related to Fences, Screens, Walls and Hedges, with direction to staff.)

Actual time: 2:13 p.m.

Present: Renee Brooke, Senior Planner  
Fred Sweeney, Single Family Design Board Representative

Public comment opened at 2:28 p.m.

John Gurley, Dover Road resident, commented that there will be a significant amount of properties in his neighborhood that would need to make changes to their property if the proposed amendments were to be adopted. The safety issues and traffic revisions make sense, but there would be enforcement issues with respect to front hedges.

Meg Gurley, Dover Road resident, commented on the acknowledgement of elevation changes between properties, and safety issues considered on a case-by-case basis.

Grant Castleberg, Garden Street resident, commented that the hedge height limit is not high enough for privacy.

Lynda Courtney, Lasuen Road resident, commented in support of the eight foot hedge height limit between properties without exceptions and would like to have the statement "the proposal to allow higher hedges if it helps address neighborhood compatibility or privacy issues" removed.

Joan Livingston, Upper East neighborhood resident, commented that there is not a general agreement on keeping the existing limits for the frontline hedges. There is agreement with the safety-visibility triangle. She would like to see changes to the solar and view ordinances for any existing problems with hedges.

Fred Sweeney, Upper East Association President, commented on whether there is a need to change the character of the community beyond addressing hedges of dispute and safety issues.

Lisa Burns, Garden Street resident, suggested adding that El Pueblo Viejo Landmark District be part of a non-conforming exception to allow six foot hedges in front yards and twelve foot hedges on interior property lines by right.

Kellam de Forest, local resident, commented on growth of hedges and pruning to proper height. He questioned how hedge limits are enforced and whether the EPV should be expanded to include the Upper East historic neighborhood.

Chair Suding acknowledged receipt of public correspondence letters from Kurt Huffman, Richard and Diane Powell, and Joe Rution.

Public comment closed at 2:56 p.m.

A letter from Paula Westbury was received.

**The Commission made the following comments:**

1. There should be flexibility taking into account the age and character of certain neighborhoods for creation of exception criteria.
2. The Commission would be in favor of different front yard fence/wall height limits depending on the neighborhood, considering the newly adopted Historic Resources Element and neighborhood compatibility.
3. Hedges should be addressed in a separate ordinance.
4. Pilasters should be better defined.
5. Better define individual trees versus a long line of trees that create a hedge.

**\*\* THE COMMISSION RECESSED FROM 3:33 PM TO 3:41 PM \*\***

**CONCEPT REVIEW - NEW****3. PLAZA DE VERA CRUZ**

P-R Zone

**(2:50)**

Assessor's Parcel Number: 031-201-004

Application Number: MST2013-00491

Owner: City of Santa Barbara

Applicant: Cameron Benson, Creeks Manager

(Proposal to replace the existing impermeable asphalt alley paving with permeable pavers to comply with the City's Storm Water Management Program. The proposed project area is approximately 10,000 square feet. This park is on the City's List of Potential Historic Resources: "Plaza de Vera Cruz, one of the city's original parks.")

**(Project was previously reviewed on December 4, 2013 as a Discussion Item. Action may be taken if sufficient information is provided.)**

Actual time: 3:41 p.m.

Public comment opened at 3:49 p.m. and, as no one wished to speak, it was closed.

A letter from Paula Westbury was received.

Straw votes: How many Commissioners would be in favor of the dark grey pavers proposed? 4/4 (Drury/Murray/Sharpe/Winick opposed).

How many Commissioners would be in favor of the lighter color grey pavers proposed? 4/4 (Drury/Murray/Suding/Sharpe opposed).

How many Commissioners would be in favor of the sand/stone pavers proposed? 7/1 (Suding opposed).

**Motion: Project Design and Final Approvals with the condition that Angelus block Sand/Stone pavers shall be used.**

Action: Winick/La Voie, 8/0/0. Motion carried.

AN ORDINANCE OF THE COUNCIL OF THE  
CITY OF SANTA BARBARA AMENDING  
SECTION 28.87.170 OF THE SANTA BARBARA  
MUNICIPAL CODE RELATING TO FENCES,  
SCREENS, WALLS AND HEDGES.

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

**SECTION 1.** Section 28.87.170 of Chapter 28.87 of the Santa Barbara Municipal Code is deleted in its entirety and readopted to read as follows:

**28.87.170 Fences, Screens, Walls and Hedges.**

A. **DEFINITIONS.** As used in this Section 28.87.170, the following terms and phrases shall have the indicated meanings:

1. **Arbor.** An open structure typically constructed of latticework or metal that often provides partial shade or support for climbing plants, sometimes referred to as a trellis or pergola. An arbor is not considered an accessory building.

2. **Fence.** An upright structure serving as an enclosure, barrier, or boundary, usually made of posts, boards, wire, or rails.

3. **Hedge.** A row of closely planted shrubs, bushes, or any other kind of plant material that forms a boundary or substantially continuous visual barrier.

4. **Parkway.** An area between the curb and sidewalk in a fully improved right of way, typically landscaped.

5. **Screen.** A physical device or vegetation, including but not limited to trees, shrubs, bushes and other plantings, that visually divides or conceals a parcel.

6. **Wall.** An upright structure of masonry, wood, plaster, or other building material serving to enclose, divide, or protect an area.

B. **GENERAL RULES.** The following guidelines and standards apply in any zone within the City:

1. **Guidelines.** The Fences, Screens, Walls and Hedges Guidelines, as adopted by resolution of the City Council, shall provide direction and guidance to decision makers and City staff in connection with applications reviewed pursuant to this Section.

2. **Required Reduction for Safety.** If the height of any fence, screen, wall or hedge obstructs the sightlines required for the safe operation of motor vehicles, the Public Works Director (or Director's designee) may declare the fence, screen, wall or hedge to be a public nuisance and require the reduction of the height of the fence, screen, wall or hedge in order to provide for the safe operation of motor vehicles.

3. **Height Measurement.** The height of a fence, screen, wall or hedge shall be measured from the lowest point of contact with the ground directly adjacent to either side of the fence, screen, wall or hedge.

4. **Separation.** Unless there is a horizontal separation of at least five feet (5') between a fence, screen, wall or hedge, the combined height of a fence, screen, wall or hedge and any

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adjacent fence, screen, wall or hedge shall be measured from the lowest point of the lowest such fence, screen, wall or hedge to the highest point of other fences, screens, walls or hedges.

5. **Schools.** A chain link or open mesh type fence of any height necessary to enclose an elementary or high school site may be located and maintained in any required yard.

6. **Barbed Wire, Concertina Wire, Sharp Wire or Points.** No barbed wire or concertina wire shall be used or maintained in or about the construction of a fence, screen, wall or hedge along the front or interior lot lines of any lot, or within three feet (3') of said lot lines. No sharp wire or points shall project at the top of any fence or wall less than six feet (6') in height.

C. **RULES APPLICABLE TO RESIDENTIALLY ZONED PARCELS.** On parcels zoned A-1, A-2, A-3, E-1, E-2, E-3, R-1, R-2, R-3, or R-4, the following standards apply to fences and walls:

1. **Required Setbacks.** Except as otherwise provided in this Section, no fence, screen, wall or hedge located in the required setbacks shall exceed a height of eight feet (8').

2. **Front Lot Lines.** Except as otherwise provided in this Section, no fence, screen, wall or hedge located within ten feet (10') of a front lot line shall exceed a height of three and one-half feet (3-1/2').

3. **Driveways.** Except as otherwise provided in this Section, no fence, screen, wall or hedge exceeding a height of three and one-half feet (3-1/2') shall be located within a triangular area on either side of a driveway as follows:

a. When a driveway directly abuts a portion of a street improved with a sidewalk and a parkway, the triangle is measured on two sides by a distance of ten feet (10') from the side of a driveway and ten feet (10') back from the front lot line.

b. When a driveway directly abuts a portion of a street without a sidewalk or parkway, the triangle is measured on two sides by a distance of twenty feet (20') from the side of a driveway and ten feet (10') back from the front lot line.

4. **Corner Lots.** Within the required "Intersection Sight Distance", as depicted in the Fences, Screens, Walls and Hedges Guidelines, no fence, screen, wall or hedge may obstruct the sightlines required for the safe operation of motor vehicles. This paragraph does not apply to parcels located adjacent to intersections controlled by an all-way stop.

5. **Guardrails.** A guardrail may extend above the maximum height limit for a fence or wall, only to the minimum extent required for safety by the California Building Code, and only if the guardrail is predominately transparent.

6. **Decorative Elements.** Notwithstanding the above provisions, decorative elements not wider than nine inches (9") by nine inches (9"), such as pilaster caps, finials, posts, lighting fixtures, or similar decorative features as determined by the Community Development Director (or the Director's designee), may exceed the maximum height of any fence or wall by not more than twelve inches (12"), provided such features are spaced not less than six feet (6') apart, measured on-center.

7. **Entryway Arbors.** Notwithstanding the above provisions, one entryway arbor, substantially open (no solid walls or roof) and not exceeding a maximum of eighteen (18) square feet in area and eight feet (8') in height, is permitted in any front yard. The square footage of the arbor shall be determined by the area located within the rectangle formed around the posts of the arbor or the roof portion of the arbor, whichever dimension is larger. This exception shall only apply to an entryway arbor used in combination with and attached to a fence or wall. No arbor shall be located on a street corner in conflict with the provisions of Section 28.87.170.C.4.

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D. ADMINISTRATIVE REVIEW AND APPROVAL OF MINOR EXCEPTIONS.

1. **Community Development Director.** The Community Development Director (or the Director's designee) may grant minor exceptions, as specified in the Fences, Screens, Walls and Hedges Guidelines approved by a resolution of the City Council, to Paragraphs C.1, C.2, C.5, C.6, and C.7 above, if the Community Development Director finds that:

a. If the subject fence, screen, wall or hedge is located on, or within the required setback of, an interior lot line, the adjacent property owner(s) that share a common lot line nearest to the fence, screen, wall or hedge have agreed to the requested exception;

b. The granting of such exception will not create or exacerbate an encroachment into the necessary sightlines for safe operation of motor vehicles;

c. As applicable, the subject fence or wall will be compatible with other similarly situated and approved structures in the neighborhood;

d. As applicable, the subject screen or hedge will be compatible with the character of the neighborhood (the Community Development Director may seek advice from the appropriate design review body when considering this finding); and

e. The granting of such exception will not be detrimental to the use and enjoyment of other properties in the neighborhood.

2. **Public Works Director.** The Public Works Director (or the Director's designee) may grant minor exceptions, as specified in the Fences, Screens, Walls and Hedges Guidelines approved by a resolution of the City Council, to Paragraphs C.3 and C.4 above, if the Public Works Director finds that:

a. The granting of such exception will not create or exacerbate an encroachment into the necessary sightlines for safe operation of motor vehicles; and

b. The granting of such exception will not be detrimental to the use and enjoyment of the other properties in the neighborhood.

E. **NONCONFORMING.** Any fence, screen, wall or hedge which is nonconforming to the provisions of this section and which existed lawfully on January 10, 1957 (the effective date of the ordinance adopting the provisions of this section) may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such fence or wall, except as permitted in other sections of this title. A hedge shall be determined to be nonconforming by the Community Development Director upon receipt of sufficient evidence indicating that the hedge existed in its present location on January 10, 1957. Notwithstanding the foregoing, no more than ten percent (10%) of the length of a nonconforming fence or wall may be replaced within any twelve-month period, unless: 1) such fence or wall is a significant structure or feature associated with a designated City Landmark or Structure of Merit and the extent of repair or maintenance occurs pursuant to Santa Barbara Municipal Code Section 22.22.070; or 2) such fence or wall is necessary to retain or support soil in a vertical or near vertical slope of earth. If a nonconforming fence, screen, wall or hedge has been determined to be a safety hazard by the Public Works Director, the Public Works Director (or Director's designee) may declare the fence, screen, wall or hedge to be a public nuisance and require the reduction of the height of the fence, screen, wall or hedge in order to provide for the safe operation of motor vehicles.



# Fences, Screens, Walls and Hedges Guidelines

## INTRODUCTION

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### **Purpose of the Fences, Screens, Walls and Hedges Guidelines**

The Fences, Screens, Walls and Hedges Guidelines have been developed to assist in the implementation of Santa Barbara Municipal Code Section 28.87.170. These guidelines explain, in user-friendly terms and diagrams, the application of the standards in various situations and provide criteria for circumstances that may qualify for Administrative approval of exceptions to the standards.

### **Relationship to Other Documents**

- **Relationship to the General Plan and Local Coastal Plan.** The Santa Barbara General and Local Coastal Plans contain policies regarding improvements to properties and are the standard of review for many discretionary applications.
- **Relationship to the Zoning Ordinance.** The Zoning Ordinance (Title 28 of the Municipal Code) contains standards to which development must comply. In the event of a conflict between these Guidelines and the Municipal Code, the Code requirements prevail. These Guidelines are intended to augment the Municipal Code by providing additional detail and some examples of methods available to comply with the Code.
- **Relationship to Other Guidelines.** Many other City Guidelines provide direction regarding physical development, architectural style, site design and landscaping. The Fences, Screens, Walls and Hedges Guidelines are compatible with, and are not meant to contradict or take the place of, other applicable Guidelines. For example, the Fences, Screens, Walls and Hedges Guidelines primarily address the allowed location and height of fences, screens, walls and hedges. The exact material, color, width and style of any of those elements may be subject to other guidelines (e.g., Single Family Design Board General Design Guidelines and Meeting Procedures), as applicable.

## GUIDELINES

### Measuring Height

Per SBMC §28.87.170.B.3, the maximum height of a fence, screen, wall or hedge shall be measured from the lowest point of contact with the ground directly adjacent to either side of the fence, screen, wall or hedge. [Figure 1]

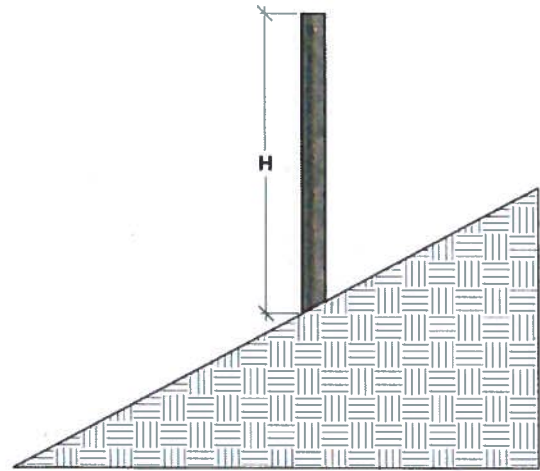


Figure 1

### Horizontal Separation

Per SBMC §28.87.170.B.4, if there is a horizontal separation of at least five feet (5') between fences, screens, walls or hedges, the height shall be measured separately for each fence, screen, wall or hedge. The horizontal separation shall be measured from the "back" face of the lower fence, screen, wall or hedge to the "front" face of the higher fence, screen, wall or hedge. [Figure 2]

Also per SBMC §28.87.170.B.4, if there is a horizontal separation less than five feet (5') between fences, screens, walls or hedges, the height shall be measured as the cumulative vertical distance from the lowest point of the lowest fence, screen, wall or hedge to the highest point of other fences, screens, walls or hedges. The horizontal separation shall be measured from the "back" face of the lower fence, screen, wall or hedge to the "front" face of the higher fence, screen, wall or hedge. [Figures 3 through 5]

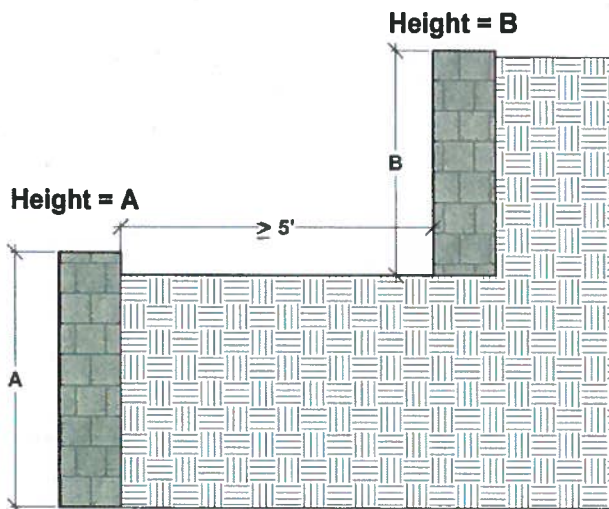


Figure 2

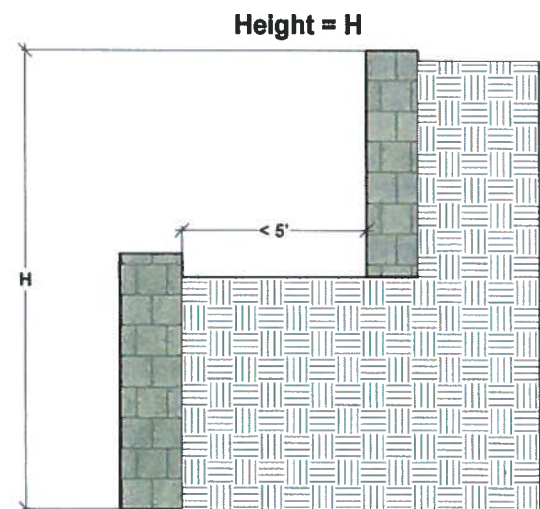


Figure 3



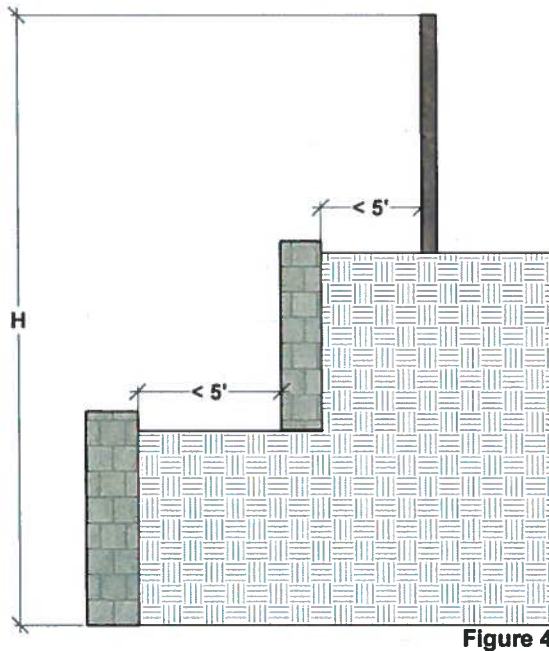


Figure 4

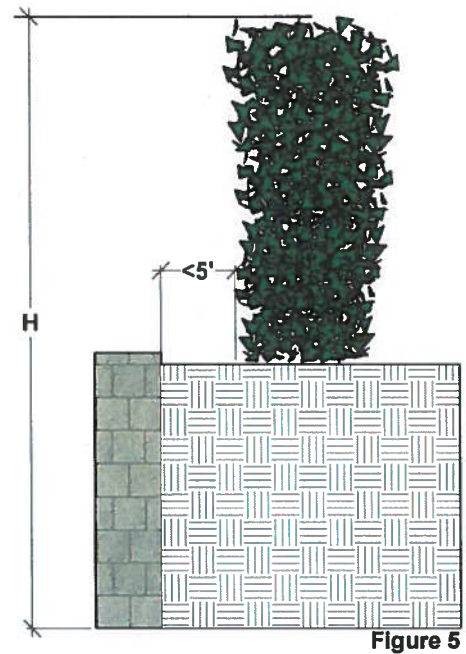


Figure 5

### Retaining Walls

Where fences, screens, walls or hedges are located on retaining walls, the portion of the retaining wall above finished grade shall be considered as part of the overall height of the fence, screen, wall or hedge.

### Guardrails

Per SBMC §28.87.170.C.5, a guardrail may extend above the maximum height of a fence or wall, but only to the minimum extent required for safety by the California Building Code (Section 1013.2). To qualify for this exception to the height limit, safety guardrails themselves must be predominantly transparent. Some examples of guardrails that meet the intent of “predominantly transparent” are shown in Figures 6 through 8, below.



Figure 6



Figure 7

Guardrails or similar features proposed voluntarily to address an abrupt change in grade or perceived safety issue, and not explicitly required by the California Building Code, may exceed the allowed height limit, subject to Administrative review and approval, and will be evaluated on a case-by-case basis.



Figure 8



Figure 9

Guardrails that are not predominantly transparent (Figure 9) may exceed the height limit if necessary to achieve consistency with the architectural style of the site, subject to Administrative review and approval, and will be evaluated on a case-by-case basis.

### Driveways

Per SBMC §28.87.170.C.3, no fence, screen, wall or hedge exceeding a height of three and one-half feet (3-1/2') shall be located within a triangular area (often referred to as “visibility triangle” or “sightline”) on either side of a driveway, as described in the following scenarios.

When a driveway directly abuts a portion of a street improved with a sidewalk and parkway, the triangle is measured on two sides by a distance of ten feet (10') from the side of a driveway and ten feet (10') back from the front lot line [Figure 10].

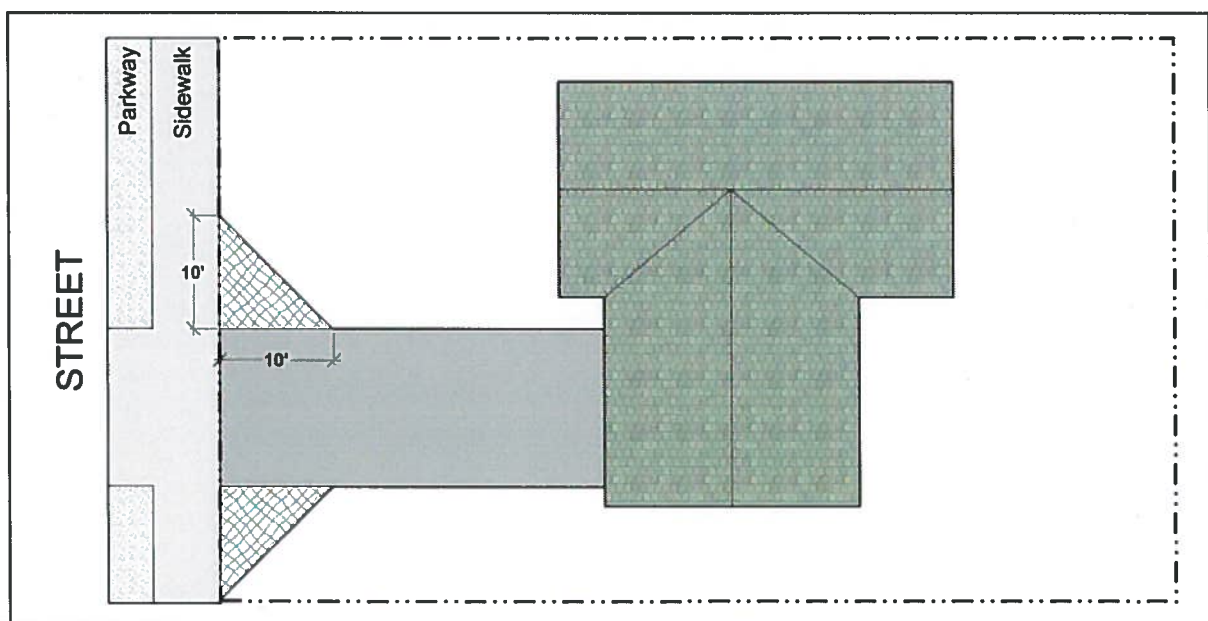


Figure 10

Figure 11 provides an example of how this provision may apply to a driveway not aligned perpendicularly to the street, which occurs in many locations throughout the community.

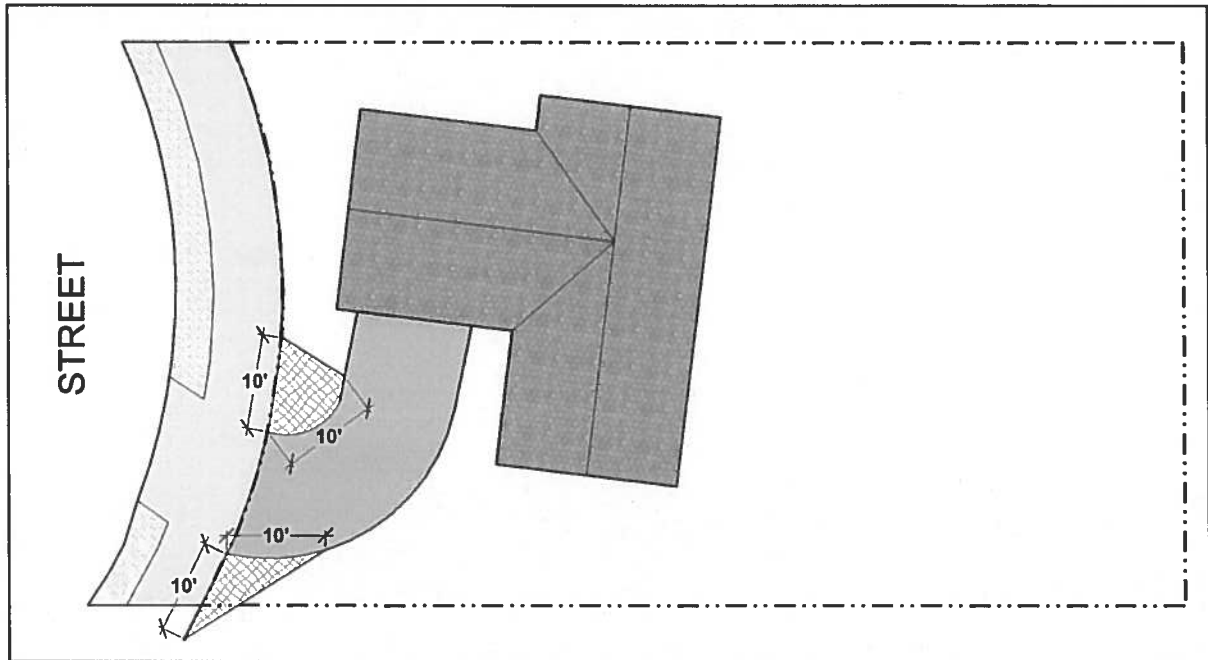


Figure 11

When a driveway directly abuts a portion of a street without a sidewalk or parkway, the triangle is measured on two sides by a distance of twenty feet (20') from the side of a driveway and ten feet (10') back from the front lot line. [Figure 12]

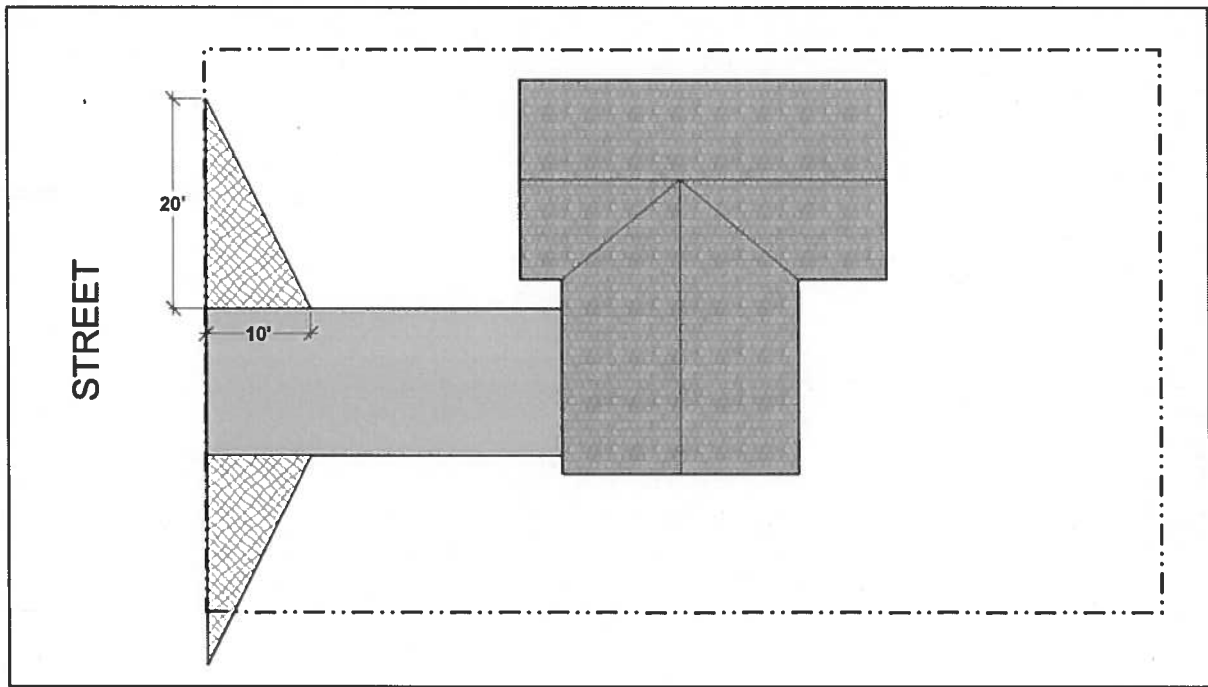


Figure 12

### Corner Lots

Per SBMC §28.87.170.C.4, the height and location of fences, screens, walls, or hedges located within the required “Intersection Sight Distance” (see Figure 13) shall be evaluated by Public Works Staff on a case-by-case basis. The required sight distance is established based on legal vehicle speed and the position of the driver’s eye in relation to the intersection. Fences, screens, walls or hedges located adjacent to intersections controlled by an all-way stop are not subject to additional height restrictions pursuant to this subsection.

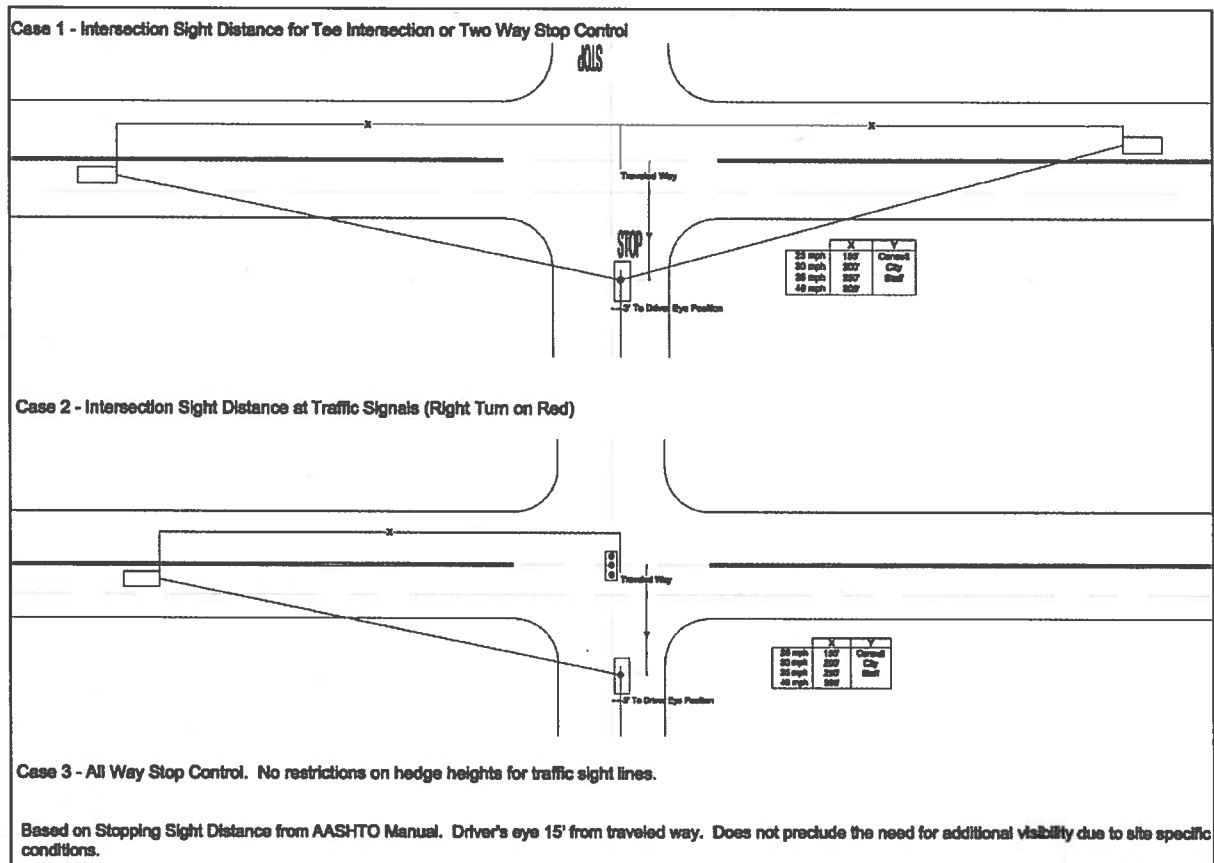


Figure 13

## Entryway Arbor

An entryway arbor is intended to provide a decorative gateway to the property and define the pedestrian entrance from the street. To meet the provisions of SBMC §28.87.170.C.7, an entryway arbor must be used in combination with, and attached to, a fence or wall. A free-standing arbor or similar element is subject to the provisions of SBMC §28.87.062 (Setback, Open Yard, Common Outdoor Living Space, and Distance Between Main Buildings Encroachment).

The square footage of the arbor shall be determined by the area located within the rectangle formed around the posts of the arbor or the roof portion of the arbor, whichever dimension is larger, as shown in Figures 15 and 16. The height is measured from the lowest point of contact with the ground directly adjacent to the arbor to the highest point of the arbor.

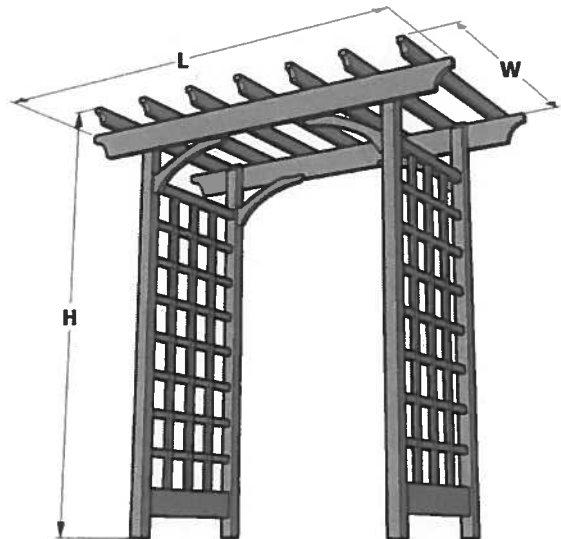


Figure 14

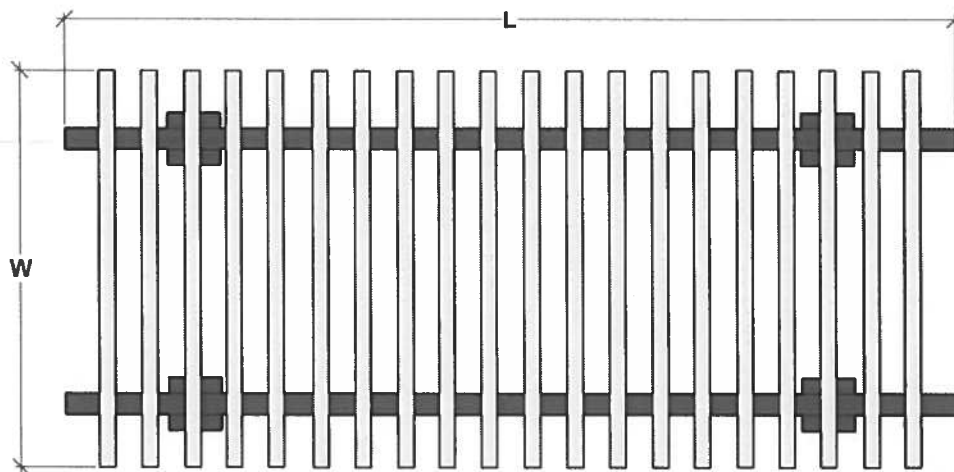


Figure 15

Consistent with SBMC §28.87.170.C.7, an entryway arbor must be substantially open, with no solid walls or roof. Exceptions to this provision may be evaluated on a case-by-case basis, subject to Administrative review and approval.

Gates or doors that meet the location and height limitations of SBMC §28.87.170 may be allowed within the frame of an entryway arbor. A gate or door may exceed the height limit, subject to Administrative review and approval, as long as the height, width, and visual transparency of the gate or door remain consistent with the intent to provide a welcoming entry feature to the property and does not obstruct sight lines for motorists, cyclists, or pedestrians.

## **ADMINISTRATIVE REVIEW AND APPROVAL OF MINOR EXCEPTIONS**

Pursuant to SBMC §28.87.170.D, the following minor exceptions to the subject regulations may be considered for approval as a ministerial action by the Community Development Director or Public Works Director (or the Directors' designee), if the necessary findings are made. If any of the required findings cannot be made, the owner/applicant has the option to request a Modification of the Fences, Screens, Walls and Hedges requirements, pursuant to SBMC §28.92.110.

### **Exceptions to Height Limits**

Due to variations in lot size, configuration, and topography (both on- and off-site), flexibility in the height of fences, screens, walls or hedges may be warranted to allow an improvement similar to that enjoyed by other properties in the neighborhood. In all cases, the necessary sight lines for driveways and street corners must be met. Some examples of where exceptions may be considered within interior and front setbacks and along front lot lines, and potential conditions for approval, are described below.

#### **Interior Setbacks**

Within interior setbacks (ranging from 5 to 15 feet in residential zones), fences, screens, walls and hedges are limited to eight feet (8') in height. A fence, screen, wall or hedge may, upon granting Administrative approval, exceed the height limit within interior setbacks by no more than four feet (4'). An owner/applicant who desires a fence, screen, wall or hedge extend more than twelve feet (12') in height within an interior setback has the option to request a Modification of the Fences, Screens, Walls and Hedges requirements, pursuant to SBMC §28.92.110.

Factors that may typically warrant special consideration and a possible exception include, but are not limited to, the following:

- An abrupt difference in elevation on either side of the fence, screen, wall or hedge
- The presence of a retaining wall or series of retaining walls
- The need to install a code-required security fence or wall around a pool
- A desire for additional privacy or security, with the agreement of adjacent property owner(s)

Methods to mitigate the actual or apparent height of the improvement, such as the following, are desirable and may be required as a condition of Administrative approval:

- Provide adequate separation between vertical elements (e.g., retaining wall system) to allow space for plantings between the walls or fences. Refer to the Single Family Residence Design Guidelines for appropriate treatment of retaining walls.
- Use vines or trellises and other climbing plants to screen the additional height
- Incorporate visually transparent elements (e.g., wrought iron, forged steel tubing, wood pickets)
- Use color and/or materials that soften the appearance of the fence or wall
- Undulate or break up the wall or fence into sections, to minimize the overall continuous length

### Front Setbacks

Within front setbacks (ranging from 10 to 35 feet in residential zones), fences, screens, walls and hedges are limited to eight feet (8') in height. A fence, screen, wall or hedge located at least ten feet back from the front lot line may, upon granting Administrative approval, exceed the height limit within the front setback(s) by no more than four feet (4'). An owner/applicant who desires a fence, screen, wall or hedge extend more than twelve feet (12') in height within a front setback has the option to request a Modification of the Fences, Screens, Walls and Hedges requirements, pursuant to SBMC §28.92.110.

Factors that may typically warrant special consideration and a possible exception include, but are not limited to, the following:

- An abrupt difference in elevation on either side of the fence, screen, wall or hedge
- The presence of a retaining wall or series of retaining walls
- The need to install a code-required security fence or wall around a pool
- A desire/need to secure a secondary front yard
- A desire/need to buffer noise from a busy street

Methods to mitigate the actual or apparent height of the improvement, as outlined above, are desirable and may be required as a condition of Administrative approval.

### Front Lot Lines

Within ten feet (10') of a front lot line, fences, screens, walls and hedges are limited to three and one-half feet (3 ½') in height. A fence, screen, wall or hedge may, upon granting Administrative approval, exceed this height limit by no more than four feet (4'). An owner/applicant who desires a fence, screen, wall or hedge extend more than seven and one-half feet (7 ½') in height within ten feet of a front lot line has the option to request a Modification of the Fences, Screens, Walls and Hedges requirements, pursuant to SBMC §28.92.110.

Elements along front lot lines are typically much more visible to the public and, therefore, require additional scrutiny and consideration beyond approval by staff. This is reinforced by the fact that the Municipal Code (SBMC §22.69.020.C.8) requires review and approval by the Single Family Design Board for walls, fences or gates greater than 3 ½' in height within front yards. Although the installation of screens or hedges may not in all cases trigger design review, as a matter of policy, Staff will refer to the appropriate design review board most applications for requests to exceed the height limit within ten feet of a front lot line.

Factors that may typically warrant special consideration and a possible exception include, but are not limited to, the following:

- An abrupt difference in elevation on either side of the fence, screen, wall or hedge, particularly if the elevation of the public right of way is above the elevation of the private property (see Figures 17 and 18 for examples).
- The presence of a retaining wall or series of retaining walls
- The need to install a code-required security fence or wall around a pool
- A desire/need to secure a secondary front yard
- A desire/need to buffer noise from a busy street

Methods to mitigate the actual or apparent height of the improvement, as outlined above, are desirable and may be required as a condition of Administrative approval.

When evaluating requests to exceed the height limit within ten feet of a front property line, the methodology for measuring the maximum height may differ from that stated in SBMC §28.87.170.B.3. In situations where no obvious public purpose would be served by measuring the height from the lowest point of contact with the ground directly adjacent to the fences, screen, wall or hedge, such improvement may instead be measured from the elevation of the nearest adjacent sidewalk or curb (Figure 16) or, where no sidewalk or curb exists, the elevation of the right-of-way surface nearest to the fence, screen, wall or hedge (Figure 17). This will typically apply in situations where the elevation of the street is above the elevation of the subject property and the most significant portion of the height is visible primarily to the property owner(s) and not the public.

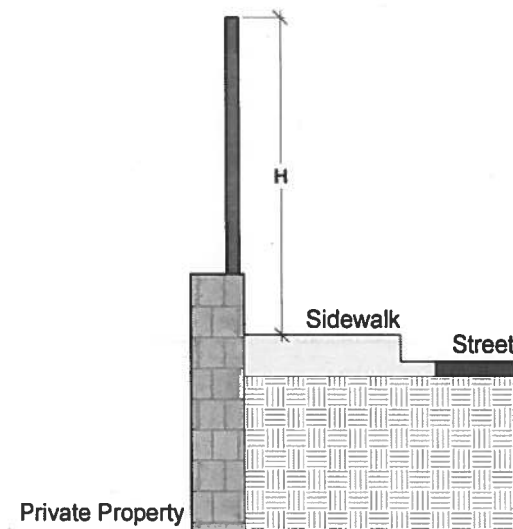


Figure 16

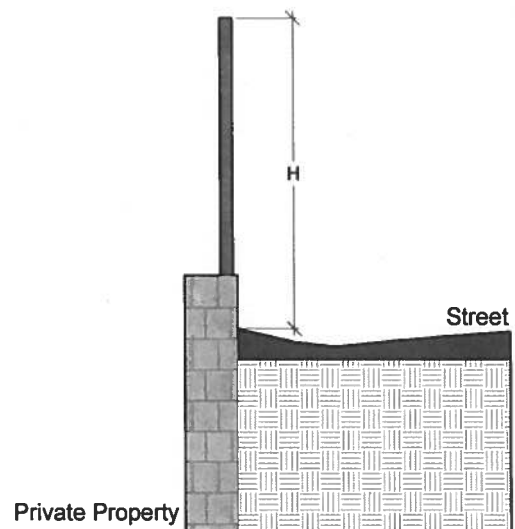


Figure 17

### Exceptions for Decorative Elements

Decorative elements (e.g., pilaster caps, finials, posts, lighting fixtures, or similar decorative features) in excess of the size and spacing allowed by SBMC §28.87.170.C.6 may, upon granting Administrative approval, be allowed if the general amount (in terms of volume) of encroachment into the height, over the length of the fence or wall is, on average, relatively the same as allowed by the Municipal Code.

The Code allows decorative elements not wider than nine inches (9") by nine inches (9") to exceed the maximum height of any fence or wall by not more than twelve inches (12"), provided such features are spaced not less than six feet (6') apart, measured on-center. Two examples of generally equivalent exceptions include, but are not limited, to:

- Pilasters that are twelve inches (12") by twelve inches (12") wide and that exceed the height limit by six inches (6") and are spaced six feet (6') apart
- Lighting fixtures that are seven inches (7") by seven inches (7") wide and that exceed the height limit by fifteen inches (15") and are spaced five feet (5') apart



## **DESIGN REVIEW**

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The Municipal Code currently requires design review of certain applications for fences, walls or gates, as outlined below. In cases where an exception request triggers design review, staff will rely to a great extent on the appropriate advisory group to provide input on the aesthetics of an exception request prior to making a final Administrative decision on height.

### **Single Family Design Board**

Pursuant to SBMC §22.69.020.C.7 and 22.69.020.C.8, a building permit to construct, alter, or add to the exterior of a single family residential unit or related accessory structure (including fences and walls) on any lot shall be referred to the Single Family Design Board (SFDB) for design review if the permit involves the following:

7. The construction, alteration or addition of a retaining wall that is six feet (6') or greater in height, or
8. The construction, alteration or addition of a wall fence or gate in the front yard of the lot that is greater than three and one-half feet (3½') in height.

### **Historic Landmarks Commission**

Pursuant to SBMC §22.22.130.A, no structure or real property in El Pueblo Viejo Landmark District or Brinkerhoff Avenue Landmark District shall be constructed, demolished, moved or altered on its exterior without the approval of the Historic Landmarks Commission (HLC). Further, SBMC §22.22.130.D states that no natural feature (including landscaping) affecting the visual qualities of private property located in El Pueblo Viejo Landmark District or Brinkerhoff Avenue Landmark District shall be placed, altered or removed without the approval of the HLC.

### **Architectural Board of Review**

Pursuant to SBMC §22.68.020.B, a building permit to construct, alter or add to the exterior of a duplex or multi-family residential buildings and related accessory structures (including fences and walls) shall be referred to the Architectural Board of Review (ABR) for design review.





# City of Santa Barbara California

## PLANNING COMMISSION STAFF REPORT

**REPORT DATE:** November 26, 2013  
**AGENDA DATE:** December 5, 2013  
**PROJECT ADDRESS:** Amendment to Santa Barbara Municipal Code §28.87.170  
(Fences, Screens, Walls and Hedges)  
**TO:** Planning Commission  
**FROM:** Planning Division, (805) 564-5470, extension 4466  
Renee Brooke, AICP, Senior Planner *RLB*

### I. INTRODUCTION

Santa Barbara Municipal Code (SBMC) §28.87.170 (Fences, Screens, Walls and Hedges) regulates the height and location of fences, screens, walls and hedges on private property in the A, E, R, C-O, and C-X Zones. Specifically, it limits the height of those elements to eight feet (8') in required setbacks, and three and one-half feet (3½') within ten feet of a front lot line, within ten feet of either side of driveway for a distance of 20 feet back from the front lot line, or within 50 feet of a street corner (measured from the edge of the vehicular travelled way). For many years the Planning Division has identified this code section, originally adopted in 1957, as needing review and possible revision.

Proposed for the Commission's consideration are draft amendments to applicable sections of SBMC Chapter 28.87 (Exhibit A) and accompanying guidelines to help implement the ordinance (Exhibit B). The purpose of this hearing is to present the proposed changes, hold a public hearing, and receive input on the draft ordinance and guidelines. At a subsequent hearing, staff will present a proposed final ordinance and guidelines and request that the Planning Commission make a recommendation to City Council for their adoption.

### II. BACKGROUND

A large number of hedge-related complaints received from the public in 2008 caused significant community discord and further highlighted the need to address these regulations. On November 25, 2008, City Council adopted an ordinance to suspend for two years the application of SBMC §28.87.170.A and §28.87.170.B.1 to hedges to allow time to consider community input on a possible comprehensive amendment to the code. As other work priorities and limited staff resources did not allow adequate time for this effort, the suspension was extended on March 15, 2011 for three additional years and will expire March 23, 2014. At a joint meeting of the City Council and Planning Commission on April 17, 2013, Staff indicated that we could devote resources to proceed with amending the ordinance.

### III. DISCUSSION

The intent of regulating the height and location of fences, screens, walls and hedges is not explicitly stated in the Municipal Code; however, one can infer that limiting the height of obstructions next to driveways and street corners allows for adequate sight lines for motorists, cyclists and pedestrians. Height limits along interior lot lines balance a desire for privacy between neighbors with adequate access to air and sunlight and, to some extent, views. More nebulous, although extremely common in most communities, is a height limit along front property lines. Maintaining a height limit along a street frontage is primarily an issue of overall desired community character, openness of the streetscape and the maintenance of an interface between the public realm and private property.

#### Proposed Amendments

The purpose of amending the ordinance is to establish regulations consistent with the community's values that can be regularly and fairly enforced. Currently, a significant number of properties are out of compliance with these regulations and enforcement of the requirements is haphazard at best, as staff almost exclusively relies on complaints to prioritize our enforcement efforts.

Staff originally set out to limit the proposed amendments to the minimum extent necessary to provide additional clarity and flexibility in applying the regulations to unique situations. To that end, our original scope of revisions addressed the following:

- Add relevant definitions to clarify and distinguish among fences, screens and hedges
- Clarify how the height is measured
- Reduce the 3½' height limit within the 10' x 20' driveway visibility area to a 10' x 15' or 10' x 10' area
- Allow decorative elements of a certain size and spacing on top of fences and walls
- Exclude code-required guardrails from the maximum height limit
- Allow administrative approval of minor exceptions or variations of the regulations, if all safety-related standards are met
- Develop guidelines to assist in consistent and fair implementation of the regulations

Over the course of several public hearings, additional discussions among staff, further input from the Council Ordinance Committee, Neighborhood Advisory Council and Single Family Design Board, and public input, the proposed amendments were expanded to also address the following:

- Allow limited exceptions to the height limit along interior property lines, with administrative approval, if directly affected neighbor(s) agrees
- Allow an entryway arbor in front yards, not to exceed eight feet in height
- Allow exceptions to the 3½' height limit at street corners if certain criteria are met
- Allow replacement of more than 10% of a nonconforming fence, screen or wall in any twelve-month period on sites designated as City Landmarks or Structures of Merit, or if the wall is necessary to retain soil
- Allow the Public Works Director to reduce the height of any fence, screen, wall or hedge if deemed a safety hazard

- Remove reference to the standards applying in the R-O (Restricted Office), C-O (Medical Office) and C-X (Research and Development) Zones, and instead refer to “residentially zoned parcels.”

In summary, the substantive elements of Staff’s proposal address all of the above and include:

- Retaining the current 8’ height limit in required setbacks and the 3½’ limit within ten feet of a front lot line;
- Reducing the area adjacent to driveways subject to the 3½’ height limit to either a 10’ x 10’ or 10’ x 20’ triangle, depending on whether or not the driveway directly abuts a street with a sidewalk and parkway;
- Removing the 3½’ height restriction on corners controlled by an all-way stop and using established sight distance guidelines for all other street corners;
- Allowing exceptions to the height limits for code-required guardrails, decorative elements and entryway arbors, if certain criteria are met; and
- Allowing nonconforming retaining walls, and fences, screens or walls on sites designated at City Landmarks or Structures of Merit, to be repaired or replaced at a rate of more than 10% within any 12-month period

An administrative approval process is proposed to allow exceptions to these standards if necessary findings can be made. The intent is to provide flexibility in applying the regulations to unique sites, with topographical or other physical challenges, without requiring a Modification (SBMC §28.92.110) and hearing before the Staff Hearing Officer for relatively minor exception requests. Of particular note is the requirement that adjacent property owners agree to allow a fence, screen, wall or hedge to exceed the height limit along an interior property line prior to staff considering the exception request. The authority for the administrative review and approval process would be included in the Municipal Code, and the proposed guidelines (discussed below) provide some examples for which staff may consider exceptions to the standards.

#### Proposed Guidelines

The proposed Fences, Screens, Walls and Hedges Guidelines are intended to help apply the Municipal Code regulations in a fair and consistent manner. Beyond amending the regulations to better reflect the community’s values and the current pattern and style of development, Staff and the public could benefit from guidelines to further clarify certain aspects of the regulations best explained in layperson’s terms, diagrams and pictures.

Furthermore, the guidelines describe how regulations are applied in unique circumstances and the basic parameters to grant administrative approval for exceptions to the standards. For example, staff could potentially grant up to four feet of additional height if certain criteria are met, allowing a total height of up to 12 feet in interior setbacks and 7½ feet within ten feet of a front lot line. The administrative approval process would also allow discretion in regulating decorative elements, guardrails, entryway arbors, and fences, screens, walls or hedges in secondary front yards on lots with multiple street frontages.

#### IV. PUBLIC INPUT

##### Public Notice

Prior to the April 17, 2013 joint Planning Commission and City Council meeting, discussions surrounding this topic had primarily been in reaction to a dispute of the current regulations. Given the opportunity to thoughtfully and comprehensively amend this section of the code, staff sought to have the issues thoroughly vetted and considered at several public hearings before returning to the City Council for review and adoption.

Beginning in 2008 with the initial Council resolution to suspend certain sections of this ordinance, Staff has maintained a list of parties interested in this subject and notified them of all relevant public hearings. Additionally, in July 2013, a page on the City's website was dedicated to this work effort where background material and notices of upcoming hearings could be readily accessed by the public. In November 2013, a notification was posted on the website, NextDoor, requesting subscribers to participate in the ordinance amendment process and informing them of the December 5<sup>th</sup> Planning Commission hearing.

##### Public Hearings

On June 25, 2013, Staff requested direction from the Council Ordinance Committee to develop general preferences and help focus future discussions prior to receiving additional public input. At that meeting, the Committee:

- Supported staff's general approach to amending the ordinance
- Agreed that rules need adjusting to apply to unique sites and topographical differences
- Supported flexibility and use of templates (objectivity) to reflect different driveway and street corner configurations
- Requested increased enforcement of hedges encroaching onto sidewalks
- Supported regulations to ensure safety

On August 14, 2013, Staff received additional input from the public and the Neighborhood Advisory Council (NAC):

- The majority of the NAC supported the development of a new/revised ordinance that considers safety, privacy, and community character
- Supported flexibility in standards to address site-specific conditions
- At least one NAC member believed hedges should be regulated differently than fences or walls, but that a height limit should still be imposed
- One member favored retaining lower height limits along front lot lines, and expressed concern that even the current eight-foot limit along interior property lines could cause adverse shading effects on a typical 50' x 100' lot.
- One member questioned the need for an amendment, especially in light of the current regulations not being adequately enforced

On September 23, 2013, staff presented our general concepts for the proposed ordinance and guidelines to the Single Family Design Board (SFDB) and received the following input:

- Most suggested considering property size to determine the appropriate fence/wall/hedge height, with the assumption that larger lots can accommodate higher barriers and still provide adequate solar access
- Most expressed support for the existing height limits to remain, but desired flexibility when appropriate
- Believed hedges should continue to be regulated but treated differently than fences/walls, as they have a different aesthetic appearance and are not a static feature
- Requested flexibility when SFDB reviews development projects to allow higher hedges if it helps address neighborhood compatibility or privacy issues
- Strongly supported driveway visibility triangle, as opposed to a rectangle, as it more accurately represents the necessary line of sight
- Recommended the entryway arbor be allowed up to five to six feet wide, three to four feet deep, and eight feet tall
- Requested flexibility in the exception for code-required guardrails, if appropriate
- Three members supported measuring an average height of fences, screens, walls and hedges between two lots with different ground elevations
- At least one member supported measuring the height of elements along front property lines from the level of the adjacent sidewalk/street, rather than lowest point of contact with the ground

Overall, public input has maintained a general and constant theme – the City should continue to regulate the height of fences, screens, walls and hedges for the general welfare of the community, while allowing increased ability for staff to approve exceptions to the standards, when appropriate. Opinions are more varied when it comes to establishing (or reaffirming) the actual height limits. Also at issue is the extent to which the City should allow neighbors to establish an agreeable height limit between them and only take enforcement action if/when a directly affected neighbor complains. Staff is not proposing changes to our current enforcement procedures that allow anyone to request the city to investigate a potential code violation.

#### V. RECOMMENDATION

Staff recommends that the Planning Commission consider the draft amendments to the ordinance and accompanying guidelines, and direct Staff to return at a subsequent hearing with the proposed final ordinance and guidelines.

#### VI. NEXT STEPS

Once the Planning Commission adopts a resolution recommending that the City Council adopt the proposed ordinance amendments and accompanying guidelines, Staff will present the amendments to the Council Ordinance Committee, likely in January 2014. Staff then anticipates presenting the final proposal to City Council in February 2014.

#### Exhibits:

- A. Draft Ordinance Amending Section 28.87.170 of Chapter 28.87 of the SBMC
- B. Draft *Fences, Screens, Walls and Hedges Guidelines*