



# City of Santa Barbara California

V.

## PLANNING COMMISSION STAFF REPORT

**REPORT DATE:** September 12, 2013  
**AGENDA DATE:** September 19, 2013 Continued to October 3, 2013  
**PROJECT ADDRESS:** Zoning Information Reports

**TO:** Planning Commission

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

### **I. RECOMMENDATION**

Staff recommends the Planning Commission hear from staff and the public regarding issues that arise during the preparation of Zoning Information Reports and make suggestions to the City Council on possible Ordinance amendments and process changes to address these issues.

Staff anticipates that additional future public hearings will be held before the Planning Commission, Council Ordinance Committee, and City Council to consider possible Zoning Ordinance amendments.

### **II. BACKGROUND**

#### **A. ZONING ORDINANCE REQUIREMENTS**

The requirement for a Zoning Information Report (ZIR) is contained in Santa Barbara Municipal Code (SBMC) §28.87.220 (Exhibit A). The ZIR provides important information such as the zoning and permitted use of the property, past City permits and approvals, any special restrictions on the property, any known non-conformities, the results of the physical inspection, and potential zoning or building code violations.

SBMC §28.87.220 requires an application for a ZIR be submitted no later than five days after entering into an "agreement of sale" of any residential property. It also states that under "normal circumstances the report will be available no later than 15 working days after the application is received." The owner or owner's authorized representative is required to give the buyer or buyer's authorized representative a copy of the report no later than 3 days before the close of escrow.

#### **B. ZIR PROCESS**

When a ZIR application is received at the public counter, an appointment is scheduled for the physical inspection. If there is a schedule conflict with respect to escrow closing, the applicant is encouraged to call the Zoning Supervisor to arrange a special time and/or request an expedited ZIR (this happens about once a month). Prior to the physical inspection, the inspector

pulls the street and planning files and the archive plans and performs preliminary research. After the physical inspection, the inspector compares the results of the physical inspection against the street and planning files and archive plans.

On average, the ZIR is prepared and issued within 20 calendar days from the when the ZIR application is submitted. This calendar year, the City has received an average of 58 ZIR applications per month; the highest number of applications in a month being 73 and the lowest 47. The Staff performance goal (P<sup>3</sup>) is to have 75% of ZIR completed with 3 days of inspection. For the last year our average has been 99%.

### **C. ZIR FINDINGS**

If the results of the physical inspection match the information contained in the City's records, a "clean" ZIR is issued (i.e. – no violations are noted). If the conditions do not match and the improvement is considered minor (i.e. over-height fences/hedges, storage buildings in setbacks, unpermitted patio/trellis, washer/dryer in garage, workbenches in garages, fountains in setbacks, spa in setback, etc), then it is noted in the ZIR as a violation, but it is not referred for immediate enforcement.

If the unpermitted improvement is considered major (i.e. new square footage, illegal dwelling unit, loss of required parking, or improvements on the coastal bluff) or if a previous ZIR does not mention the improvement or indicate that it is a violation, additional staff research is performed. Additional information sources include Sanborn Maps, Architectural and Historical Survey Records, and aerial and historical photos.

In some instances where the record is unclear on when an improvement was first established, Staff will ask the property owner if they have old photographs showing the improvement or request the property owner to obtain the Residential Building Record from the County. The Residential Building Record does not establish the legality of an improvement but helps establish a timeframe in which it first appeared. Staff looks to see if the improvement might have been covered by a previous City approval, may have been a field change during construction signed off by a Building Inspector, or if it took place at a time when the City did not require a permit and/or zoning standards were different. Based on this research, staff uses judgment to resolve issues and consents to improvements when there is at least some credible evidence to allow the improvement to remain. However, if information in the record clearly indicates a violation of zoning or building codes has occurred staff cannot over look those improvements.

Staff estimates that approximately 90 percent of all ZIRs have violations. The majority of the identified violations are considered minor and are not referred for immediate enforcement. These violations are noted in the ZIR and are kept on file and must be abated prior to, or in conjunction with, the first building permit pulled for the property. Staff understands that in today's real estate environment that even making note of minor violations can sometimes be a cause for concern for lenders and buyers. The concern is intensified if the current owner received a prior ZIR with no indication of violations and those same improvements were present when they purchased the property.

Approximately 15 percent of ZIRs find violations that are considered major and are referred for immediate enforcement. Major violations are considered illegal dwelling units, new habitable

square footage (including the conversion of non-habitable to habitable square footage), the loss of required parking, and improvements on the coastal bluff (as defined in the California Coastal Act).

#### **D. ZIR EXAMPLES**

Staff has provided examples of three ZIRs to highlight the typical findings of ZIRs on properties where there are no violations, minor violations, and major violations (Exhibits B, C, & D).

### **III. DISCUSSION**

Staff has been working with the Santa Barbara Association of Realtors (SBAOR) for several years to address issues that arise during the ZIR process. A primary area of concern to both SBAOR and staff relates to discrepancies between prior ZIRs and what staff presently finds as possible violations (usually improvements made without a building permit &/or zoning infractions). Other concerns of SBAOR include the necessity of ZIRs, the timeframe in which the ZIR is issued, and the City fee for the ZIR (Exhibit E & F).

#### **A. ZIR DISCREPANCIES**

Staff estimates that approximately 20 percent of the ZIRs have discrepancies between the current ZIR and previous ZIRs. The most common examples include over-height hedges, storage shed in setbacks, decks and trellises, number of legal bedrooms/bathrooms, conversion of understory/attic areas, full bathrooms in detached accessory buildings, and additional square footage.

When discrepancies occur, they usually fall within the following categories:

- The previous ZIR notes the improvement as existing and either does not indicate it is a violation or states that it is non-conforming (such as hedges) and the improvement really is not considered non-conforming
- The previous ZIR notes the improvement as existing and states that it is a violation but was not referred to enforcement or only partial enforcement occurred
- The previous ZIR does not mention the improvement as existing and there is no evidence as to when the improvement first appeared, yet the owner states the improvement existed at the time they purchased the property

#### **B. POTENTIAL REASONS FOR DISCREPANCIES**

There are various reasons for discrepancies between ZIRs. One reason is the level/quality of the research performed during the preparation of previous ZIRs. Some of these unpermitted improvements were clearly missed by staff but it is not evident why. In some instances it is apparent that the archive plans were not consulted and, had they been, it is believed that the "as-built" improvement would have been called out at that time. Prior to 1996, City staff did not have easy access to the archive plans; they were located off-site and had very limited viewing hours. Today, the archive plans are located on-site and are routinely reviewed as part of the record check for the ZIRs.

There have also been instances in which landscaping may have obscured the improvement or objects had been placed over the improvement to obscure the view and, since the last ZIR, the landscaping or object had been cleared away and now the improvement is visible.

Sometimes the error/omission is due to the fact that the record was not clear. A building permit may have been issued for an improvement on site and no building plans were required with the permit application. In those instances it is difficult to determine the location of the improvement or if other improvements may have been included. Also, the improvement may have been the result of a field change during construction that the building inspector signed off on but the property owner never followed up with the City in submitting revised plans. In those instances Staff will rely more on the County Assessor's Residential Building Record or a City Building Inspector's opinion on the age of the improvement.

However, there are also instances where it is clear that the improvement was made after the last ZIR was completed, and Staff bases our conclusion on information such as aerial photos or subsequent building plans.

### **C. ZIR DISCREPANCY EXAMPLES**

SBAOR submitted a packet of anecdotes from realtors and clients describing the inaccuracies they have encountered with ZIRs (Exhibit G). Some of the situations described are not about the ZIR process but are in regards to the Zoning Ordinance or Building Code requirements (i.e. there was no previous ZIR for the property, the owner did not like the finding of the current ZIR, or when the City requires an "as-built" building permit versus a new building permit). Others raise concerns about information sources upon which the staff relies. In the instance of encroachments into required setbacks, if site plans are not on file, staff will use existing fences or hedges to estimate where the property line is located. The inspector also asks the agent or property owner if they know whether the fence is on the property line. When there are no archive plans on file or the record is unclear, staff uses the best available information to reach a conclusion. We also use language such as "the storage building may encroach" when it is not clear. When discrepancies arise, staff will ask the property owner to provide additional information to help staff reach a conclusion.

Some of the examples did not provide an accurate or entire story. In one instance, the area that was approved for storage in the garage was expanded subsequent to the preparation of the previous ZIR. In another, the previous ZIRs did not mention the basement area that was in dispute contrary to the statement in the anecdote. In the instance of 1135 Chino Street, after additional information was provided by the owner, the ZIR was revised to reflect the fact that there are three legal units on the site.

### **D. IMPROVEMENTS TO ZIR PROCESS**

To address some of the issues which arise out of the ZIR process, staff is proposing some immediate and mid- term changes.

#### **1. IMMEDIATE CHANGES**

##### **a. Increased Staffing**

As stated above, on average it takes 20 calendar days from the date a ZIR application is submitted to the issuance of the ZIR. This timeframe falls within the Ordinance

guideline of 15 working days; however, it does not typically fall within the contingency period established by the escrow documents which causes concerns for realtors and sellers. In response to Council's concern regarding the scheduling of ZIR inspections, management has pulled in additional staff from zoning enforcement to prepare ZIRs to address scheduling concerns. Staff's goal is to complete 80 percent of the ZIRs within 10 working days of application. Staff will monitor what it takes to maintain the increased service level and the impacts that may have on other services performed by the Division.

b. Waive Planning Fees in Limited Situations

At the joint Planning Commission/City Council meeting on September 12, 2013 Management will suggest that Council authorize waiving Planning fees for modifications and design review, if needed, in cases where it is clear the previous ZIR missed it and the improvement had been on the site for a very long time. Applicable building permit fees would still apply.

**2. MID-TERM CHANGES**

a. Ordinance Amendments

*Staff Hearing Officer (SHO) Administrative Approval*

In order to address some of these "as-built" improvements staff is proposing an amendment to the Zoning Ordinance to allow the Staff Hearing Officer to grant administrative approval of modifications for minor zoning regulations in instances where discrepancies in the record are discovered and it is evident that the improvement has been there for a very long time. Examples that could be included are: minor hardscape improvements in the interior setback; the addition of a garage door to a three-sided carport in the setback; statues in interior setbacks; chimneys in setbacks; window changes in the interior setback; minor façade changes in the front setback; conversion of understory/attic space in setbacks; and small, uniform additions within the setbacks. It is important to note that not all discrepancies will be solved by this amendment. Additional time and expense could still be required to resolve the more major discrepancies through the modification process and construction permits.

We anticipate that the fee for the administrative approval process would be around \$140, similar to the design review administrative approval fee. If Council waives Planning fees in the limited instances described above, staff recommends that the fee for SHO administrative approvals also be waived in those limited situations.

We anticipate that there will still be improvements that cannot be signed off through the SHO administrative review or appeal process, described further below.

Staff and the Council would like input from the Commission on the concept for this new ordinance. Following this meeting, the matter will be further discussed at the Council Ordinance Committee. At some point, formal hearings will be required with the Planning Commission and Council before the amendment can be considered.

### *Formal Appeal Process*

In order to address the situation when a property owner does not agree with the findings of a ZIR, a formal appeal process could be established. Currently, the informal process is that a property owner has 10 days from the date of the ZIR to dispute any items in the ZIR. To file a dispute, a written letter stating the grounds claimed for the dispute and supporting documentation must be submitted to the preparer of the ZIR. There is no process to appeal the determination after this informal appeal.

A formal appeal process could be established to give the property owner the opportunity to appeal the decision to the City Attorney's office or to the SHO. The internal timeline for review and issuance of a final decision will have to be determined. Council approval of an ordinance amendment (and/or resolution) and appeal fee would be necessary to establish this appeal process.

Staff and the Council would like input from the Commission on the concept for this new ordinance. Following this meeting, the matter will be further discussed at the Council Ordinance Committee. At some point, formal hearings will be required with the Planning Commission and Council before the amendment can be considered.

#### b. Privatization of ZIR Preparation

Staff and SBAOR have discussed on a few occasions the concept of "privatizing" ZIRs. Reasons SBAOR has provided to consider this option includes: more timely delivery of reports, lower cost to seller, accountability of private preparers versus City staff, and changing the dynamic of City involvement so there are fewer complications for close of escrow and possible enforcement or other actions to resolve potential violations.

Our preferred approach is to have ZIRs prepared by City Staff. Staff are interested in exploring this option, but only if it would improve timeliness of report preparation. To that end, we have already increased resources dedicated to prepare ZIRs; however, we are open to looking at creating relationships with private professionals that could assist in maintaining reasonable or expedited delivery of ZIRs when the demand is high.

#### **Options:**

- (1) City pays hourly rate for temporary assistance to address peak needs. Private professionals would be trained by City staff, and work directly with ZIR supervisor. Fee to the applicant would remain the same, and City pays the professional from budgeted funds.
- (2) City trains and certifies professionals that may be hired directly by a seller. They would use the same ZIR form as City Staff, and the ZIR is either:
  - (a) Not verified by City Staff and is kept in city records with that notation, with no City fee: or
  - (b) Verified by City Staff based on photos, record review, and a meeting with the private preparer, including a City fee (staff hourly rate) as needed for verification.

- (3) Complete privatization – no City involvement. As SBAOR has suggested, many other disclosures are required in a real estate transaction and could be modified to address zoning and building codes, City records, etc. The reports would not be submitted to the City. Enforcement would not occur as a direct result of the transaction. This would essentially make ZIRs optional.

**Pros and Cons of Each Option:**

- (1) The primary issue with this Option 1 is cost, presumably born by the City to recruit and train the professionals, as well as paying the hourly rate for their service. A quick survey of hourly rates revealed the following, depending on if they are a sole practitioner or work for a firm: \$75, \$112, \$155. We believe the overall the cost, on average, to prepare a ZIR under this scenario would be similar to our current situation with a fee to the applicant of \$465 for one unit. Staff is looking into this approach further.
- (2) (a) We believe this option has little value to the City or potential buyers.
- (2) (b) This option is better; however, in both cases we expect that in order to prepare these reports, the private sector professional would need assistance at the planning counter and/or request meetings with Planning Staff to interpret the permit record. Further, a concern with this approach is access to City archive drawings. The current wait time for public review of these plans is about 5 to 8 days, whereas City staff has access within 24 hours. The City would need to increase services in this area at additional costs.
- (3) We are not pursuing this approach based on Council discussion to date that ZIRs prepared by City Staff, or in cooperation with staff, are most appropriate. We understand that for some private sector planners a deposit of approximately \$300 is charged when a due diligence report similar to the ZIR is prepared. Overall we expect the final cost to the seller would be similar, but there would be no City involvement or review/support of the conclusions. As stated above, if someone wanted to have the City staff verify the report, it would involve additional costs.

**E. CONCLUSION**

Staff has made a number of changes in the ZIR preparation process to respond to concerns raised regarding the ZIR process. Staff has temporarily increased staffing to respond the scheduling of ZIR inspections and is proposing to waive Planning fees in certain limited situations. Planning Staff is also proposing ordinance amendments to allow for SHO administrative approvals and to provide a formal appeal process in instances where a property owner does not agree with the findings of a ZIR. Staff is continuing to evaluate the ZIR preparation process to make appropriate improvements which address both Staff and the public's concerns.

Exhibits:

- A. SBMC §28.87.220, Zoning Information Reports
- B. ZIR example showing no violations
- C. ZIR example showing minor violations (no enforcement)
- D. ZIR example showing major violations (immediate enforcement)
- E. Letter from SBAOR dated May 24, 2012
- F. City Staff Letter to SBAOR dated November 29, 2012
- G. Information provided by SBAOR in regards to Anecdotes and ZIR timelines available online under Staff Reports at [www.SantaBarbaraCa.gov/PC](http://www.SantaBarbaraCa.gov/PC)

## 28.87.220 Zoning Information Report.

### A. STATEMENT OF LEGISLATIVE INTENT.

These regulations are intended to require a Zoning Information Report for purchasers of residential property, setting forth matters of City record pertaining to the authorized use, occupancy, zoning and the results of a physical inspection of the property. Primary purpose of the report is to provide information to the potential buyer of residential property concerning the zoning and permitted use of the property.

### B. DEFINITIONS.

1. "Owner" shall mean any person, co-partnership, association, corporation or fiduciary having legal or equitable title or any interest in any real property.

2. "Residential property" shall mean any improved real property, designed or permitted to be used for any residential purpose, situated in the City and shall include the building or structures located on said improved real property.

3. "Agreement of sale" shall mean any agreement or written instrument which provides that title to any property shall thereafter be transferred for consideration from one (1) owner to another owner.

### C. REPORT REQUIRED.

1. **Application.** Except where a sale is exempt from the requirements of this section pursuant to Subsection G below, no later than five (5) days after entering into an "agreement of sale" of any residential property, the owner or owner's authorized representative shall make application to the City for a Zoning Information Report to the Community Development Director on a form provided, and pay a fee as established by resolution of the City Council.

Under normal circumstances the report will be available no later than fifteen (15) working days after the application is received by the Community Development Director.

2. **Copy to Buyer.** Said owner or owner's authorized representative shall provide a copy of the report to the buyer or buyer's authorized representative no later than three (3) days prior to consummation of the transfer of title. The buyer or buyer's authorized representative may waive in writing the requirement for delivery three (3) days prior to consummation of the transfer of title but in any event the report shall be provided to the buyer or buyer's authorized representative prior to the consummation of the transfer of title.

3. **Proof of Receipt.** Proof of receipt of a copy of the report shall be obtained by the owner or owner's authorized representative prior to consummation of the transfer of title. Said proof shall consist of a statement signed by the buyer or buyer's authorized representative stating that the report has been received, the date of the report and the date it was received. City shall provide a receipt form with each zoning information report. The original of the signed proof of receipt shall be mailed or delivered to the Community Development Director of the City no later than the consummation of the transfer of title.

### D. CONTENTS OF ZONING INFORMATION REPORT.

The Community Development Director shall review the applicable City records and provide the applicant the following information on the Zoning Information Report:

1. Street address and parcel number of the property.
2. The zone classification and permitted uses as set forth in the Zoning Ordinance of the City of Santa Barbara.
3. Occupancy and use permitted as indicated and established by records.
4. Variance, special use permits, conditional use permits, modifications and other administrative acts of record.
5. Any special restrictions in use or development which are recorded in City records and may apply to the property.
6. Any known nonconformities or violations of any ordinances or law.
7. The results of a physical inspection for compliance with the Zoning Ordinance and for compliance with Chapter 14.46 of this Code.
8. A statement of whether the real property has had a Building Sewer Lateral Report prepared for the real property pursuant to the requirements of Santa Barbara Municipal Code Chapter 14.46 within the five (5) year period prior to the preparation of the Zoning Information Report and, if so, that a copy of the Building Sewer Lateral Report is available from the City for the buyer's inspection. All Zoning Information Reports shall also contain an advisory statement (in bold not less than 10 point typeface) prepared by the Public Works Director which advises a purchaser of residential real property regarding the potential problems and concerns caused by an inadequate, failing, or poorly-maintained Building Sewer Lateral. In addition, the standard required advisory statement shall indicate the advisability of a purchaser obtaining a recently-prepared Building Sewer Lateral Inspection Report.

### E. VIOLATION OF LAW NOT PERMITTED.

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.

### F. EXPIRATION OF REPORT.

Each report shall be valid for a period of twelve (12) months after date of issue or until a transfer of title occurs, whichever is sooner.

### G. EXEMPTIONS.

## EXHIBIT A

The provisions of this section shall not apply to the following sales:

1. The first sale of each separate residential building located in a subdivision where the final subdivision or parcel map has been approved and recorded in accordance with the Subdivision Map Act not more than two (2) years prior to the first sale.
2. The sale of any residential property on which a new home is under construction pursuant to a valid building permit; or
3. The sale of any residential property where the final building permit inspection on a new home was issued within three (3) months of the date on which the owner entered into the agreement for the sale of a home to the buyer.
4. The sale of a condominium unit.

**H. EFFECT OF NONCOMPLIANCE.**

It shall be unlawful for any owner to consummate the transfer of title to any residential property without providing the transferee with a Zoning Information Report as required in this Section 28.87.220. The failure to comply with the provisions of this Section shall not invalidate the transfer or conveyance of real property to a bona fide purchaser or encumbrancer for value. (Ord. 5537, 2010; Ord. 5396, 2006; Ord. 4932, 1995; Ord. 4106, 1981; Ord. 3986, 1979; Ord. 3843, 1976; Ord. 3826, 1976.)

**The Fine Print was  
changed on 7/6/09.  
Please read it.**



**No Violations  
(i.e. "clean")  
Example**

## **Zoning Information Report**

**Date:** 8/27/2013  
**To:** Property Owners and Prospective Buyers of Residential Property  
**From:** Planning and Zoning Staff  
**Subject:** ZIR2013- [REDACTED]

Thank you for ordering a City of Santa Barbara Zoning Information Report. The purpose of this report is to identify zoning and building violations; inform the buyer as to the nature of the violations as part of the State's full disclosure laws, and to document the violations for immediate or future enforcement by City Staff. The contents of this report are based on a review of the City's files on the property, a physical inspection, and a review of the City's archive plans and other historical data that may be available, if necessary.

The property was inspected on .  
This Zoning Information Report expires on August 27, 2014.

The property's City Zoning Designation is A-1. Requirements of the property's primary zoning designation(s) are listed below. If there are multiple zones, the standards for the more restrictive zone shall apply.

<b>Zone:</b>	<b>A-1</b>
Front Setback	35 feet
Interior Setback	15 feet
Rear Setback	15 feet
Required Open Yard Area	1,250 sq. ft. (20 foot minimum dimensions)
Maximum Height Limit	30 feet
Required Off-street Parking Spaces	2 covered
Distance Between Main Buildings	20 feet
Minimum Lot Area for Newly Created Lots	43,560 sq. ft. x Slope Density Newly created lots must also conform to the General Plan density requirements.
Required Lot Frontage for Newly Created Lots	100 feet

If the property's zoning designation contains additional classifications that are not discussed above, please contact the Planning and Zoning Counter at (805) 564-5578 for more information on the requirements of that particular designation.

### **PARCEL ATTRIBUTES**

The following special districts or other attributes of the property are listed below. If there are no special districts or other attributes, this area will be blank.

APN [REDACTED]

High Fire District

Parcel Adjoins Creek/Wetland

Hillside Design District

High Fire Area - See Notes

Foothill

PC/MOD Conditions on File

SHO Reso #015-09; 3/11/09; MST2009-00045; 3 Mods.

GMP Development Area

Riviera

**PROPERTY DESCRIPTION**

Two story single family dwelling with rear uncovered upper terraces and lower floor terraces and a side uncovered patio with a portable spca

Attached two car garage.

Laundry room on the lower floor (with hookups and a sink) with an attached storage room.

Front uncovered viewing patio.

Lot Size (From County Assessor Records): 1.06 Acres

Unit #: **This is a legal dwelling unit.**

	Legal	Illegal
Bedrooms	4	0
Full Baths	4	0
Half Baths	0	0
Sinks	1	0

Smoke Detectors in: All Bedrooms? **Yes** All Hallways? **No Hallways**

Smoke detectors are required in each sleeping room and outside each separate sleeping area in the immediate vicinity of the bedrooms of each story of a dwelling unit. A fire alarm system is required in: 1) apartment houses three (3) or more stories in height or containing 16 or more dwelling units; 2) hotels three (3) or more stories in height or containing 20 or more guest rooms; and 3) congregate care residences three (3) or more stories in height or which have an occupant load of 20 or more except when equipped throughout with an approved automatic fire sprinkler system. For more information regarding fire alarm system requirements, please call the City's Fire Prevention office at (805) 564-5702.

The property contains 2 parking spaces in garages, 0 parking spaces in carports and 0 uncovered parking spaces.

If this box is checked, the items stored within the required parking or maneuvering areas must be removed.

This property has received the following discretionary land use permits, such as Conditional Use Permits, Modifications, Coastal Development Permits, or Variances (If none, this area will be blank).

**Modifications were granted on March 11, 2009 to allow new construction within the required front and interior setbacks.**

**Zoning Ordinance or Building Code Violations (if none, this area will be blank):**

None

All questions regarding 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 requirements, building permits or building violations should be directed to the City's Building and Safety Counter at 630 Garden Street, or (805) 564-5485.

**The Fine Print**

## 1) Disclosures

- a) The ZIR is a good faith effort at full disclosure to a potential buyer of authorized uses and occupancy, including zoning violations, and improvements constructed without City permits or approvals.
- b) Improvements without permits are illegal. Previous plans showing these improvements as "existing", previous ZIRs describing improvements as legal, previous ZIRs that omit an improvement, or previous ZIRs that describe an improvement as nonconforming do not legalize illegal improvements, including structures. Only City approvals and permits legalize improvements previously constructed without permits.
- c) The current ZIR is based on the most recent information, and supersedes previous ZIRs. Improvements that existed at the time of a previous ZIR, but which were not listed on the previous ZIR or were shown as nonconforming, but which are in fact unpermitted and therefore illegal, will be subject to current standards. For example, if a 1987 ZIR did not list an accessory building in a setback, and the current ZIR shows it as a violation, the current determination supersedes the previous determination.
- d) Zoning inspectors are not building inspectors, and are not versed in the requirements of the Uniform Codes. Therefore, this ZIR does not document violations of the Uniform Codes (e.g., illegal wiring, illegal plumbing, substandard structural assemblies). ZIRs identify zoning violations and unpermitted construction.
- e) Fences, Screens, Walls and Hedges (See SBMC §28.87.170)
  - i) The zoning regulations for fence, screen, wall and hedge height became effective in 1957. Fences, screens, walls and hedges permitted prior to 1957 may be nonconforming as to height.
  - ii) Permits are required for fences, screens and walls over 3.5 feet tall from the ground to the highest point of the structure. If such permits do not exist in City records, they are considered illegal, and must be permitted and may require other City approvals. If such fences, screens, walls and hedges are taller than allowed by the Zoning Ordinance, they must be reduced in height when required by the City. Plans in City records that show such items as "existing" do not legalize such items.
  - iii) Permits are required for retaining walls that are more than four feet tall, measured from the bottom of the footing to the highest point on the retaining wall (permits can be required for shorter retaining walls). Contact the Building and Safety Division Counter at (805) 564-5485 for more information.
  - iv) Over-height hedges that existed prior to 1957 are nonconforming 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 nonconforming.
- f) This ZIR does not include an analysis of the Solar Access Ordinance (Santa Barbara Municipal Code Chapter 28.11) as it applies to this property. Questions concerning the impact of the Solar Access Ordinance on specific structures should be directed to the Planning and Zoning Counter at 630 Garden Street, or (805) 564-5578.
- g) If you are selling a home, you must disclose to the buyer any known earthquake weaknesses of your house. The State's Seismic Safety Commission has published a booklet "The Homeowner's Guide to Environmental Hazards and Earthquake Safety," which includes detailed information regarding earthquake hazard disclosure. This booklet should be available from your real estate agent/broker.
- h) Please be advised that any alterations, additions, construction, improvements or new development may be subject to the review of the Single Family Design Board, the Architectural Board of Review, the Historic Landmarks Commission, the Staff Hearing Officer, or the Planning Commission, depending on a number of factors. If review by one of the bodies is required, the project will be subject to environmental review, as required by the California Environmental Quality Act (CEQA). Please contact the Planning and Zoning Counter at (805) 564-5578 for more information regarding the environmental review process.

2) The enforcement process, as of April 19, 2004.

a) The following major violations will be referred to enforcement staff immediately:

- i) Illegal dwelling units.
- ii) Illegal conversion of non-habitable space to habitable space.
- iii) Unpermitted construction of new floor area (habitable or nonhabitable).
- iv) Elimination of required parking.

b) Minor violations are kept on file and are required to be abated prior to, or simultaneously with, the first building permit that is obtained by the new property owner. HOWEVER, please be advised that all minor violations will be required to be abated in conjunction with any major violations on the property. City Staff will also require that overheight fences, walls, screens and hedges be reduced in height at that time.

3) Validity Period and Extensions

- a) This ZIR is valid for a period of twelve months after the date of issuance or until a transfer of title occurs, whichever is sooner.
- b) A ZIR may be extended for a period of one year for half the price of a current ZIR, if the application for the extension is received while the ZIR is still valid. A re-inspection is required.

4) Disputes regarding the content of this ZIR.

You have 10 days from receipt to dispute any items in this ZIR. To file a dispute, a written letter stating the grounds claimed for the dispute and supporting documentation on the content of the ZIR shall be submitted to the preparer of the ZIR. If you do not dispute any items, there is a rebuttable presumption that you agree with the content of the ZIR. Staff time to research and work to resolve any disputes after the 10-day period will be subject to the hourly rate fee as established by the City Council

5) Tenant Displacement Assistance Ordinance

Please be advised that any application to the City for a demolition, alteration, or change of use that will result in the elimination of a residential unit requires compliance with the Tenant Displacement Assistance Ordinance (SBMC Chapter 28.89). The Ordinance requires notice to the tenants about your intent to file an application 60 days prior to the actual filing, and provide monetary displacement assistance.

**Zoning Information Report #ZIR2013-[REDACTED] was prepared by:**

Betsy Teeter, Planning Technician II

[REDACTED SIGNATURE]  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
August 27, 2013

**The Fine Print was  
changed on 7/6/09.  
Please read it.**



**"Minor" Violations**  
**Example**

## **Zoning Information Report**

**Date:** 8/27/2013  
**To:** Property Owners and Prospective Buyers of Residential Property  
**From:** Planning and Zoning Staff  
**Subject:** [REDACTED]

Thank you for ordering a City of Santa Barbara Zoning Information Report. The purpose of this report is to identify zoning and building violations; inform the buyer as to the nature of the violations as part of the State's full disclosure laws, and to document the violations for immediate or future enforcement by City Staff. The contents of this report are based on a review of the City's files on the property, a physical inspection, and a review of the City's archive plans and other historical data that may be available, if necessary.

The property was inspected on August 26, 2013.

This Zoning Information Report expires on August 27, 2014.

The property's City Zoning Designation is **E-1**. Requirements of the property's primary zoning designation(s) are listed below. If there are multiple zones, the standards for the more restrictive zone shall apply.

<b>Zone:</b>	<b>E-1</b>
Front Setback	30 feet
Interior Setback	10 feet
Rear Setback	10 feet
Required Open Yard Area	1,250 sq. ft. (20 foot minimum dimensions)
Maximum Height Limit	30 feet
Required Off-street Parking Spaces	2 covered
Distance Between Main Buildings	20 feet
Minimum Lot Area for Newly Created Lots	15,000 sq. ft. x Slope Density Newly created lots must also conform to the General Plan density requirements.
Required Lot Frontage for Newly Created Lots	90 feet

If the property's zoning designation contains additional classifications that are not discussed above, please contact the Planning and Zoning Counter at (805) 564-5578 for more information on the requirements of that particular designation.

### **PARCEL ATTRIBUTES**

The following special districts or other attributes of the property are listed below. If there are no special districts or other attributes, this area will be blank.

APN [REDACTED]

High Fire District

Hillside Design District

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.

High Fire Area - See Notes

Foothill

GMP Development Area

Riviera

**PROPERTY DESCRIPTION**

One story single family dwelling with front uncovered deck, rear uncovered patio and side trellis cover. Detached one car garage below with a roof deck, railing and gate on top. Laundry hookups in hallway closet. Detached shed (approx 6' x 8').

Lot Size (From County Assessor Records): 0.11 Acres

Unit #: **This is a legal dwelling unit.**

	Legal	Illegal
Bedrooms	2	0
Full Baths	2	0
Half Baths	0	0
Sinks	0	0

Smoke Detectors in: All Bedrooms? **Yes** All Hallways? **Yes**

Smoke detectors are required in each sleeping room and outside each separate sleeping area in the immediate vicinity of the bedrooms of each story of a dwelling unit. A fire alarm system is required in: 1) apartment houses three (3) or more stories in height or containing 16 or more dwelling units; 2) hotels three (3) or more stories in height or containing 20 or more guest rooms; and 3) congregate care residences three (3) or more stories in height or which have an occupant load of 20 or more except when equipped throughout with an approved automatic fire sprinkler system. For more information regarding fire alarm system requirements, please call the City's Fire Prevention office at (805) 564-5702.

The property contains 1 parking spaces in garages, 0 parking spaces in carports and 0 uncovered parking spaces.

If this box is checked, the items stored within the required parking or maneuvering areas must be removed.

This property has received the following discretionary land use permits, such as Conditional Use Permits, Modifications, Coastal Development Permits, or Variances (If none, this area will be blank).

**A Modification was granted on June 24, 1992 to allow new additions to encroach into the required interior setbacks.**

**A Modification and design review approval are required for the roof deck and trellis.**

**The property is legally nonconforming with respect to either density, setbacks, yards and/or wall, fences and hedges.** Details regarding the property's nonconformity are provided below. A property is determined to be nonconforming if it conformed to the regulations in effect when it was permitted, but because of subsequent changes in the Zoning Ordinance or the Zoning Map, the structures do not conform to today's zoning standards. Properties with nonconforming density, setbacks, yards or walls, fences and hedges exist legally; however, there are restrictions on alterations, additions, or replacement of nonconforming structures. For the purposes of this report, the interior or rear property lines are assumed to coincide with any interior or rear fence.

**The property contains structures that are located in the required front setback.** Therefore, the front setback is nonconforming. The structures that encroach into the required front setback are:

**Garage**

**The property contains structures that are located in the required interior (side or rear) setbacks.** Therefore, the interior setbacks are nonconforming. The structures that encroach into the required interior setbacks are:

**Dwelling and garage**

### **Zoning Ordinance or Building Code Violations (if none, this area will be blank):**

#### **ZONING VIOLATIONS:**

- 1. The roof deck (and railing) over the garage encroaches into the required interior and front setbacks.**
- 2. The trellis on the side of the dwelling encroaches into the required interior setback.**
- 3. The storage shed encroaches into the required interior setbacks.**

#### **BUILDING VIOLATIONS:**

- 1. The roof deck, railing and gate were added to the dwelling without the required permit.**
- 2. The trellis was added to the dwelling without the required permit.**
- 3. A permit is required for the electrical service to the storage shed.**

All questions regarding 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 requirements, building permits or building violations should be directed to the City's Building and Safety Counter at 630 Garden Street, or (805) 564-5485.

**The Fine Print**

## 1) Disclosures

- a) The ZIR is a good faith effort at full disclosure to a potential buyer of authorized uses and occupancy, including zoning violations, and improvements constructed without City permits or approvals.
- b) Improvements without permits are illegal. Previous plans showing these improvements as "existing", previous ZIRs describing improvements as legal, previous ZIRs that omit an improvement, or previous ZIRs that describe an improvement as nonconforming do not legalize illegal improvements, including structures. Only City approvals and permits legalize improvements previously constructed without permits.
- c) The current ZIR is based on the most recent information, and supersedes previous ZIRs. Improvements that existed at the time of a previous ZIR, but which were not listed on the previous ZIR or were shown as nonconforming, but which are in fact unpermitted and therefore illegal, will be subject to current standards. For example, if a 1987 ZIR did not list an accessory building in a setback, and the current ZIR shows it as a violation, the current determination supersedes the previous determination.
- d) Zoning inspectors are not building inspectors, and are not versed in the requirements of the Uniform Codes. Therefore, this ZIR does not document violations of the Uniform Codes (e.g., illegal wiring, illegal plumbing, substandard structural assemblies). ZIRs identify zoning violations and unpermitted construction.
- e) Fences, Screens, Walls and Hedges (See SBMC §28.87.170)
  - i) The zoning regulations for fence, screen, wall and hedge height became effective in 1957. Fences, screens, walls and hedges permitted prior to 1957 may be nonconforming as to height.
  - ii) Permits are required for fences, screens and walls over 3.5 feet tall from the ground to the highest point of the structure. If such permits do not exist in City records, they are considered illegal, and must be permitted and may require other City approvals. If such fences, screens, walls and hedges are taller than allowed by the Zoning Ordinance, they must be reduced in height when required by the City. Plans in City records that show such items as "existing" do not legalize such items.
  - iii) Permits are required for retaining walls that are more than four feet tall, measured from the bottom of the footing to the highest point on the retaining wall (permits can be required for shorter retaining walls). Contact the Building and Safety Division Counter at (805) 564-5485 for more information.
  - iv) Over-height hedges that existed prior to 1957 are nonconforming 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 nonconforming.
- f) This ZIR does not include an analysis of the Solar Access Ordinance (Santa Barbara Municipal Code Chapter 28.11) as it applies to this property. Questions concerning the impact of the Solar Access Ordinance on specific structures should be directed to the Planning and Zoning Counter at 630 Garden Street, or (805) 564-5578.
- g) If you are selling a home, you must disclose to the buyer any known earthquake weaknesses of your house. The State's Seismic Safety Commission has published a booklet "The Homeowner's Guide to Environmental Hazards and Earthquake Safety," which includes detailed information regarding earthquake hazard disclosure. This booklet should be available from your real estate agent/broker.
- h) Please be advised that any alterations, additions, construction, improvements or new development may be subject to the review of the Single Family Design Board, the Architectural Board of Review, the Historic Landmarks Commission, the Staff Hearing Officer, or the Planning Commission, depending on a number of factors. If review by one of the bodies is required, the project will be subject to environmental review, as required by the California Environmental Quality Act (CEQA). Please contact the Planning and Zoning Counter at (805) 564-5578 for more information regarding the environmental review process.

2) The enforcement process, as of April 19, 2004.

a) The following major violations will be referred to enforcement staff immediately:

- i) Illegal dwelling units.
- ii) Illegal conversion of non-habitable space to habitable space.
- iii) Unpermitted construction of new floor area (habitable or nonhabitable).
- iv) Elimination of required parking.

b) Minor violations are kept on file and are required to be abated prior to, or simultaneously with, the first building permit that is obtained by the new property owner. HOWEVER, please be advised that all minor violations will be required to be abated in conjunction with any major violations on the property. City Staff will also require that overheight fences, walls, screens and hedges be reduced in height at that time.

3) Validity Period and Extensions

- a) This ZIR is valid for a period of twelve months after the date of issuance or until a transfer of title occurs, whichever is sooner.
- b) A ZIR may be extended for a period of one year for half the price of a current ZIR, if the application for the extension is received while the ZIR is still valid. A re-inspection is required.

4) Disputes regarding the content of this ZIR.

You have 10 days from receipt to dispute any items in this ZIR. To file a dispute, a written letter stating the grounds claimed for the dispute and supporting documentation on the content of the ZIR shall be submitted to the preparer of the ZIR. If you do not dispute any items, there is a rebuttable presumption that you agree with the content of the ZIR. Staff time to research and work to resolve any disputes after the 10-day period will be subject to the hourly rate fee as established by the City Council

5) Tenant Displacement Assistance Ordinance

Please be advised that any application to the City for a demolition, alteration, or change of use that will result in the elimination of a residential unit requires compliance with the Tenant Displacement Assistance Ordinance (SBMC Chapter 28.89). The Ordinance requires notice to the tenants about your intent to file an application 60 days prior to the actual filing, and provide monetary displacement assistance.

**Zoning Information Report #ZIR2013-[REDACTED] was prepared by:**

Betsy Teeter, Planning Technician II

[REDACTED SIGNATURE]  
Signature

August 27, 2013

The Fine Print was  
changed on 7/6/09.  
Please read it.



## Zoning Information Report

[REDACTED]

"Major" Violations  
Example  
Referred for Immediate  
Enforcement

**Date:** 8/21/2013  
**To:** Property Owners and Prospective Buyers of Residential Property  
**From:** Planning and Zoning Staff  
**Subject:** ZIR2013 [REDACTED]

Thank you for ordering a City of Santa Barbara Zoning Information Report. The purpose of this report is to identify zoning and building violations; inform the buyer as to the nature of the violations as part of the State's full disclosure laws, and to document the violations for immediate or future enforcement by City Staff. The contents of this report are based on a review of the City's files on the property, a physical inspection, and a review of the City's archive plans and other historical data that may be available, if necessary.

The property was inspected on August 20, 2013.  
This Zoning Information Report expires on August 21, 2014.

The property's City Zoning Designation is R-3. Requirements of the property's primary zoning designation(s) are listed below. If there are multiple zones, the standards for the more restrictive zone shall apply.



APN

**Zone:**

Lot Area Requirements for Residential Units

**R-3 or R-4**

5,000 sq. ft. or less:	2 units allowed with Variable Density
5,001+ sq. ft.:	Studios: 1,600 sq. ft. lot area per unit
	1 Bedrm: 1,840 sq. ft. lot area per unit
	2 Bedrm: 2,320 sq. ft. lot area per unit
	3+ Bedrm: 2,800 sq. ft. lot area per unit

Front Yard Setback	1 or 2 story structures:	10 feet
	3 story structures:	15 feet

Interior yard Setback	1 or 2 story structures:	6 feet
	3 story structures:	10 feet

Rear Yard Setback	1 story structures:	6 feet
	2 or 3 story structures:	10 feet

Private Outdoor Living Space	Unit Size	Ground Floor	Upper Floor
	Studio:	100 sq. ft.	60 sq. ft.
	1-Bedrm:	120 sq. ft.	72 sq. ft.
	2-Bedrm:	140 sq. ft.	84 sq. ft.
	3+-Bedrm:	160 sq. ft.	96 sq. ft.
	Min. Dimension:	10 feet	6 feet

Maximum Building Height Three stories not to exceed 45 feet

Required Off-Street Parking Spaces	1 House on the property:	2 covered spaces
	Duplex:	1 covered & 1 uncovered per unit
	Multiple House or Duplexes:	1 covered & 1 uncovered per unit
	Multi-Family (3+ attached units):	
	Studios:	1 1/4 uncovered spaces per unit
	1-Bedrm Units:	1 1/2 uncovered spaces per unit
2+-Bedrm Units:	2 uncovered spaces per unit	
Guest Spaces:	1 per 4 units if 6+ units in the complex	

Distance Between Main Buildings	1-story building to 1-story building:	10 feet
	1-story building to multi-story building:	15 feet
	Multi-story building to multi-story building:	15 feet

Minimum Lot Area for Newly Created Lots 14,000 sq. ft. x Slope Density

Newly created lots must also conform to the General Plan density requirements.

Req'd. Lot Frontage for Newly Created Lots 60 feet



If the property's zoning designation contains additional classifications that are not discussed above, please contact the Planning and Zoning Counter at (805) 564-5578 for more information on the requirements of that particular designation.

**PARCEL ATTRIBUTES**

The following special districts or other attributes of the property are listed below. If there are no special districts or other attributes, this area will be blank.

APN [REDACTED]

**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**

**Downtown**

**PROPERTY DESCRIPTION**

One-story single family dwelling (illegally converted to a 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 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.)

Lot Size (From County Assessor Records): 0.10 Acres

Unit #: **This is a legal dwelling unit.**

	Legal	Illegal
Bedrooms	2	0
Full Baths	2	0
Half Baths	0	0
Sinks	0	0
Smoke Detectors in:	All Bedrooms? <b>No</b>	All Hallways? <b>No</b>

Unit #: **This is an ILLEGAL dwelling unit.**

	Legal	Illegal
Bedrooms	1	0
Full Baths	0	1
Half Baths	1	0
Sinks	0	1
Smoke Detectors in:	All Bedrooms? <b>No</b>	All Hallways? <b>No</b>

Smoke detectors are required in each sleeping room and outside each separate sleeping area in the immediate vicinity of the bedrooms of each story of a dwelling unit. A fire alarm system is required in: 1) apartment houses three (3) or more stories in height or containing 16 or more dwelling units; 2) hotels three (3) or more stories in height or containing 20 or more guest rooms; and 3) congregate care residences three (3) or more stories in height or which have an occupant load of 20 or more except when equipped throughout with an approved automatic fire sprinkler system. For more information regarding fire alarm system requirements, please call the City's Fire Prevention office at (805) 564-5702.

The property contains 1 parking spaces in garages, 0 parking spaces in carports and 0 uncovered parking spaces.

If this box is checked, the items stored within the required parking or maneuvering areas must be removed.

This property has received the following discretionary land use permits, such as Conditional Use Permits, Modifications, Coastal Development Permits, or Variances (If none, this area will be blank).



APN [REDACTED]

**The property is legally nonconforming with respect to either density, setbacks, yards and/or wall, fences and hedges.** Details regarding the property's nonconformity are provided below. A property is determined to be nonconforming if it conformed to the regulations in effect when it was permitted, but because of subsequent changes in the Zoning Ordinance or the Zoning Map, the structures do not conform to today's zoning standards. Properties with nonconforming density, setbacks, yards or walls, fences and hedges exist legally; however, there are restrictions on alterations, additions, or replacement of nonconforming structures. For the purposes of this report, the interior or rear property lines are assumed to coincide with any interior or rear fence.

**The property contains structures that are located in the required front setback.** Therefore, the front setback is nonconforming. The structures that encroach into the required front setback are:

**Garage, roof deck and dwelling**

**The property contains structures that are located in the required interior (side or rear) setbacks.** Therefore, the interior setbacks are nonconforming. The structures that encroach into the required interior setbacks are:

**Garage, roof deck and dwelling**

### **Zoning Ordinance or Building Code Violations (if none, this area will be blank):**

#### **ZONING VIOLATIONS:**

- 1. The hedges along the front lot line and on top of the approved wall (42 inches in height) exceed the maximum allowable height of three and one half feet within ten feet of the front lot line and the hedges along the interior lot line exceed the maximum allowable height of eight feet.**
- 2. The shed encroaches into the required interior setback.**
- 3. The arbor/trellis structure encroaches into the required interior setback.**
- 4. Miscellaneous stored items encroach into the required interior setbacks.**
- 5. The rear bedroom and half bathroom in the interior setback have been altered to create an illegal dwelling unit by the addition of a kitchen (sink, counter, stove, refrigerator), a shower (in the former half bathroom) and interior alterations with new interior walls and exterior alterations including changes a door to a window in the required interior setback.**

#### **BUILDING VIOLATIONS:**

- 1. A new wall with a closet with washer/dryer hook-ups has been constructed in the kitchen without the required permit.**
  - 2. 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.**
- SEE ATTACHED NOTICE OF ENFORCEMENT**

All questions regarding 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 requirements, building permits or building violations should be directed to the City's Building and Safety Counter at 630 Garden Street, or (805) 564-5485.



APN

**The Fine Print**

## 1) Disclosures

- a) The ZIR is a good faith effort at full disclosure to a potential buyer of authorized uses and occupancy, including zoning violations, and improvements constructed without City permits or approvals.
- b) Improvements without permits are illegal. Previous plans showing these improvements as "existing", previous ZIRs describing improvements as legal, previous ZIRs that omit an improvement, or previous ZIRs that describe an improvement as nonconforming do not legalize illegal improvements, including structures. Only City approvals and permits legalize improvements previously constructed without permits.
- c) The current ZIR is based on the most recent information, and supersedes previous ZIRs. Improvements that existed at the time of a previous ZIR, but which were not listed on the previous ZIR or were shown as nonconforming, but which are in fact unpermitted and therefore illegal, will be subject to current standards. For example, if a 1987 ZIR did not list an accessory building in a setback, and the current ZIR shows it as a violation, the current determination supersedes the previous determination.
- d) Zoning inspectors are not building inspectors, and are not versed in the requirements of the Uniform Codes. Therefore, this ZIR does not document violations of the Uniform Codes (e.g., illegal wiring, illegal plumbing, substandard structural assemblies). ZIRs identify zoning violations and unpermitted construction.
- e) Fences, Screens, Walls and Hedges (See SBMC §28.87.170)
  - i) The zoning regulations for fence, screen, wall and hedge height became effective in 1957. Fences, screens, walls and hedges permitted prior to 1957 may be nonconforming as to height.
  - ii) Permits are required for fences, screens and walls over 3.5 feet tall from the ground to the highest point of the structure. If such permits do not exist in City records, they are considered illegal, and must be permitted and may require other City approvals. If such fences, screens, walls and hedges are taller than allowed by the Zoning Ordinance, they must be reduced in height when required by the City. Plans in City records that show such items as "existing" do not legalize such items.
  - iii) Permits are required for retaining walls that are more than four feet tall, measured from the bottom of the footing to the highest point on the retaining wall (permits can be required for shorter retaining walls). Contact the Building and Safety Division Counter at (805) 564-5485 for more information.
  - iv) Over-height hedges that existed prior to 1957 are nonconforming 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 nonconforming.
- f) This ZIR does not include an analysis of the Solar Access Ordinance (Santa Barbara Municipal Code Chapter 28.11) as it applies to this property. Questions concerning the impact of the Solar Access Ordinance on specific structures should be directed to the Planning and Zoning Counter at 630 Garden Street, or (805) 564-5578.
- g) If you are selling a home, you must disclose to the buyer any known earthquake weaknesses of your house. The State's Seismic Safety Commission has published a booklet "The Homeowner's Guide to Environmental Hazards and Earthquake Safety," which includes detailed information regarding earthquake hazard disclosure. This booklet should be available from your real estate agent/broker.
- h) Please be advised that any alterations, additions, construction, improvements or new development may be subject to the review of the Single Family Design Board, the Architectural Board of Review, the Historic Landmarks Commission, the Staff Hearing Officer, or the Planning Commission, depending on a number of factors. If review by one of the bodies is required, the project will be subject to environmental review, as required by the California Environmental Quality Act (CEQA). Please contact the Planning and Zoning Counter at (805) 564-5578 for more information regarding the environmental review process.

SCA  
Docu

2) The enforcement process, as of April 19, 2004.

- a) The following major violations will be referred to enforcement staff immediately:
  - i) Illegal dwelling units.
  - ii) Illegal conversion of non-habitable space to habitable space.
  - iii) Unpermitted construction of new floor area (habitable or nonhabitable).
  - iv) Elimination of required parking.

b) Minor violations are kept on file and are required to be abated prior to, or simultaneously with, the first building permit that is obtained by the new property owner. HOWEVER, please be advised that all minor violations will be required to be abated in conjunction with any major violations on the property. City Staff will also require that overheight fences, walls, screens and hedges be reduced in height at that time.

3) Validity Period and Extensions

- a) This ZIR is valid for a period of twelve months after the date of issuance or until a transfer of title occurs, whichever is sooner.
- b) A ZIR may be extended for a period of one year for half the price of a current ZIR, if the application for the extension is received while the ZIR is still valid. A re-inspection is required.

4) Disputes regarding the content of this ZIR.

You have 10 days from receipt to dispute any items in this ZIR. To file a dispute, a written letter stating the grounds claimed for the dispute and supporting documentation on the content of the ZIR shall be submitted to the preparer of the ZIR. If you do not dispute any items, there is a rebuttable presumption that you agree with the content of the ZIR. Staff time to research and work to resolve any disputes after the 10-day period will be subject to the hourly rate fee as established by the City Council

5) Tenant Displacement Assistance Ordinance

Please be advised that any application to the City for a demolition, alteration, or change of use that will result in the elimination of a residential unit requires compliance with the Tenant Displacement Assistance Ordinance (SBMC Chapter 28.89). The Ordinance requires notice to the tenants about your intent to file an application 60 days prior to the actual filing, and provide monetary displacement assistance.

**Zoning Information Report #ZIR2013- was prepared by:**

Jo Anne LaConte, Assistant Planner

[Redacted Signature]

Signature

August 21, 2013



## Letter of Notice

One or more Illegal Dwelling Units or Illegal Habitable Space were identified on the Property. An enforcement case has been created and forwarded to the Building and Safety Division. A building enforcement officer will be assigned to the case for enforcement of the violations described in this report. These violations:

- a) May be permitted, if found to comply with all City Codes and Ordinances;
- b) Must be demolished with a building permit; or
- c) A combination of a) and b), above.

Please call and schedule a follow-up inspection to determine the type of permits required. Contact the Building & Safety Division at (805) 564-5485 to speak to the inspector assigned to enforcement case number: ENF20 13 [REDACTED].

The property owner (seller) is responsible for abating these violations in a timely manner. If the violations have not been abated by the time escrow closes, the new owner (buyer) becomes responsible for the abatement of the violations.

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





May 24, 2012

Gwen Peirce, City Clerk Services Manager  
Post Office Box 1990  
Santa Barbara, CA 93102-1990

Re: Zoning Information Reports (ZIRs) and Request to Place Issue Before Council

Ms. Peirce:

Since 2009, the Santa Barbara Association of REALTORS® (SBAOR) has been working on a number of issues pertaining to Zoning Information Reports (ZIR's) with city staff. Some issues have been resolved, but one major issue is still outstanding and seems to need direction from the City Council to resolve.

The major outstanding issue revolves around property owners who purchased a home with a clean ZIR (no violations cited) from the city, yet when that same property owner (having made no modifications to the property) subsequently attempts to sell the home; the new ZIR cites and requires remediation of newly discovered violation(s). The violations cited in the new report were missed in the original inspection and not reported to the purchaser in the ZIR provided by the city. The property owner relied on the report they were given by the city when they purchased the property, yet they are now being forced by that same city to spend tens or even hundreds of thousands of dollars to correct problems they were not advised of in the original report. We believe, and we hope you will agree, that this is patently unfair and unnecessary in all but the most extreme cases of properties with significant health and safety violations. This is, and has been a serious problem. There were hundreds, perhaps thousands of ZIRs done in the past, and many of them missed numerous violations at the time they were performed. Those reports were relied on by the people who purchased those homes, regardless of the small print in which the city denies any responsibility or liability for the accuracy of the report. Those people are now being penalized (in some cases financially ruined) for relying on the information provided to them by the City itself. We implore the City Council to stop this inequitable practice.

Another somewhat glaring issue with the ZIR as currently administered is the cost. As you are aware the city must be revenue neutral on such programs yet the cost is far in excess of that charged by other cities nearby (See Exhibit 1). This has become a major point of contention for our members and their clients will certainly require further scrutiny and discussion as we move forward in our analysis of the ZIR program.

By way of background, ZIR's were originally created by the City of Santa Barbara with full support from SBAOR in the late 1970's as a way to disclose information about a property to potential buyers. ZIR's were instrumental at that time because of the lack of required formal disclosures during a real estate transaction. They were originally informational only and no enforcement went along with them. They subsequently became a way to identify (and remove) illegal dwelling units at a time when those were a significant problem in the city, and correctional enforcement started to occur. Originally, however, they were for informational purposes only.

Today there are over forty (40) disclosures (some of them required by law) that are commonly used during a real estate transaction (see Exhibit 2). Some examples of required disclosures that are used during a transaction in today's market are:

- Agency Disclosure and Agency Confirmation
- The Transfer Disclosure Statement
- Smoke detectors
- Heater bracing
- Carbon Monoxide Detector Disclosure & Compliance
- The visual inspection
- Natural Hazard Disclosure Statement
- Mello-Roos Taxes and 1915 Bond Act Assessments
- Informational booklets and form FLD
  - The Homeowners Guide to Earthquake Safety Booklet
  - The Commercial Property Owner's Guide to Earthquake Safety
  - Residential Earthquake Hazards Report
  - The Lead-Based Paint Pamphlet and Form FLD
  - The Residential Environmental Hazards Booklet
  - The Home Energy Rating system (HERS) Booklet
- Registered sex offenders
- Toxic mold

Disclosures in residential real estate transactions have become the norm rather than the exception. Not only has the law and practice focused on incorporating detailed disclosures into the real estate transaction, the utilization of professional inspectors has become the norm as well. Home inspections by certified inspectors, structural pest control inspections, roof inspections, sewer lateral inspections, mold inspections, and a host of others are frequently utilized in an industry that has swung to the side of over disclosure and over inspection to avoid problems and lawsuits later. In light of these inspections, the ZIR may very well have become an unnecessary evil.

SBAOR and most homeowners believe the city has a duty to stand behind the reports that have been generated and delivered to the citizens/homeowners by the City. We believe this is the right thing for the city to do despite the "small print" denying any responsibility for the reports. We believe the City, at a bare minimum, needs to "grandfather" these previously overlooked conditions for those properties so long as the "improvements" or conditions are not in danger of falling down, or causing a fire or other major hazards. In other words, as long as they are not a serious health and safety threat. The conditions should be treated as any other legal variance or pre-existing use, and be allowed for the present and future owners.

Better yet, perhaps the city should consider eliminating ZIRs all together. If not eliminating them then go back to providing them as informational reports and drop the enforcement component all together. Make the property owner aware of the problem(s) if there are any, and explain that any new permits may require mediation of some or all noted violations.

If no other action is taken, SBAOR would ask the City Council to direct staff to create a "grandfathering" and/or "allowed exception" clause and policy pertaining to ZIR's. We would also ask that the city allow these types of issues to be fast tracked through the permitting process at no additional cost to the property owner. This is an important issue that affects all homeowners with the City of Santa Barbara.

We look forward to discussing this important issue with the City Council, and to working towards an equitable solution to this on-going problem. Thank you for your time and consideration of this request.

Sincerely,



Jim Caldwell  
President

Cc: Mayor Helene Schneider  
City Councilmember Dale Francisco  
City Councilmember Frank Hotchkiss  
City Councilmember Grant House  
City Councilmember Randy Rowse  
City Councilmember Cathy Murillo  
City Councilmember Bendy White  
City Administrator Jim Armstrong  
City Attorney Steve Wiley  
Community Development Director Paul Casey

Enclosed: Exhibit 1 - Prices of ZIR's in other CA cities  
Exhibit 2 - Disclosure forms  
Exhibit 3 - ZIR Stories from agents and their clients  
Exhibit 4 - Santa Barbara News-Press Letters: Opinion: The \$18,000 Shower

*Not included*



# City of Santa Barbara

## Community Development Department

www.SantaBarbaraCA.gov

November 29, 2012

Santa Barbara Association of Realtors  
Attn: Jim Caldwell, President  
1415 Chapala Street  
Santa Barbara, CA 93101

#### Director's Office

Tel: 805.564.5502

Fax: 805.564.5506

#### Building & Safety

Tel: 805.564.5485

Fax: 805.564.5476

#### Housing &

#### Redevelopment

Tel: 805.564.5461

Fax: 805.564.5477

#### Planning

Tel: 805.564.5470

Fax: 805.897.1904

#### Rental Housing

#### Mediation Task Force

Tel: 805.564.5420

Fax: 805.564.5477

630 Garden Street

PO Box 1990

Santa Barbara, CA

93102-1990

Mr. Caldwell;

Thank you for your letter dated May 24, 2012 regarding the preparation of Zoning Information Reports (ZIR) and violations found during that process. We have had a number of internal meetings over the past couple of months with Jim Armstrong, Steve Wiley, key planning staff, and myself. This letter serves as our response.

We are committed to resolve these issues as best as possible and propose that we consider an ordinance amendment to streamline parts of the ZIR process and the review and permitting process when violations need to be abated.

#### Purpose of ZIRs

We agree that the function of the ZIR has evolved over time. Originally, the purpose of the ZIR was to inform a potential buyer of the zoning and permitted use of the property. Street and planning files may have been researched, but archive plans were rarely checked. The majority of zoning violations noted in the ZIR were not followed-up with enforcement actions. Overtime, the ZIR has evolved to also include obvious building code violations such as new square footage, illegal dwelling units, or conversion of non-habitable space to habitable space. It has also become an important record for the abatement of zoning and building code violations found on site. We feel this evolution is warranted as ZIRs are an important mechanism to ensure a quality housing stock in the City and abate potentially unsafe conditions.

#### As-Built Issues

We recognize there are problems with some previous ZIRs not documenting every violation that may have existed on the property at the time the ZIR was prepared. There are various reasons why there are sometimes discrepancies between previous ZIRs and ZIRs prepared today. One reason is the level and/or quality of the research previously performed during the preparation of the previous ZIRs. Prior to 1996, City staff did not have easy access to the archive plans as they were located off-site. Today, the archive plans are located on-site and are routinely reviewed as part of the record check performed for each ZIR.

During the preparation of a ZIR, Staff researches planning and street files, archive plans, historic research documents, Sanborn Maps, and County Assessor records to try and find evidence in the record as to when a "new" improvement first appeared. Staff looks to see if the improvement might have been covered by a previous City approval, may have been a field change during construction signed off by a Building Inspector, or if it took place at a time when the City did not require a certain permit and the zoning standards were different. Based on this research, staff uses judgment to

SBAOR  
Attn: Mr. Caldwell  
November 29, 2012  
Page 2

resolve issues and signoff on some improvements when there is at least some credible evidence to allow the improvement to remain.

However, if information in the record clearly indicates a violation of zoning or building codes has occurred, staff cannot overlook those "as-built" improvements.

#### Possible Zoning Ordinance Amendment to Address As-Built Issues

Currently, some "as-built" improvements require a modification of a zoning standard and approval by the Staff Hearing Officer (SHO). Staff expedites and streamlines this process by meeting directly with the applicant, placing the project on the next available Staff Hearing Officer agenda, and not charging the applicant a double fee for the "as-built" improvements. At present the modification process is the only official way for staff to resolve a situation where the improvements are not in compliance with the Zoning Ordinance.

To try to improve this situation, Staff intends on pursuing an amendment to the Zoning Ordinance to allow the Staff Hearing Officer to grant administrative approval of modifications for minor zoning regulations in instances where discrepancies in the record are discovered and it is evident that the improvement has been there for a very long time. It is important to note that not all discrepancies will be solved by this amendment. Additional time and expense could still be required to resolve the more major discrepancies through the modification process and construction permits.

This new ordinance will need to be initiated by Council and other workload assignments will need to be considered to allow staff to work with the Planning Commission, Council, and the public in the review and identification of improvements that may qualify for these administrative modifications. We hope you see the value in pursuing such an amendment and will be able to support our efforts in this area.

#### Enforcement of Health and Safety Violations

Planning Staff continues to focus enforcement efforts on health and safety violations identified in ZIRs such as illegal dwelling units and new habitable space. Staff estimates that between 10-15 percent of all ZIRs issued have immediate enforcement issues. Not pursuing enforcement on these major violations would not solve the issue of "new" identified violations in a ZIR. It would only push the abatement of the violation to a later date and would require the new property owner to abate the violation with the next building permit issued for the property.

#### Reliance On Disclosure Process Instead of ZIRs

Your letter states that the ZIR may have become "an unnecessary evil" given all the required disclosures and utilization of professional inspectors during real estate transactions. Staff believes there are important differences between the ZIR and the other disclosures. To our knowledge, no City record check is required as part of these disclosures. The property owner must state whether they are aware of any additions, alterations, or repairs that may have been made without the necessary permits or may not be in compliance with building codes.

For whatever reason, this does not always seem to be occurring as evidenced by what we hear from realtors and owners about the issues staff finds in the ZIR process. It is common to hear that they did not know the particular improvement was built without City approval or permits at the time they bought the property. Planning Staff considers ZIRs to be necessary to properly inform buyers of the status of the improvements on the property and to abate zoning and building code violations.

#### Requirement for ZIRs

Not identifying zoning and building code violations at the time of sale has the potential to more significantly impact future property owners in the long term. Staff does not support the complete elimination of ZIRs for all residential properties as they provide important information to the prospective buyer and provide the mechanism to remove unsafe conditions on the site. Over time, City staff has seen fewer illegal units in ZIR inspections. The use of ZIRs has evolved to provide a self-correcting mechanism for abating illegal dwelling units. If the requirement for a ZIR was eliminated, overtime staff believes the City would experience an increase in illegal dwelling units and unpermitted and potentially unsafe construction.

#### Cost of ZIRs

ZIRs are one of the few services provided by the Planning Division that are intended to be full cost recovery. Staff believes that it is not appropriate to have tax payers subsidize private real estate transactions. If the cost was reduced below that which it costs the City to provide the service, the level of service would either have to be reduced accordingly or the funds would have to be taken from another program in the Planning Division. Planning Staff is preparing an in-house fee study for the next budget cycle. Based on preliminary results, we have found that our current ZIR fee for 1-4 units accurately reflects the cost of preparing ZIRs for those numbers of units. However, it appears that our fee for properties which have 5 or more units on site may be too high. A fee reduction will be proposed for those properties in the next budget cycle.

Thank you for your efforts to engage us in the discussion of improving the ZIR process. We look forward to meeting with you to discuss this letter and moving forward to seek Council direction on a possible Zoning Ordinance amendment.

Sincerely,



Paul Casey

Assistant City Administrator/Community Development Director

cc: Mayor and Council  
Jim Armstrong, City Administrator  
Steve Wiley, City Attorney  
Bettie Weiss, City Planner  
✓ Susan Reardon, Senior Planner

## ZIR Historical Timeline As of June 6, 2013

The Santa Barbara Association of REALTORS® (SBAOR) has often been asked what steps have been taken in regards to the City of Santa Barbara Zoning Information Report (ZIR) problems. Below is a *brief* historical timeline describing various meetings and actions which are leading SBAOR to ask the City Council to make ZIR's voluntary. If you have any questions or need additional information, please contact Krista Pleiser, Government Affairs Director at (805) 884-8609 or kpleiser@sbaor.com.

**June 2009** – The SBAOR ZIR Task Force was formed in order to address problems surrounding ZIR's.

- The conclusion of the first meeting was Santa Barbara City staff does not understand the volatility of an escrow, short sales, or a 30 day escrow. It was also concluded that ZIR's can negatively impact property values and ZIR's need to be reliable.
- Began receiving "stories" of inaccurate ZIR's

**July 2009** – Met with Santa Barbara City staff about problems with ZIR's. The following issues were discussed:

- Issues with timing from application to completion.
- A suggestion by Santa Barbara City staff was to educate SBAOR members on getting ZIR's done as soon as a listing comes on the market. SBAOR disseminated this information, but the problem is property owners don't know if their property will sell and therefore they don't want to invest that much money.
- Discussed emailing reports and accepting faxed applications with credit card information.
- Discussed priority in the permitting process for those who have violations and need to have resolution.

**October 2009**

- SBAOR sent a letter to Santa Barbara City staff concurring with a suggestion put forth by the joint Planning Commission and City Council. The suggestion was to make ZIR's optional.
- Met with Santa Barbara City staff about problems with ZIR's. The following issues were discussed:
  - Proposed the idea of making condo's optional and Santa Barbara City staff concurred with the Task Force that condos shouldn't need to be mandatory.
  - Proposed the idea of privatizing the ZIR process.
  - Learned about the holiday furloughs and how they would affect ZIR's. SBAOR worked with Santa Barbara City staff to disseminate the information to entire membership

**January 2010** – SBAOR staff had a conversation with Santa Barbara City staff about:

- When condos will become optional.
- Informed that ZIR's probably won't become optional for single and multi-family dwellings because ZIR's are used as a measuring tool for the housing element, good statistics come out of ZIR's, and ZIR's are good at catching illegal units.
- Santa Barbara City staff asked SBAOR staff to look into if home inspectors would be open to the idea of privatizing ZIR's.

**February 2010**

- SBAOR ZIR Task Force met:
  - Discussed why the City of Santa Barbara didn't need ZIR's and concluded that the County and Goleta don't have them and those areas aren't health and safety hazard areas or slums.
  - The Task Force received information from the City of San Marino on their privatization ordinance and forwarded it to the Santa Barbara City staff
- Met with Santa Barbara City staff:
  - Received news that Jinny's replacement would be Betsy Teter as ZIR Inspector
  - Discussed the privatization plan

## **April 2010**

- Met with Santa Barbara City staff:
  - ZIR's would be delivered via email in June
  - Continued discussions about making condos optional
  - Was told by Santa Barbara City staff that they are proposing an increase in the price of ZIR's from \$415 to \$465 in July
- Santa Barbara Finance Committee meets. A Councilmember questions if increasing the ZIR fees will make the process happen any faster. The answer from Santa Barbara City staff was no, the purpose of increasing the fee is to keep a full time employee (FTE).

## **May 2010**

- The SBAOR Task Force writes a letter to the City Council urging them to support making condos optional for ZIR's and to oppose the increase in the ZIR fees.
- Santa Barbara Budget Hearings bring up several questions such as "do the fees justify the service". Condos are forwarded and the increased fees pass.

**June 2010** – Members of the SBAOR ZIR Task Force and GRC met with every Councilmember to discuss the ZIR issues. There was interest in changing ZIR's but no real action to do anything about it.

**October 2010** – The Ordinance Committee met to make minor ordinance revisions to ZIR's which included making ZIR's optional for condos. The language is vetted with SBAOR and passes.

**November 2010** – City Council met and made condos optional

**May 2011** – SBAOR ZIR Task Force met and discovers more issues with ZIR's:

- ZIR's calling out violation on laundry facilities in 20x20 garages, there's no consistency, ZIR's are way too expensive since they can't be relied upon, and reports are getting a note in the file instead of being cleaned even if the violation was proven wrong.
- Introduced "grandfathering" idea to Task Force

**September 2011** – Met with Santa Barbara City staff to discuss:

- "Grandfathering"
- The City must stick to zoning issues only
- Went over the scope and history of a ZIR

**November 2011** – SBAOR ZIR Task Force sent a letter to Santa Barbara City staff following up on the "grandfathering" idea.

**January 2012** – Met with Santa Barbara City staff

- Discussed before mentioned issues

## **February 2012**

- SBAOR worked with Santa Barbara City staff to create a pamphlet explaining the ZIR process
- SBAOR sent a letter to the City Council and Planning Commissioners requesting that ZIR's continue to be a major work assignment within the Planning Department. This was accepted.

**March 2012** – SBAOR ZIR Task Force and GRC discussed going forward to City Council with an optional or elimination plan.

**May 2012** – SBAOR submits a letter to the City Clerk requesting to be placed on the Council agenda to discuss openly the issues of ZIR's and to present the various options SBAOR and Santa Barbara City staff has worked on. Discovered that the information about how to submit an agenda request was wrong on the city website and was informed that 2 Councilmembers need to place it on the agenda.

**May – August 2012** – Met with various City Council members who all agreed that something should be done to rectify the ZIR problems, but they don't know what the solutions are.

**September 2012** – Met with Santa Barbara City staff and department heads

- Various solutions were discussed and the City agreed to meet with SBAOR again after the City was able to have an internal meeting to discuss all the solutions.

**October 2012** - Planning Commission and City Council jointly met and agreed that ZIR's are a problem.

**November 2012** – Received a response to SBAOR's May letter from the Santa Barbara City staff. The letter explained the City's role in ZIR's and responded to the various solutions presented.

**December 2012** – Met with Santa Barbara City staff and department heads as a follow up to the September meeting. It was discussed that an appeal form, guideline menus, and ordinance changes would be reviewed by the Santa Barbara City staff to determine if these would be viable options.

**February 2013** – SBAOR ZIR Task Force met and decided to see what Santa Barbara City staff had to offer and if the proposed changes wouldn't rectify the problems then SBAOR would go forward to City Council.

**March 2013**

- SBAOR ZIR Task Force met and decided that the proposals of an appeal form, guideline menus, and ordinance changes were not palatable. The proposed changes would create an additional cost to correct violations.
- Received a memorandum from Robinson & Cole that the City is not liable for any inaccurate reports. This is not a legal opinion, but an analysis.

**April 2013** – SBAOR BOD voted to advocate for voluntary ZIR's at City Council

**May 2013** – Met with two City Councilmembers and they will discuss this issue with Santa Barbara City staff and others concerned with this issue.

**August 13, 2013** – Had ZIR issue placed on City Council agenda and City Council will have the ordinance reviewed by the Planning Commission and Ordinance Committee.

# ZIR Historical Timeline

## As of August 1, 2013

