



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** June 25, 2013

**TO:** Council Ordinance Committee

**FROM:** Planning Division, Community Development Department

**SUBJECT:** Municipal Code Amendments Regarding Fences, Screens, Walls and Hedges

### **RECOMMENDATION:**

That the Ordinance Committee consider the basic approach and provide direction to Staff regarding potential amendments to Santa Barbara Municipal Code (SBMC) §28.87.170.

### **DISCUSSION:**

#### Background

For many years the Planning Division has identified SBMC §28.87.170 (Fences, Screens, Walls and Hedges), originally adopted in 1957, as needing review and possible revision. 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. Staff recently suggested to Council that we could now make progress and devote resources to address this issue.

#### Current Standards

SBMC §28.87.170 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 to 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). A complementary code section, SBMC §15.20.040, limits the height of vegetation within the public parkway to eight inches or less.

Also related, SBMC Chapter 28.11 (Protection and Enhancement of Solar Access) limits the height of structures in residential zones to provide neighboring properties with adequate access to direct sunlight and SBMC Chapter 22.76 (View Dispute Resolution Process) establishes a process whereby a property owner may defend their right to preserve scenic views and access to sunlight. Applicable code sections are attached.

### Intent of Regulations

The intent of regulating the height and location of fences, screens, walls and hedges is not explicitly stated; 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 public/private interface. Although not apparently the primary purposes, it also has the added benefit of allowing public safety personnel to observe activities in front yards.

### Proposed Amendments

The purpose of the proposed amendments is to develop regulations consistent with the community's values that can be regularly and fairly enforced. Currently, the number of properties out of compliance with these regulations far exceeds those that comply and enforcement of the requirements is haphazard at best, as staff almost exclusively relies on complaints to prioritize our enforcement efforts. In general, staff believes the City should regulate the height of fences, screens, walls and hedges to the minimum extent possible while ensuring the public's safety and access to light and air. To that end, we are requesting direction on the following aspects of these regulations.

#### **Required Interior Setbacks (SBMC §28.87.170.A)**

Staff recommends the Ordinance Committee consider allowing the height of interior hedges to extend to twelve feet for residential properties, consistent with the solar access regulations of SBMC §28.11.020. Application of this section of the code with respect to hedges has been suspended since November 2008 with seemingly little impact to the community at large. While maintaining the current eight-foot limit for hedges would help preserve views to some extent, an increased height limit would provide neighbors more flexibility to determine an acceptable hedge height themselves. Regulation of improvements along interior lot lines, as opposed to front lot lines, is largely a private concern between neighbors and current standards often require a height more restrictive than either neighbor desires.

Another option is to remove the interior setback height limit for hedges altogether, which would greatly favor privacy and noise attenuation concerns over potential blockage of views and access to direct sunlight. This would likely result in an increased reliance

upon the View Dispute Resolution Process to resolve conflicts between neighbors, whereas they might currently seek to solve the issue by filing a complaint with staff.

Staff recommends maintaining the existing eight-foot height limit for fences and walls, as they are more permanent and relief from this standard can be more appropriately sought through the Modification process. Staff tends to not support Modification requests for over-height hedges due to their changing nature. Regulating the height of any non-static feature is extremely challenging and time-consuming for staff.

**Front Lot Lines (SBMC §28.87.170.B.1.)**

Staff does not have a strong opinion with respect to height limitations along front property lines, so long as sight lines are maintained along driveways and street corners. In staff's opinion, this is the most controversial aspect of this code section and is the greatest cause for friction during enforcement. These regulations generally reflect a community's perspective on the appropriate level of privacy along front lot lines, desired level of interaction with, and influence from, the public in front yard areas, and openness of the streetscape.

Modification requests for over-height fences and walls along front property lines are generally supported where topographical constraints make adherence to the code extremely challenging or on lots fronting busy, noisy streets. Corner lots also warrant relief from this standard to allow some portion of the secondary front yard to be secured as private outdoor living space. Similar to interior setback Modification requests, over-height hedges along front lot lines are generally not supported by staff. Application of this section of the code with respect to hedges has been suspended since November 2008, resulting in some confusion where it overlaps with SBMC §28.87.170.B.2 (Driveways), and patchwork trimming of hedges in some instances.

**Adjacent to Driveways (SBMC §28.87.170.B.2.)**

The current 42 inch (3 ½ foot) height limit within ten feet of driveway for a distance of twenty feet back from the front lot line is excessive in many cases and could be reduced and still maintain adequate sight distance for motorists, cyclists and pedestrians. Staff recommends developing design standards to accompany this requirement that allow flexibility and consider specific site circumstances, including: whether or not a vehicle has the ability to exit a driveway in a forward movement, the presence of a parkway or similar buffer between the driveway and vehicular travel way that provides additional sight distance, on- and off-site topography, traffic volume and speed on the roadway, and proximity to major pedestrian and bicycle routes (e.g., designated bike routes, Safe Routes to School).

**Street Corners (SBMC §28.87.170.C.)**

Staff recommends maintaining the current requirements with an added provision to allow exceptions in certain limited, site-specific situations. Similar to driveways, staff would consider intersection configuration, topography, traffic volume and vehicle speeds

in our evaluation. While many intersections may not warrant the full 50-foot visibility triangle, staff is not prepared at this time to recommend a reduced standard.

### **Administrative Authority**

Application of rigid height and location standards in a community with varied topography, lot sizes, and street configurations is challenging and confusing to many. While staff believes it is important to have codified regulations in this regard, we recommend developing guidelines for administrative approval of exceptions to the rules in circumstances that have proven challenging in the past. Some examples include:

- Guardrails – allow a required guardrail to exceed the wall height limit by the minimum amount necessary to meet the California Building Code.
- Decorative elements – allow exceptions to the height limit for posts, pilasters, lighting fixtures, and entry elements (arbors, etc.), with parameters.
- Topography – allow walls and fences to exceed 42 inches along front lot lines and driveways if the site topography allows adequate sight distance and the intent of the regulation is met.
- Street Corners – allow exceptions if it can be shown that the intersection configuration does not warrant strict compliance with the Code.
- Corner Lots – allow fences or walls along a secondary front lot line to exceed 42 inches if certain criteria can be met.

### Conclusion

At this early stage in the process, staff is seeking direction from the Ordinance Committee on these issue areas to develop general preferences and focus future discussions and public input. To date, discussions surrounding this topic have 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 requests that the issues be thoroughly vetted and considered at several public hearings before returning to the Committee for a recommendation to Council.

### Timeline

Staff intends to present to City Council a comprehensive amendment to SBMC §28.87.170 by March 2014. To that end, we will seek stakeholder and general community input on a range of considerations, with a preferred approach from staff and the Ordinance Committee, and hold noticed public hearings at meetings of the Neighborhood Advisory Council, Single Family Design Board and Planning Commission before returning to the Ordinance Committee for an eventual recommendation to Council.

**BUDGET/FINANCIAL INFORMATION:**

Based on the proposed approach for this effort, no significant expenditures are required for the staff work required to prepare and implement amendments to SBMC §28.87.170.

**ATTACHMENT(S):** Applicable Municipal Code Sections

**PREPARED BY:** Renee Brooke, AICP, Senior Planner

**SUBMITTED BY:** Paul Casey, Assistant City Administrator

**APPROVED BY:** City Administrator's Office

### Applicable Municipal Code Sections

#### **SBMC §15.20.040 Other Plantings or Improvements in Parkway Strips.**

It is unlawful to install or plant in a Parkway Strip any of the following without a written permit from the Director: (i) any tree not designated an official tree in the Master Street Tree Plan; (ii) any other plant whose ultimate growing height is over eight inches; or (iii) any other non-living ground cover. The Parks and Recreation Department shall maintain a list of plant materials which comply with the height requirements of this Title.

#### **SBMC Chapter 22.76 - View Dispute Resolution Process (excerpt)**

##### **22.76.020 Intent and Purpose.**

The intent and purpose of this Chapter is to accomplish the following:

A. **Right to Scenic View and Sunlight Access.** Establish the right of a real property owner to preserve scenic views and access to sunlight free from unreasonable obstructions caused by the growth of trees under circumstances where such views and sunlight access existed prior to the growth of the unreasonable obstruction.

B. **Dispute Resolution Process.** Establish that real property owners are in need of a process to resolve disputes among themselves concerning view or sunlight access within the immediate vicinity of their property.

C. **Evaluation Procedures.** Establish procedures and evaluation criteria by which private real property owners may seek a mutually acceptable resolution of such views or sunlight access disputes.

D. **Protect Trees.** Discourage ill-considered damage to trees and vegetation and promote proper use of trees and landscaping establishment and maintenance.

E. **Not a Covenant or Servitude.** It is not the intent and purpose of this Chapter for the City to create either a covenant running with the land or an equitable servitude.

F. **Right Exclusive to this Chapter.** Nothing herein shall be deemed to establish a general right of a homeowner to affect or restrict the lawful development or use (including the use and maintenance of landscaping) of a neighboring property under circumstances where such development or use is otherwise permitted, approved, or allowed under the provisions of the Santa Barbara Municipal Code. In addition, nothing herein shall be deemed or construed to provide a homeowner with anything other than the rights specified in this Chapter for the restoration of a view or access to sunlight and a right to utilize the dispute resolution process for addressing unreasonable tree or vegetation view obstructions, as such claim process is established herein.

**SBMC Chapter 28.11 - Protection and Enhancement of Solar Access (excerpt)**

**SBMC §28.11.020 Height Limitation.**

The maximum elevation of each point on a structure in a residential zone as measured from the base elevation shall not exceed the sum of (i) eighteen (18) feet in an R-3 or R-4 zone or twelve (12) feet in all other residential zones and (ii) fifty-eight percent (58%) of the shortest distance from that point to the nearest northerly lot line as measured horizontally on the plan view of the structure. Any height limitation imposed by this Section shall be in addition to any other height limitation imposed in the Charter or this Code, such that the more restrictive height limitation shall apply.

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

A. Required setbacks. Except as hereinafter provided, in the A, E, R, C-O and C-X Zones, no fence, screen, wall or hedge located in the required setbacks shall exceed a height of eight feet (8').

B. Front Lot Line, Side of Driveway. In the A, E, R, C-O and C-X Zones, no fence screen, wall or hedge exceeding a height of three and one-half feet (3-1/2') shall be located:

1. Within ten feet (10') of a front lot line.
2. Within ten feet (10') of either side of a driveway for a distance of twenty feet (20') back from the front lot line.

C. Corner. In the A, E, R, C-O and C-X Zones, no fence, screen, wall or hedge located within fifty feet (50') of a street corner measured from the edge of the vehicular travelled way as determined by the Traffic Engineer and within the required front yard shall exceed a height of three and one-half feet (3-1/2'); provided that where any fence, screen, wall or hedge within fifty feet (50') of any corner impairs the vision of drivers of vehicles approaching on the intersecting street, the Chief of Building and Zoning may further limit the height of construction by the terms of the permit issued to the applicant so as to prevent such impairment of vision.

D. Alleys. In the A, E, R, C-O, and C-X zones, the City Traffic Engineer may require the height of a fence, screen, wall or hedge to be reduced if the improvement is determined to be a safety hazard.

E. Separation. Unless there is a horizontal separation of at least five feet (5') between fences, screens, walls or hedges, the height shall be measured from the lowest point of such fence, screen, wall or hedge to the highest point of either fence, screen, wall or hedge.

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

G. Schools. Any open mesh type fence to enclose an elementary or high school site may be located and maintained in any required yard.

H. 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

## **ATTACHMENT**

and maintained, provided there is no physical change other than necessary maintenance and repair in such fence, screen, wall or hedge, except as permitted in other sections of this title. Notwithstanding the foregoing, no more than ten percent (10%) of the length of a nonconforming fence, screen, or wall may be replaced within any twelve-month period. 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. If a nonconforming fence, screen, wall or hedge has been determined to be a safety hazard by the City Traffic Engineer, the City may require the removal or reduction of the height of the nonconforming fence, screen, wall or hedge.



**SBMC §28.87.170**

# **Fences, Screens, Walls & Hedges**

City Council Ordinance Committee

June 25, 2013



# Background

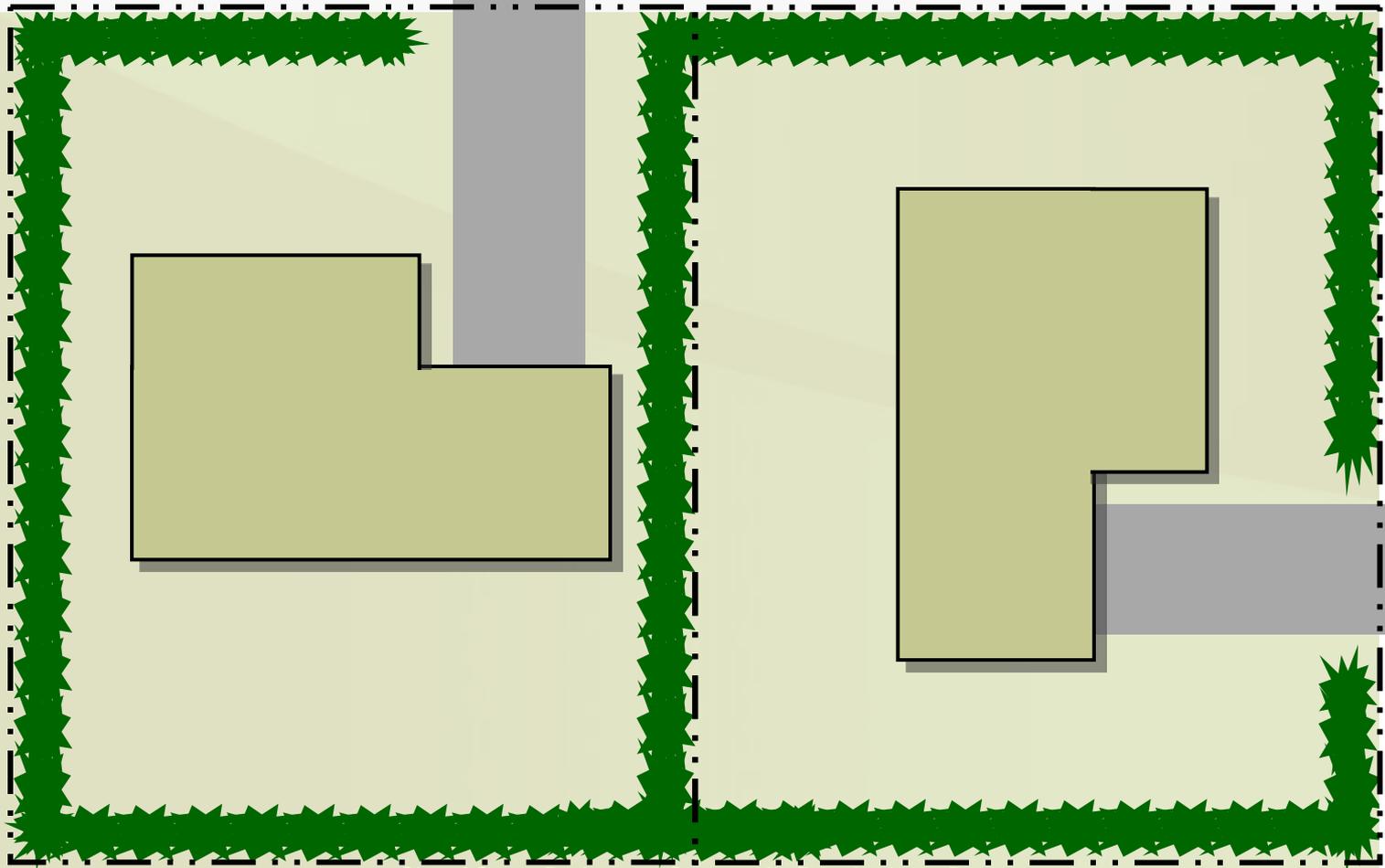
- ◆ SBMC §28.87.170 adopted in 1957
- ◆ Regulates height in specific locations
- ◆ Applies to A, E, R, C-O, C-X Zones
  
- ◆ Recent Suspension Ordinances



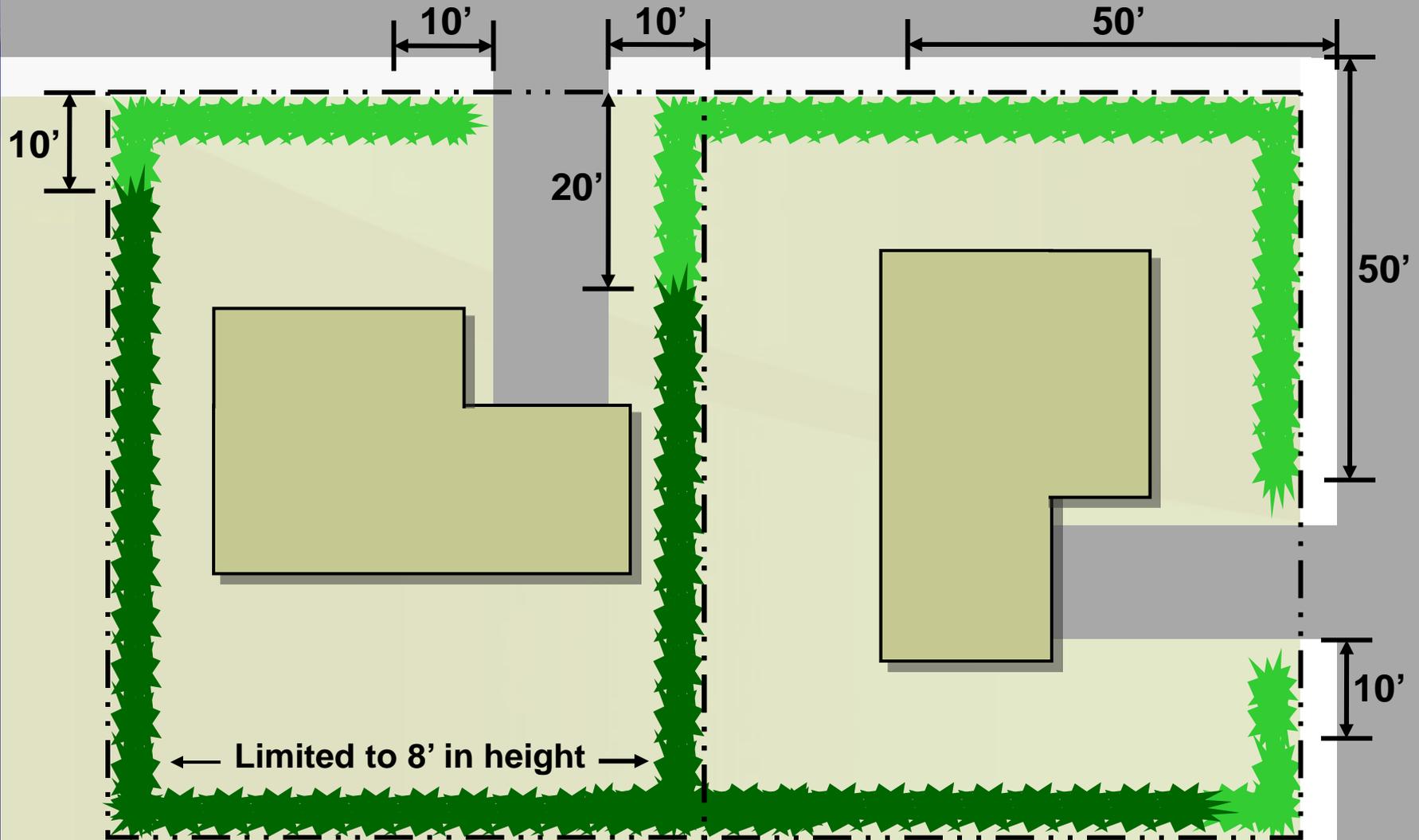
# Current Code Requirements

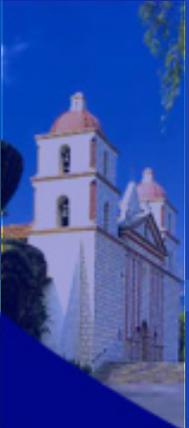
- A. **Required Setbacks.** No fence, screen, wall or hedge located in the required setbacks shall exceed a height of 8'.
- B. **Front Lot Line, Side of Driveway.** No fence, screen, wall or hedge exceeding a height of 3½' shall be located:
1. Within 10' of a front lot line
  2. Within 10' of either side of a driveway for a distance of 20' back from the front lot line.
- C. **Corner.** No fence, screen, wall or hedge located within 50' of a street corner...shall exceed a height of 3 ½'.

# Current Code Requirements



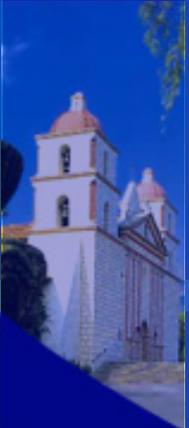
# Current Code Requirements





# Intent of the Regulations

- ◆ Safety
- ◆ Privacy vs.
  - Air
  - Sunlight
  - Views
- ◆ Streetscape / Community Character
- ◆ Visual Openness



# Proposed Amendments

## ◆ New Definitions

- **Fence** - An artificially constructed barrier enclosing, separating or screening areas of land. A fence may serve as a boundary, a means of protection, a buffer, a decorative element, a way to visually modify the view and/or a confinement area.
- **Hedge** - A row of closely planted shrubs, bushes, or any other kind of plant material that forms a boundary or continuous visual barrier.
- **Screen** - A physical device or vegetation, including but not limited to trees, shrubs, bushes and other plantings, that constitutes an effective visual barrier.

# Proposed Amendments

- ◆ Interior Setbacks – currently 8' limit
  - Recommend no change for fences & walls
  - Consider 12'+ for hedges



# Proposed Amendments

- ◆ Solar Access Ordinance  
(SBMC Chapter 28.11)
- ◆ View Dispute Resolution Process  
(SBMC Chapter 22.76)



# Proposed Amendments

- ◆ Front Lot Lines – currently 3½' limit for the first 10'
  - Consider community character, visual openness and public/private spaces



# Proposed Amendments

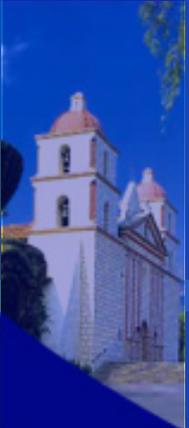
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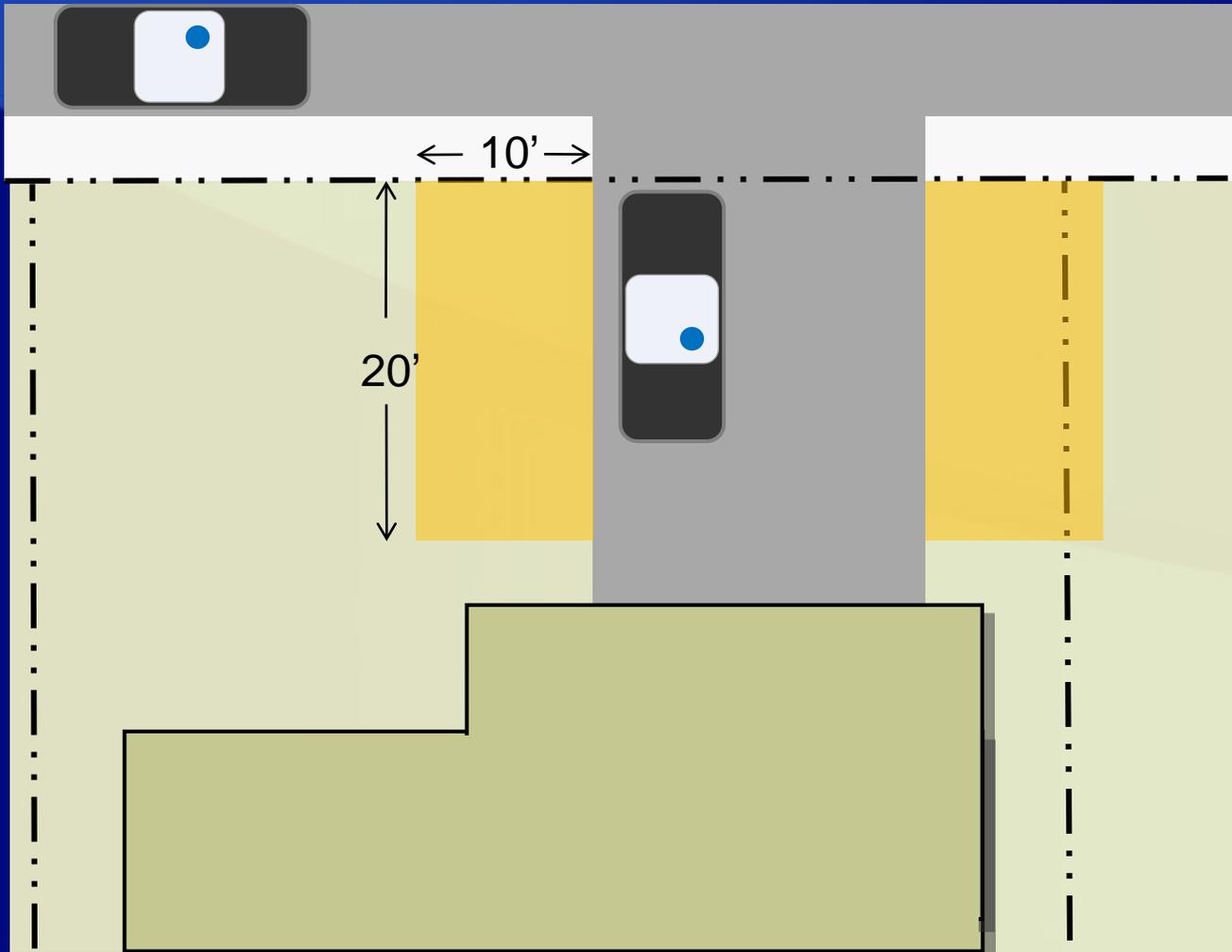




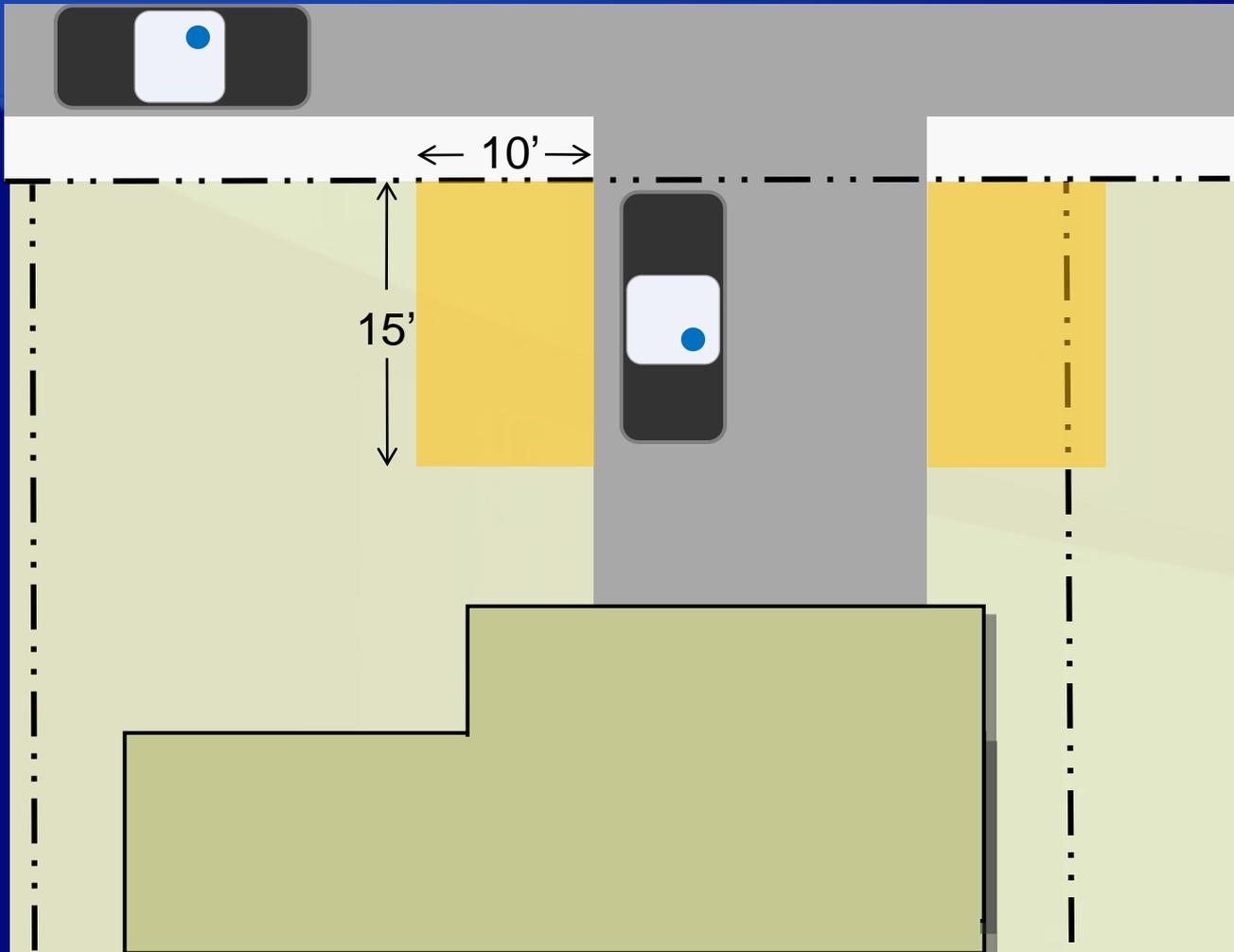
# Proposed Amendments

- ◆ Driveways – currently 3½' limit within 10' of driveway, for the first 20' back
  - Consider decreasing “visibility rectangle”
  - Consider site-specific circumstances
    - Ability to exit in forward motion
    - Presence of parkway/buffer
    - On- and off-site topography
    - Traffic volume and speed

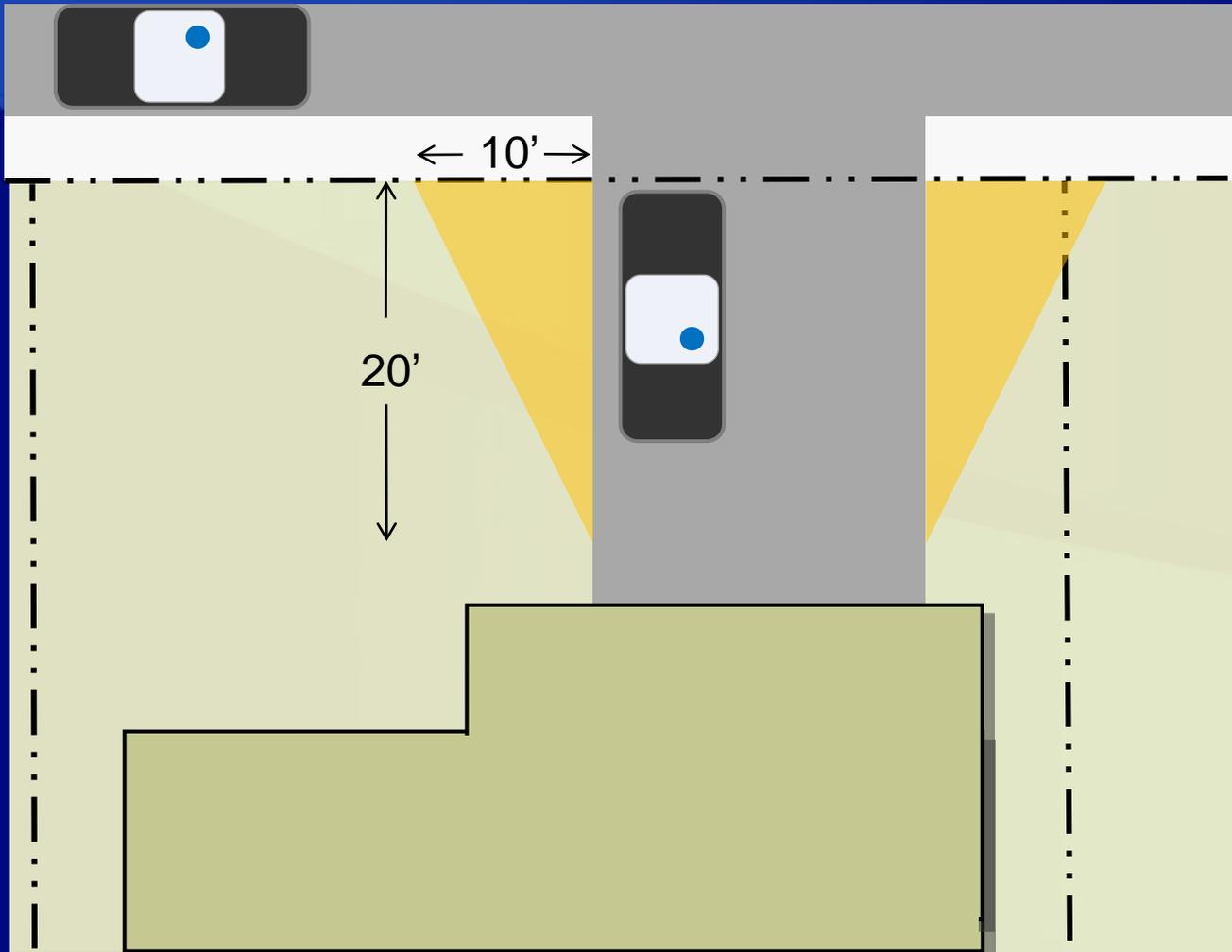
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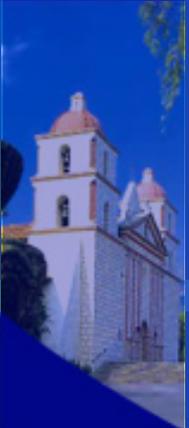
- ◆ Driveways – currently 3½' limit within 10' of driveway, for the first 20' back
  - Consider site-specific circumstances



# Proposed Amendments

- ◆ Street Corners – currently 3½' limit within 50' of travelled way
  - Consider site-specific circumstances



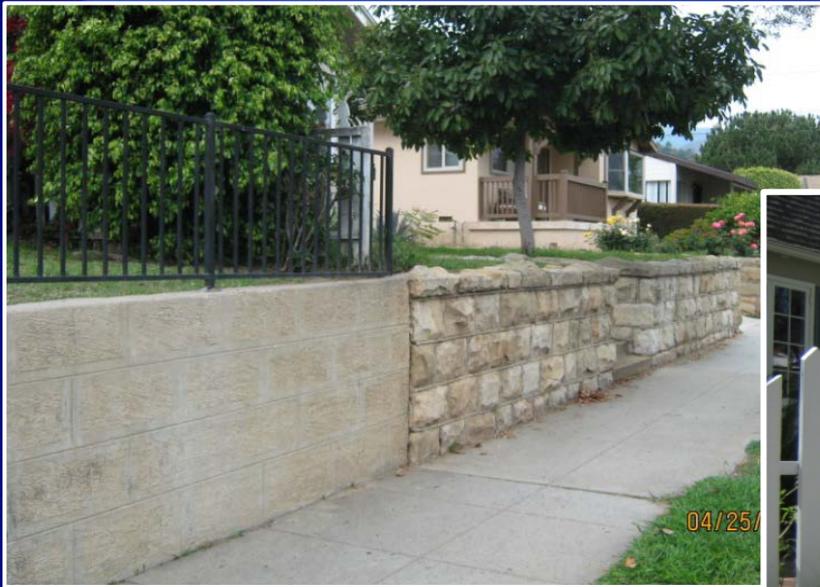


# Proposed Amendments

- ◆ Administrative Authority (with guidelines)
  - Code-required Guardrails
  - Decorative Elements
  - Topography
  - Driveways
  - Street Corners
  - Corner Lots

# Proposed Amendments

- ◆ Administrative Authority (with guidelines)



Guardrails

Decorative Elements



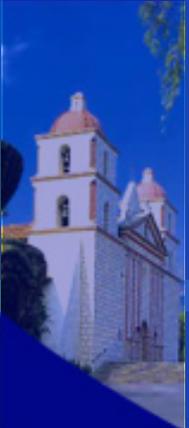
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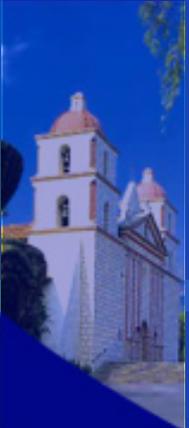
Site Topography





# Direction to Staff

- ◆ Should hedges be treated differently?
- ◆ Extent of Regulations
  - Interior Setbacks
  - Front Lot Lines
  - Driveways
  - Street Corners
- ◆ Administrative Authority



# Next Steps

- ◆ Seek Additional Community Input
  - August 14<sup>th</sup> – Neighborhood Advisory Council
  - September 2013 – Single Family Design Board
  - November 2013 – Planning Commission
  
- ◆ Consider Ordinance Amendment
  - December 2013 – Ordinance Committee
  - Feb/Mar 2014 – City Council