



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** January 15, 2008

**TO:** Mayor and Councilmembers

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

**SUBJECT:** Introduction Of Ordinance For Amendments To The Neighborhood Preservation Ordinance

### **RECOMMENDATION:**

That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Titles 22 and 28 of the Santa Barbara Municipal Code Relating to Design Review and Net Floor Area Limitations.

### **EXECUTIVE SUMMARY:**

Since implementing the NPO six months ago, staff has identified twelve changes needed to clarify or correct the updated Ordinance and related provisions of the Zoning Ordinance. There are three ordinance change objectives:

- A. Clarify which categories of projects are subject to Design Review.
- B. Simplify noticing distance requirements – the “20 closest homes” noticing concept is too cumbersome to implement.
- C. Correct minor “clean-up” items.

The ordinance amendments proposed were discussed with a subcommittee of the Single Family Design Board (SFDB) (12/4/07) and presented to the Ordinance Committee (12/11/07). The changes to Title 28 were discussed at a Planning Commission (PC) hearing (12/13/07). Public input was also provided at both the PC and Ordinance Committee hearings. Based on discussions, some further clarifications were made to a few of the proposed amendments. Staff and the City Attorney are presenting the Ordinance which is ready for introduction by the Mayor and Council.

## **DISCUSSION:**

After an intensive three-year process, Council adopted a revised Neighborhood Preservation Ordinance and updated Single Family Design Guidelines on May 8, 2007. Council adopted updated Architectural Board of Review (ABR) Guidelines and new Single Family Design Board Guidelines on July 3, 2007. As part of the update process, a new Single Family Design Board (SFDB) was created and has convened bi-weekly since July, 2007. Staff has also published handouts and created new procedures for application intake to assist in ABR and HLC review and plan check applications according to the new ordinance and guidelines. Following are twelve ordinance changes which staff has identified as needed to clarify or correct the updated Neighborhood Preservation Ordinance and related provisions of the Zoning Ordinance.

The Ordinance Committee, PC and SFDB Subcommittee all recommend that Council adopt the proposed ordinance amendments. Four items had comments from the Ordinance Committee, PC, or SFDB Subcommittee. The hearing body comments are noted after each applicable item, below.

### A. Clarify which projects require Design Review

**Change 1: 22.69.020.C.1, .2 & .3 Building Permits – Single Family Residential Units and 28.15.083 Maximum Net Floor Area (Floor to Lot Area Ratio).** (Height and Story Triggers) The triggers for new construction, alterations and additions have been separated to clarify which alterations and additions are intended to trigger Design Review. The new language focuses attention on the new construction, the specific location of the alteration to an existing building, or the height of the new addition. Throughout the NPO Update process, the concept of referring two or more story projects for review was discussed and supported. This change will trigger Design Review for projects that were previously exempt as one story and a basement and under 17 feet in building height.

Ordinance Committee and PC Comment: The Planning Commission and Ordinance Committee had questions about how the definitions of “basement” and “cellar” found in the Zoning Ordinance relate to this trigger. To clarify the relationship of the definitions to this trigger, information available at the Counter will be revised to clarify when projects including cellars are exempt from Design Review.

### **Change 2: 22.69.020.C.5 Building Permits – Single Family Residential Units.**

Staff has discovered that it is possible to design a home that exceeds the FAR standards, but does not trigger Design Review under the NPO. Therefore, a new Design Review trigger to ensure review is recommended so any project that requires a modification of the FAR standards will also require the necessary Design Review.

**Change 3: 22.69.020.C.7 & .8 Building Permits – Single Family Residential Units.** The May 2007 Ordinance requires Design Review for new walls over eight feet tall located in a front yard. A wall six feet or taller in the front yard can have potential neighborhood compatibility issues. This amendment would change the SFDB review trigger to a six-foot height instead of an eight-foot height. Also, for consistency in the height trigger, 22.69.020.C.7 was revised to a six-foot-or-taller trigger, rather than a trigger only for walls over six feet.

*SFDB Subcommittee and Ordinance Committee Comment:* Some reviewing members, including the SFDB Subcommittee, requested this review trigger be lowered to 3 ½ feet, rather than six. However, the Ordinance Committee voted to keep the trigger at the proposed 6 feet to avoid capturing too many front-yard fence and wall projects into the Design Review process. Also, as a result of Ordinance Committee discussion, this trigger for Design Review will only trigger review of the proposed fence or wall, in the same way that grading, vegetation removal, and retaining wall triggers in Subsections D through G of Section 22.69.020 have focused review triggers.

**Change 4: 22.69.020.C.11 Grading Permits.** There is a concern that projects may be designed in a manner that avoids Design Review under the current triggers but still involves significant grading on the site outside the main building footprints. Therefore, a new trigger is recommended for building projects that involve more than 50 cubic yards of grading in the Hillside Design District, or 250 cubic yards of grading in Infill areas. This addition complements the May 2007 ordinance language in section 22.69.020.E regarding “grading only” projects.

**Change 5: 22.69.020.G Retaining Walls.** Clarifies that, where retaining walls are the only aspect of a project that “triggers” Design Review, the hearing body would review only the proposed retaining wall work, even if other non-triggering work is proposed at the same time. This clarification follows the pattern of focused review of subdivision grading plans, grading-only projects, and vegetation removal permits. If this provision were not included, then as per the Ordinance, all projects with pending building permit review for exterior changes or site work would be included within the Design Review purview for the project.

#### B. Noticing Proposals

**Change 6: 22.69.040.A Single Family Design Board Notice and Hearing.** Clarifies that single-family accessory structure project components are considered in mailed noticing triggers for SFDB and HLC. A single-family “project” includes all work which would require a building permit where a main building is a single-family residence. The new language in this section simply clarifies this point for the public.

**Change 7: 22.22.132 & 22.69.040.B Mailed Notice.** Staff recommends standardizing required mailed noticing to 300' instead of the closest 20 neighbors. The Steering Committee noted that notifying the 20 closest neighbors would avoid the problem of having varying numbers of neighbors informed for each project where standard distances are used. For example, in large-lot neighborhoods, fewer property owners would be noticed within 300' of a proposed project than the same standard used in small-lot neighborhoods. Staff has attempted to implement the 20 closest homes noticing function for mailings; however, staff has learned that it is not feasible to automate a map to be made for the 20 closest homes. Further, there is a benefit to having consistent noticing requirements for all Design Review and Planning hearings. This new standard of 300 feet was adopted as part of the Staff Hearing Officer process and is consistent with most communities in California. The tenant "door-to-door" method of additional noticing of the 20 closest neighbors would not be affected by this change in radius for mailed noticing. The requirement for 20 closest home square footage data for compatibility analysis purposes for some projects would also not be affected by this change.

Ordinance Committee and SFDB Subcommittee Comment: Requested example graphics illustrating how a 300' radius compares to 20 closest homes. Also, the Ordinance Committee suggested studying the potential need for a greater noticing radius for Hillside Design District areas. Example graphics of noticing radii will be included in staff's presentation to the Mayor and Council. Only a small percentage of homes in the City would not have the owners of the 20 closest homes noticed using a 300' radius. For consistency with Staff Hearing Officer and Coastal Commission requirements, a standard 300' mailed noticing radius is recommended by Staff.

C. Simple Correction "Clean-Up" Items

**Change 8: 22.22.133 HLC Referral of Residential Projects to Planning Commission for Comment.** Under the "old" NPO, single-family residential projects in the Hillside Design District that were 6,500 square feet or larger or involved grading of 500 cubic yards or more were referred to the Planning Commission for review and comment. In an effort to simplify the Design Review process, this referral was removed for projects previously reviewed by the ABR (now subject to review by the SFDB). Due to an oversight, this treatment was not extended to projects subject to review by the HLC. This amendment will achieve the consistency of treatment that was intended.

**Change 9: 22.22.180 Expiration of Approval.** This change adds two-year expiration dates for HLC final approvals to match SFDB and ABR expiration dates. An uncodified provision of the proposed ordinance that extends active HLC applications for an additional year is also provided to implement this change.

**Change 10: 22.69.050 Neighborhood Preservation Ordinance, Grading and Vegetation Removal Findings.** Grading and Vegetation Removal findings, which are required for some single-family developments, are proposed to be moved adjacent to the Neighborhood Preservation Ordinance Findings so that all of the findings specific to single-family projects are grouped in the ordinance for easier navigation. The content of the findings is the same; only their placement in the ordinance has changed.

**Change 11: 22.70.050.I.1 Sign Review Criteria, Appeals.** Presently, the Sign Ordinance requires appeals from Sign Committee decisions to be heard by the ABR or HLC within 14 days of the date the appeal is filed. With the creation of SFDB, the ABR has changed to a bi-weekly full board meeting schedule. Staff has experienced difficulties meeting the specified deadline due to the ABR's new meeting schedule. The proposed language specifies that the ABR appeal be heard at the "...first available meeting of the ABR or HLC following the filing of the appeal."

**Change 12: 28.87.030.1.c.1 & .2 Non-Conforming Buildings.** The May 2007 ordinance provides for a one-time expansion of up to 100 square feet for homes legal-nonconforming as to required floor area maximums. Proposed language clarifies that this one-time 100-square-foot expansion without a modification is also allowed for homes taller than 25' and over 85% of the required maximum square footage.

Planning Commission Comment: The fact that an addition to a basement of a legal non-conforming-as-to-size home could trigger the requirement for a PC modification was discussed. As a result, the PC asked staff to provide a description of the kind of cellars that would not trigger FAR square footages in this part of the Ordinance. In response, the proposed Ordinance has been revised to include a reference to the definitions of basement and cellar in the Zoning Ordinance. Information available at the Counter will be revised to clarify when projects including cellars are exempt from Design Review.

Beyond the recommended twelve changes above, there was some discussion of FAR discounts for basements (Section 28.15.083.B.1.b), whereby some basements which are substantially below grade have only half of their square footage "counted" toward the project FAR. No changes to 28.15.083.B.1.b are recommended at this time. Given the relatively little empirical information available to gauge the performance of the current FAR discounts, Staff recommends further study of the current FAR discounts for basements and cellars before making any changes. Staff will review the performance of the FAR discounts over the next year and a half and will make a recommendation to the Ordinance Committee and Council as part of the 2009 review of the NPO Update.

**BUDGET/FINANCIAL INFORMATION:**

Significant budget impacts are not expected as a result of proposed ordinance amendments, although some cost savings could be attributed to these amendments. For example, changing the 20 closest homes noticing requirement to a set 300' noticing radius will lead to a greater postage costs for more notices, but will save significant Planning Technician staff time, potentially resulting in modest cost savings.

**SUSTAINABILITY IMPACT:**

The proposed NPO amendments would bring some one-story-with-basement projects, which might not otherwise have been reviewed, into the Design Review process. Also, grading projects which are associated with a building permit are now triggered for review. Projects that undergo Design Review also undergo environmental review. In addition, projects frequently change during the Design Review process in response to Board comments to minimize grading. Water quality, air quality and wildlife corridor qualities can be improved with less grading.

**RECOMMENDATION:**

Staff recommends Council introduce and subsequently adopt the above changes to the Neighborhood Preservation Ordinance.

**NOTE:** SFDG/NPO Update Package documents have been provided to the Mayor and Council under separate cover, and are available for review in the Council office, and the City Clerk's office:

1. May 2007 Adopted Neighborhood Preservation Ordinance and Related Codes
2. July 2007 Single-Family Design Guidelines
3. July 2007 Single-Family Design Board Guidelines
4. Planning and Zoning Counter Handouts required for SFDB applications

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