



CITY OF SANTA BARBARA

ORDINANCE COMMITTEE AGENDA REPORT

AGENDA DATE: December 14, 2010

TO: Ordinance Committee Members

FROM: Planning Division, Community Development Department

SUBJECT: Hedge Ordinance Suspension

RECOMMENDATION: That the Ordinance Committee:

- A. Review proposed options for the application of Municipal Code Section 28.87.170 regarding hedges; and
- B. Make recommendations to City Council for consideration.

DISCUSSION:

Background

For many years the Planning Division has identified Santa Barbara Municipal Code (SBMC) §28.87.170 (Fences, Screens, Walls and Hedges), originally adopted in 1957, as needing review and possible revision. However, other work priorities have not allowed adequate time and resources to be dedicated to this effort.

A large number of hedge-related complaints in the summer of 2008 caused significant community discord. This prompted the City Council to adopt on November 25, 2008 an ordinance (see Attachment - Ordinance No. 5470) to suspend for two years the application of SBMC §28.87.170.A and §28.87.170.B.1 to hedges. These code sections limit the height of fences, screens, walls, and hedges in the A, E, R, C-O, and C-X Zones to eight feet (8') in required setbacks, and three and one-half feet (3½') within ten feet of a front lot line. The Council's goal in doing this was to reduce neighborhood discord, enable adequate community outreach, and allow for a thorough discussion and review of a possible amendment to this section of the code. At the introductory hearing, an exception to the suspension ordinance was added regarding bamboo hedges.

The suspension ordinance did not affect hedge height limitations related to public safety. SBMC §28.87.170.B.2 remained in effect, which limits fences, screens, walls, and hedges in most zones to a height of three and one-half feet (3½') within ten feet of either side of a driveway for a distance of twenty feet back from the front lot line. Section 28.87.170.C also remained in effect, which limits the height of fences, screens, walls, and hedges in most zones to three and one-half feet (3½') within 50 feet of a street corner.

Status of the Suspension Ordinance

Ordinance No. 5470 recently expired on November 25, 2010. Staff reductions and shifting workload priorities in the Planning Division did not allow for the necessary community outreach to consider an amendment to §28.87.170 prior to the expiration of the suspension ordinance. Therefore, staff is seeking direction from the Ordinance Committee for the future application of SBMC §28.87.170 as it relates to hedges.

Effect on Development Applications and Building Permits

Ordinance No. 5470 temporarily suspended regulations related to hedges located in required interior setbacks and within ten feet of a front lot line, provided they are located at least ten feet from either side of a driveway and not near a street corner. Unless they pose a fire hazard, or are regulated by means beyond the City's authority, hedges (except bamboo) in these locations could grow to an unlimited height during the previous two-year suspension.

If the City Council extended the suspension ordinance as previously written, staff would continue to require that applicants seeking building permits for properties with overheight front and interior hedges include a general statement on plans that the property must comply with §28.87.170, but would not require the immediate reduction of such hedges. This would continue to potentially delay actual compliance with the regulations for overheight front and interior hedges, depending on how and whether the ordinance is amended in the future. Based on staff's experience with the previous suspension ordinance, this causes confusion in the community regarding if, and where, hedge height limitations apply.

If the Council did not adopt a subsequent ordinance to suspend application of certain sections of §28.87.170, the regulations would apply as they did prior to November 2008. Property owners seeking permission for development would again be required to reduce all overheight hedges identified on project plans prior to final inspection.

Effect on Enforcement Cases

Because hedge height limitations related to public safety remained in effect during the previous suspension, in the two years since its adoption, staff investigated 23 properties with overheight hedges adjacent to driveways or street corners, and nine bamboo hedges; six located along interior lot lines and three located along front lot lines. If the City Council extended the suspension ordinance as previously written, staff would continue to enforce only those hedges adjacent to driveways and street corners, for safety purposes, and bamboo hedges along all property lines.

Staff continued to receive complaints about overheight hedges and bamboo along interior lot lines during the suspension. However, limited enforcement resources prevented us from getting to that point in the priority list of pending complaints and thus, those interior hedge and bamboo complaints have not yet been investigated.

Zoning Staff currently has about 400 active enforcement cases and pending complaints; 27 of those cases involve hedges. Twenty-two of the 27 cases involve hedges or

screens located adjacent to driveways or near street corners, or bamboo hedges (i.e., those subject to enforcement); five involve other hedges along interior lot lines.

OPTIONS FOR CONSIDERATION:

Amending SBMC §28.87.170 would require extensive community outreach and review by appropriate Boards and Commissions, as well as other City Departments including the Police Department, which also believes such regulations are important for public safety. Given reduced staffing levels in the Planning Division and the need to complete existing priority projects, we would not likely get to this work effort for two to three years. In the meantime, staff suggests the Committee consider the following three options:

1. Suspend enforcement of the standard on complaints, but enforce the standard on new development. This first option, recommended by staff, is to consider a suspension ordinance that applies to complaint enforcement only. Property owners seeking approval of new development would be required to comply with the applicable standards of Section 28.87.170. This approach may reduce confusion among members of the public over how the suspension ordinance applies to new development. Yet, this approach continues to address the community concern that led to the adoption of the prior suspension ordinance – the initiation of a large number of hedge height enforcement cases based on numerous complaints filed by one individual – until staff is able to properly develop a recommendation for a possible amendment to Section 28.87.170.

2. Suspend enforcement of the standard on complaints and new development. A second option to consider is the adoption of another suspension ordinance similar to Ordinance Number 5470. However, staff has concerns with this approach. First, although the previous suspension ordinance applied only to hedges along front and interior lot lines, many people incorrectly believed the City had a complete moratorium on hedge height regulations. This caused confusion within the community. Second, it is staff's belief that when Council adopted the previous suspension ordinance, it was primarily in response to neighborhood concerns surrounding active enforcement of hedge heights at that time. With the current staffing level for zoning enforcement, complaints regarding overheight interior hedges are not likely to be investigated within the next two or three years, whether or not another suspension ordinance is adopted. Since enforcement of overheight hedge complaints is not occurring regularly, such an ordinance would primarily affect persons seeking approval for new development – a time when the City typically seeks compliance with all applicable regulations as a condition of final inspection.

3. Enforce the standard on complaints and new development. A third option is to do nothing in response to the expiration of Ordinance Number 5470. This will result in Section 28.87.170 being enforced as it is currently written. Hedge height limitations would apply to new development and staff would enforce on hedge-related complaints on staff's normal priority basis, as staffing resources allow.

BUDGET IMPACT:

No significant expenditures are required, but some initial and ongoing staff work would be required to implement and explain either a return to normal application of SBMC §28.87.170 or a subsequent ordinance suspending certain sections of §28.87.170.

ATTACHMENT: Temporary Hedge Suspension Ordinance

PREPARED BY: Renee Brooke, Zoning & Enforcement Supervisor

SUBMITTED BY: Paul Casey, Assistant City Administrator/ Community Development Director

APPROVED BY: City Administrator's Office

ORDINANCE NO. 5470

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING SANTA BARBARA MUNICIPAL CODE CHAPTER 28.87 OF TITLE 28, THE CITY'S ZONING ORDINANCE, IN ORDER TO TEMPORARILY SUSPEND THE APPLICATION OF CERTAIN PROVISIONS OF SECTION 28.87.170 CONCERNING THE HEIGHT OF HEDGES IN REQUIRED SETBACKS AND ALONG THE FRONT LOT LINE.

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

SECTION ONE. Pending a review and consideration by the City Council of possible amendments to City Zoning Ordinance requirements applicable to hedges within certain zones of the City, the application of the following provisions of section 28.87.170 of the Municipal Code with respect to hedges are hereby suspended, except with respect to hedges consisting of the bamboo plant:

1. Subsection A ("Required Setbacks"), and
2. Clause "1" of Subsection B ("Front Lot Line, Side of Driveway.")

SECTION TWO: Nothing herein shall be deemed to suspend the application or enforcement of the requirements of Santa Barbara Municipal Code section 28.87.170 with respect to fences, screens, or walls, nor to the requirement for full compliance with the most recently adopted Uniform Fire Code provisions of the City for the "distance requirements" which may be applicable to hedges and buildings (i.e., Uniform Fire Code section 4702.2) or applicable to "Vegetation Road Clearance (i.e., Uniform Fire Code section 4707.8) as adopted by Title 8 of the Santa Barbara Municipal Code, nor to effect the discretion of the City Engineer to condition new proposed development within the City to install and maintain private landscaping in a manner that does not potentially adversely impact public traffic and pedestrian safety.

SECTION THREE: This ordinance shall remain in effect for a period of two years subsequent to the date of its adoption or upon the enactment of an amendment to Santa Barbara Municipal Code Section 28.87.170 relating to or regulating hedges in certain zones of the City, whichever occurs first.

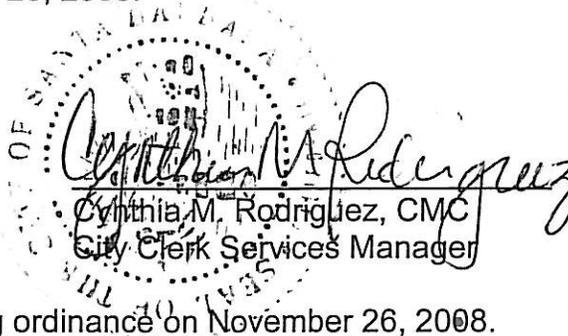
ORDINANCE NO. 5470

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA) ss.
)
CITY OF SANTA BARBARA)

I HEREBY CERTIFY that the foregoing ordinance was introduced on November 18, 2008, and was adopted by the Council of the City of Santa Barbara at a meeting held on November 25, 2008, by the following roll call vote:

- AYES: Councilmembers Dale Francisco, Roger L. Horton, Grant House, Helene Schneider, Das Williams; Mayor Marty Blum
- NOES: None
- ABSENT: Councilmember Iya G. Falcone
- ABSTENTIONS: None

IN WITNESS WHEREOF, I have hereto set my hand and affixed the official seal of the City of Santa Barbara on November 26, 2008.



Cynthia M. Rodriguez, CMC
City Clerk Services Manager

I HEREBY APPROVE the foregoing ordinance on November 26, 2008.

Marty Blum
Marty Blum
Mayor