



CITY OF SANTA BARBARA

ORDINANCE COMMITTEE AGENDA REPORT

AGENDA DATE: January 25, 2011

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:

At the December 14, 2010 Ordinance Committee meeting, the Committee asked Staff to return with criteria options/triggers for development projects that would be exempt from a proposed temporary Hedge Suspension Ordinance. Two such options are proposed for the Committee's review.

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, and limited resources have not allowed adequate time 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 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 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 Public Works and Police Departments, which also believe 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 two options:

1. Suspend enforcement of the standard on complaints and most new development. This first option, recommended by staff, is to consider a suspension ordinance that applies to complaint enforcement and minor development applications. Only those seeking discretionary approval for new development from the Staff Hearing Officer or the Planning Commission – a time when staff conducts a site visit and performs a complete zoning plan check prior to a public hearing - would be required to comply with the applicable standards of §28.87.170. This approach may reduce confusion among members of the public over how the suspension ordinance applies to new development, as it would explicitly state the trigger for when the standards apply. It would also continue 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 the City is able to more fully consider a possible amendment to §28.87.170.

2. Suspend enforcement of the standard on complaints and all new development. A second option to consider is the adoption of another suspension ordinance similar to Ordinance Number 5470. Although the previous suspension ordinance caused confusion within the community, as many people incorrectly believed the City had a complete moratorium on all hedge height regulations, this option would simply extend the previous ordinance for an additional three years, possibly resulting in less confusion this time around.

At the December 14, 2010 Ordinance Committee meeting, the Committee expressed interest in removing the exception for bamboo from the suspension ordinance. Staff recommends that the exception for bamboo remain, as it can grow relatively quickly and extend up to 20 to 30 feet, unlike most other species of hedges or vegetative screens. The Committee should also be aware that the City Attorney's Office is currently prosecuting a code enforcement case for an overheight bamboo hedge at 217 Los Alamos Avenue. Attached to this report are photographs of the hedge that is the subject of this code enforcement action.

BUDGET IMPACT:

No significant expenditures are required, but some initial and ongoing staff work would be required to implement a subsequent ordinance suspending certain sections of §28.87.170.

ATTACHMENTS: 1. Ordinance No. 5470
2. Photographs of Bamboo Hedge at 217 Los Alamos Ave.

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.

Bamboo Hedge at 217 Los Alamos Avenue

