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SUPERIOR COURT OF CALIFORNIA

9

COUNTY OF SANTA BARBARA

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11 SANTA BARBARA ASSOCIATION OF
REALTORS,

12

Petitioner/Plaintiff,

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v.

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15 CITY OF SANTA BARBARA and MEMBERS
OF THE SANTA BARBARA CITY COUNCIL,
in their official capacities,

16

Respondents/Defendants.

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No. _____

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF
(Code Civ. Proc. 1085, 1060, and 526(a))**

1 **INTRODUCTION**

2 Petitioner and Plaintiff Santa Barbara Association of Realtors (SBAOR) brings this action
3 against Respondents and Defendants City of Santa Barbara and the members of the Santa Barbara
4 City Council, in their official capacities, for injunctive and declaratory relief under Code of Civil
5 Procedure §§ 526, 526a, and 1060. SBAOR seeks a writ of mandate pursuant to Code of Civil
6 Procedure § 1085 compelling Defendants to cease enforcement of Santa Barbara Municipal Code
7 § 28.87.220, which mandates unconstitutional administrative searches of owner-occupied
8 residential properties at the time of sale. Municipal Code § 28.87.220 imposes unconstitutional
9 conditions on the right to privacy under the Fourth Amendment to the United States Constitution.
10

11 **PARTIES**

12 1. Petitioner and Plaintiff SBAOR represents approximately 1,200 real estate
13 professionals from specialties including residential and commercial sales, development, property
14 management, and appraisals.
15

16 2. Respondent and Defendant City of Santa Barbara (City) is a charter city located in
17 the County of Santa Barbara, California. The City is the local governing authority in Santa Barbara,
18 and is responsible for enforcement of local, state, and federal law, and must comply with the state
19 and federal constitutions. The City, through its Community Development Department, is
20 responsible for planning, building and safety, housing and human services, and related
21 administrative functions. Technicians in the Development Department’s Planning Division issue
22 the Zoning Information Reports that are the subject of this suit.
23

24 3. Respondents and Defendants Santa Barbara City Council members are sued in their
25 official capacities as the legislative body of the City.
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1 properties located in Santa Barbara County and Respondents/Defendants are located in Santa
2 Barbara County. The residential property sales at issue are subject to the City's ZIR ordinance.

3 **FACTUAL ALLEGATIONS**

4 8. Petitioner and Plaintiff challenges the ZIR ordinance as-applied and on its face
5 because it imposes unconstitutional conditions on the Fourth Amendment right of homeowners to
6 be free from unreasonable searches.
7

8 9. Title 28 of the Santa Barbara Municipal Code contains the City's Zoning Ordinance.
9 A true and correct copy of relevant portions of the Zoning Ordinance are attached hereto as Exhibit
10 A, and incorporated herein by this reference.

11 10. Section 28.87.220 of the Zoning Ordinance establishes the ZIR requirements.

12 11. The ZIR requires sellers of residential property to apply for and submit to the City
13 a zoning information report (ZIR) prior to sale of their home. Santa Barbara Municipal Code
14 § 28.87.220.
15

16 12. In order to obtain a ZIR, homeowners must first submit a ZIR application and pay a
17 fee to the City no later than five days after entering into a sale agreement. Municipal Code §
18 28.87.220 C.1. The fee is currently set at \$475 for individual units. A true and correct copy of a
19 Zoning Information Report (ZIR) Application is attached hereto as Exhibit B, and incorporated
20 herein by this reference.
21

22 13. The ZIR lists any known or discovered nonconformities or violations of any
23 ordinances or law. Municipal Code Section 28.87.220(D)(6).

24 14. In addition to other documents, the ZIR must include "the results of a physical
25 inspection." Municipal Code Section 28.87.220(D)(7).

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1 15. The physical inspection is to ensure compliance with Title 28 (the Zoning
2 Ordinance) and Chapter 14.46 (Building Sewer Inspections). Municipal Code Section
3 28.87.220(D)(7).

4 16. Municipal Code Title 28 includes the elements to be inspected for compliance with
5 the Zoning Ordinance, and prescribes penalties for violations.

6 17. In order to determine whether a home is a single family residence, Municipal Code
7 Section 28.04.590 lists 14 non-exclusive elements to be inspected. The inspection covers the inside
8 and outside of the home, outbuildings, and yards.

9 18. According to the City’s website, the ZIR inspection is required, and includes the
10 interior of all residential units and accessory structures (e.g., garages, sheds, studios), as well as the
11 entire grounds of a seller’s residence. Access must be available to all buildings/structures at the
12 time of the scheduled inspection. If all interior areas are not accessible, the “Planning Technician”
13 is authorized to return and charge a re-inspection fee, which the City currently has set at \$190. A
14 true and correct copy of the City’s webpage regarding the ZIR Inspection is attached hereto as
15 Exhibit C, and incorporated by reference.

16 19. The City recently revised its ZIR application form to allow a property owner to
17 check a box indicating that he or she does not consent to the ZIR inspection. That option is not
18 included in the ZIR Ordinance.

19 20. The Zoning Information Report on a home where the property owner refused an
20 inspection of the interior and exterior of all structures on the site, includes a hand-written note that
21 the “Staff cannot confirm if any other violations exist based on the limited access to the site.” A
22 true and correct copy of the Zoning Information Report is attached hereto as Exhibit D, and
23 incorporated by reference.

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1 27. Maintaining and enforcing the ZIR ordinance is unlawful and contrary to the
2 obligations of Respondents' and Defendants' respective public offices and the trusts and duties
3 arising therefrom.

4 28. SBAOR seeks relief pursuant to Code of Civil Procedure §§ 526 and 526a.
5 Petitioner and Plaintiff has no adequate remedy at law, and pecuniary compensation will not
6 provide adequate relief.

7 29. On information and belief, SBAOR alleges that, without an injunction restraining
8 the further enforcement of the ZIR ordinance, Respondents and Defendants will continue to impose
9 unconstitutional conditions on homeowners' Fourth Amendment rights, by administering the
10 ordinance in a manner that coerces home sellers into submitting to unwarranted administrative
11 searches of their properties.
12

13
14 **FIRST CAUSE OF ACTION FOR ORDINARY WRIT OF**
15 **MANDATE—CONDITIONS ON THE SALE OF RESIDENTIAL**
16 **PROPERTY VIOLATE THE FOURTH AMENDMENT**
17 **(CODE CIV. PROC., § 1085)**

18 30. Petitioner and Plaintiff SBAOR incorporates by reference and re-alleges each and
19 every allegation set forth above.

20 31. California Code of Civil Procedure § 1085 permits this court to issue a writ of
21 mandate to any official to compel the performance of an act which the law specially enjoins, as a
22 duty resulting from his office.

23 32. Respondents City and City Council members have a clear, present, and ministerial
24 duty to comply with the United States Constitution, which prohibits state officers from requiring
25 property owners to sacrifice the Fourth Amendment right against unreasonable searches as a
26 condition of selling their properties.

27 ///

1 33. SBAOR has a clear, present, legal right to enforce Respondents’ performance of
2 their duties under the Fourth Amendment to the United States Constitution.

3 34. Enforcement of the ZIR ordinance imposes unconstitutional conditions on
4 homeowners’ Fourth Amendment rights by authorizing city officials to pressure home sellers into
5 unwarranted administrative searches of their properties. If a seller refuses consent to enter the
6 home, the City divulges to the buyer that the seller refused consent (Exhibit D), and requires the
7 seller to pay a \$355 ZIR fee (Exhibit B).

8 35. Owners who refuse to allow a city inspector to conduct a physical inspection of the
9 home cannot comply with section 28.87.220(D)(7).

10 36. Any homeowner refusing to comply with the ZIR ordinance is guilty of a
11 misdemeanor, and upon conviction thereof punishable by a fine of up to \$500 or by imprisonment
12 of up to six months, or both. Municipal Code § 28.98.002.

13 37. The coercive conditions on the constitutional right to privacy in one’s home imposed
14 by enforcement of the ZIR ordinance are unconstitutional.

15 38. The enforcement of the ZIR ordinance against homeowners constitutes a prejudicial
16 abuse of discretion and exceeds Respondents’ lawful powers and authority.

17 39. SBAOR requests a writ of mandate compelling Respondents to perform the duties
18 resulting from their respective offices by ceasing further unconstitutional enforcement of the ZIR
19 ordinance.

20 40. There is no plain, speedy, and adequate remedy at law to protect the rights and
21 interests of SBAOR and its members, and because this is an action to prevent the illegal and
22 wasteful expenditure of public resources by the City to comply with an ordinance that violates the
23 United States Constitution, no compensation could afford relief.

1 WHEREFORE, Petitioners pray for judgment as hereinafter set forth.

2 **SECOND CAUSE OF ACTION FOR DECLARATORY RELIEF—THE ZIR**
3 **ORDINANCE IS UNCONSTITUTIONAL ON ITS FACE**
4 **(CODE CIV. PROC., § 1060)**

5 41. Petitioner and Plaintiff SBAOR incorporates by reference and re-alleges each and
6 every allegation set forth in this Petition and Complaint.

7 42. The Fourth Amendment to the United States Constitution protects the right of people
8 to be secure in their homes against unreasonable searches.

9 43. An actual justiciable controversy exists between the parties concerning the
10 constitutionality of the City's ZIR ordinance, which on its face requires home sellers to submit to
11 unwarranted administrative searches as a condition of entering into a sale agreement, under threat
12 of civil and criminal enforcement.

13 44. SBAOR contends that the ZIR's requirement of a physical search, by its terms,
14 forces home sellers to allow a search of their properties prior to sale.

15 45. SBAOR contends that the ZIR Ordinance threatens to coerce home sellers into
16 forfeiting their Fourth Amendment rights by requiring sellers to apply for a ZIR physical inspection
17 no later than five days after entering into an agreement of sale. The recent revision allowing a seller
18 to refuse consent to the search is not reflected in the text of the ZIR ordinance.

19 46. SBAOR contends the ZIR Ordinance, maintained and administered by Respondents
20 and Defendants, violates home sellers' clearly established constitutional rights.

21 47. SBAOR and its members, as taxpayers, will continue to pay local taxes that support
22 unconstitutional conditions on the sale of homes due to the ZIR ordinance.

23 48. SBAOR believes, and therefore alleges, that Defendants dispute the fact that the ZIR
24 Ordinance violates the Fourth Amendment by creating unconstitutional conditions on the right to
25 privacy to the extent it authorizes unreasonable administrative searches of sellers' homes.
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1 employees, and political subdivisions or governmental instrumentalities to conduct warrantless
2 administrative searches of homes.

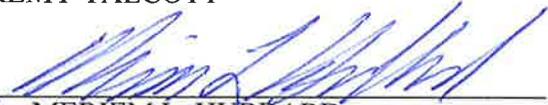
3 5. For costs of this suit, including reasonable attorneys' fees; and

4 6. For such other and further relief as the court may deem proper.
5

6 DATED: October 18, 2017.

7 Respectfully submitted,

8 MERIEM L. HUBBARD
9 JEREMY TALCOTT

10 By 
11 MERIEM L. HUBBARD

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VERIFICATION

I, BOB HART, declare as follows:

I am the Association Executive of the Santa Barbara Association of Realtors®, the Petitioner and Plaintiff in this action. I have read the foregoing Verified Petition for Writ of Mandamus and Complaint for Declaratory and Injunctive Relief. The facts contained therein are within my own knowledge and are true of my own knowledge, except for those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this verification was executed this 18th day of October, 2017, at Santa Barbara, California.



BOB HART

INDEX OF EXHIBITS

Exhibit A - Portions of City of Santa Barbara
Zoning Ordinance

Exhibit B - Zoning Information Report
Application Form

Exhibit C - City of Santa Barbara
Zoning Information Reports Webpage

Exhibit D - Zoning Information Report Dated 8/31/17

Exhibit E - City Administrator Paul Casey
Correspondence dated 6/21/17

EXHIBIT A

4. Compliance with Section 28.87.205 shall not be required for automobile service stations and automobile service station/mini-markets that have a conditional use permit issued pursuant to Subsection 28.94.030.U of this Code. (Ord. 5380, 2005; Ord. 4851, 1994; Ord. 4033 §7, 1980; Ord. 3710, 1974; Ord. 3034, 1965.)

28.87.210 Substandard Lots Created by Action of Public Agency.

Where any existing parcel of land is reduced in size or lot dimensions below those required by this title by reason of the acquisition of a portion thereof along any perimeter of such parcel for any public purpose by any public agency, such parcel as so reduced shall be considered as conforming to the provisions of this title as a legal lot. In such case, minimum lot area and lot dimensions required by this title shall not apply. Lot area per dwelling unit requirements and all other provisions of this title shall apply. This section shall not apply to property acquired by a public agency as part of subdivision or lot split proceedings. (Ord. 3710, 1974; Ord. 3040, 1965.)

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.

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.)

28.87.230 Zoning Plan Check - Fee.

Prior to issuance of a building permit, the development and construction plans shall be reviewed to determine consistency with the Zoning Ordinance. Application for a zoning plan check shall be accompanied by the fee in the amount established by resolution of the City Council. (Ord. 3955 §4, 1978.)

28.87.240 Drive-Through Facility.

No new or expanded drive-through facility shall be permitted in any zone of the City. Existing financial institution drive-through facilities may be replaced in kind with automated teller machines as long as the number of drive-through lanes does not increase. (Ord. 4837, 1993; Ord. 4001, 1979.)

28.87.250 Development Along Creeks.

A. Legislative Intent. The purpose of this Section is to provide controls on development adjacent to the bed of Mission Creek within the City of Santa Barbara. These controls are necessary:

1. to prevent undue damage or destruction of developments by flood waters;

2. to prevent development on one parcel from causing undue detrimental impact on adjacent or downstream properties in the event of flood waters;

3. to protect the public health, safety and welfare.

B. Limitation on Development. No person may construct, build, or place a development within the area described in Subsection 28.87.250.C unless said development has been previously approved as provided in Subsection 28.87.250.E.

C. Land Area Subject to Limitation. The limitations of this Section shall apply to all land within the banks and located within twenty-five (25) feet of the top of either bank of Mission Creek within the City of Santa Barbara.

"Top of bank" means the line formed by the intersection of the general plane of the sloping side of the watercourse with the general plane of the upper generally level ground along the watercourse; or, if the existing sloping side of the watercourse is steeper than the angle of repose (critical slope) of the soil or geologic structure involved, "top of bank" shall mean the intersection of a plane beginning at the toe of the bank and sloping at the angle of repose with the generally level ground along the watercourse. The angle of repose is assumed to be 1.5 (horizontal) : 1 (vertical) unless otherwise specified by a geologist or soils engineer with knowledge of the soil or geologic structure involved.

C. **MOTOR HOME.** A vehicular unit built on or permanently attached to a self-propelled motor vehicle chassis, chassis cab or van, which becomes an integral part of the completed vehicle, designed for human habitation for recreational or emergency occupancy.

D. **SLIDE-IN CAMPER.** A portable unit, consisting of a roof, floor and sides, designed to be loaded onto and unloaded from the bed of a pickup truck, and designed for human habitation for recreational or emergency occupancy and shall include a truck camper.

E. **TRAVEL TRAILER.** A portable unit, mounted on wheels, of such a size and weight as not to require special highway movement permits when drawn by a motor vehicle and for human habitation for recreational or emergency occupancy. (Ord. 4269, 1984.)

28.04.560 Recreational Vehicle Park.

Recreational vehicle park includes a permanent recreational vehicle park and overnight recreational vehicle park as defined in this Chapter. (Ord. 4269, 1984.)

28.04.565 Recreational Vehicle Park (Overnight).

Any area of land where two (2) or more recreational vehicle spaces are rented, or held out for rent, to owners or users of recreational vehicles used for travel or recreational purposes for less than thirty (30) days. (Ord. 4269, 1984.)

28.04.570 Recreational Vehicle Park (Permanent).

An area of land where two (2) or more recreational vehicle spaces are rented, or held out for rent, to accommodate recreational vehicles for residential purposes for thirty (30) or more days. (Ord. 4269, 1984.)

28.04.575 Recreational Vehicle Space.

That portion of a recreational vehicle park set aside and designated for the occupancy of one (1) recreational vehicle, including any contiguous area designed or used for automobile parking, carport, storage, awning, cabana or other use which is clearly incidental and accessory to the primary use of the space. (Ord. 4269, 1984.)

28.04.580 Residential Care Facility for the Elderly.

A housing arrangement where the residents are at least sixty years of age and where varying levels of care, supervision, or health-related services are provided to the residents based on their varying needs. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in such a facility, not to exceed 25 percent of the residents, as further defined in Chapter 3.2 of Division 2 of the California Health and Safety Code. (Ord. 4858, 1994.)

28.04.585 Residential Hotel.

A hotel or boarding house or similar residential facility where, on the date of the adoption of this ordinance, the average duration of stay for the residents thereof exceeds thirty (30) days. (Ord. 4984, 1996.)

28.04.590 Residential Unit.

A. A building or portion thereof designed or occupied for residential purposes, containing not more than one (1) kitchen per residential unit, but not including hotels or boarding houses.

B. A residential unit may be declared by the Community Development Director when a building or portion thereof is configured or occupied for residential purposes, whether permanent or temporary, and contains elements evidencing separate residential occupancy. Elements to be considered may include, but are not limited to, the proximal arrangement and various combinations of:

1. Sink or bar sink;
2. Garbage disposal;
3. Dishwasher;
4. Toilet;
5. Bathing facility;
6. Interior locking doors;
7. Exterior entrance;
8. Exterior staircase;
9. Separate yard, patio, deck or balcony;
10. Separate phone line, cable line, or utility line;
11. Separate garage or parking area (covered or uncovered) or carport;
12. Countertops or cupboards;
13. Sleeping loft; or

14. Separate address/mail box designation.

Issuance of a building permit or other approvals does not, of itself, establish that a building or portion thereof is not a residential unit.

C. Notwithstanding this Section, a building or portion thereof configured or occupied for residential purposes, whether permanent or temporary, containing a modular cooking unit shall not be deemed a residential unit providing:

1. A performance standard permit or conditional use permit has been issued pursuant to either Chapter 28.93 or Chapter 28.94 of this Code; and
2. The facility has current, valid state licenses to operate a residential care facility for the elderly, community care facility or hospice; and
3. There is a staffed congregate kitchen and dining facility on-site providing regular meals to all residents. (Ord. 5380, 2005; Ord. 4858, 1994.)

28.04.595 Rough Grade.

The stage at which the grade approximately conforms to the approved plan. (Ord. 5416, 2007.)

28.04.600 School, Elementary or High.

An institution of learning which offers instruction in the several branches of learning and study required to be taught in the public schools by the Education Code of the State of California. High schools include junior and senior, parochial and private. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.605 Secondary Dwelling Unit.

A separate, complete housekeeping unit consisting of two (2) or more rooms for living and sleeping purposes, one of which is a kitchen, and having a maximum square footage of six hundred (600) square feet, that is substantially contained within the structure of a one-family dwelling. (Ord. 4225, 1983.)

28.04.610 Self-Service Laundry.

Any establishment for laundering where there is no pick-up or delivery service and no steam or hand laundry of any type; provided, however, that all washing machines and accessory extractors and dryers shall be installed on a single floor and there shall be no intermingling of customers' laundry. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.615 Service Station.

Service station includes both automobile service stations and automobile service station/mini-markets. (Ord. 4033 §3, 1980.)

28.04.620 Setback, Front.

An area between the front lot line and a line parallel to the front lot line bounded by the interior lot lines of the lot that are roughly perpendicular to the front lot line, the depth of such area being the distance required by this zoning ordinance. The front setback is to be provided and maintained as an open space on a lot or parcel of land, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title. (Ord. 5459, 2008.)

28.04.625 Setback, Interior.

An area between an interior lot line and a line parallel to the interior lot line bounded by the two lot lines adjacent to the interior lot line from which the setback is measured, the depth of such area being the distance required by this zoning ordinance. The interior setback is to be provided and maintained as an open space on a lot or parcel of land, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title. (Ord. 5459, 2008.)

28.04.630 Single Residential Unit.

A residential building configured as not more than one (1) residential unit and occupied by not more than one household. (Ord. 4924, 1995; Ord. 4858, 1994.)

28.04.635 Skilled Nursing Facility.

A State-licensed health facility or a distinct part of a hospital which provides continuous skilled nursing care and supportive care to patients whose primary need is for the availability of skilled nursing care on an extended basis. It provides 24-hour inpatient care and, as a minimum, includes physician, nursing, dietary, pharmaceutical services and an activity program. Intermediate care programs which provide skilled nursing and supportive care for patients on a less than continuous basis shall be considered skilled nursing facilities for the purposes of this Ordinance. "Skilled Nursing Facility" and "Intermediate Care Facilities" are further defined in Chapter 2, Division 2 of the California Health and Safety Code. (Ord. 4858, 1994.)

Chapter 28.98

ENFORCEMENT AND PENALTY

Sections:

28.98.001 Enforcement.

28.98.002 Penalty.

28.98.001 Enforcement.

It shall be the duty of the Chief of Building and Zoning, with respect to new construction, additions, alterations, changes of use or moving of existing buildings, to enforce this title by withholding of permits and Certificates of Occupancy where plan checks and field inspections reveal that completion of the project will result in a zoning violation. A Certificate of Occupancy shall not be issued until all work required by the building permit and all other conditions imposed by any officer, board, commission or other authority have been completed or satisfactorily met by bonding or other appropriate method. After a Certificate of Occupancy has been issued, and with respect to existing construction and all other sources of violations, it shall be the duty of the Division of Land Use Controls to enforce this title. In addition, all departments, officials and public employees of the City of Santa Barbara vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title and shall issue no permit or license, except licenses issued for revenue purposes only, for uses, buildings or purposes in conflict with the provisions of this title; and any such permit or license issued in conflict with the provisions of this title shall be null and void.

The provisions of this title shall be interpreted by the City Attorney.

Any building or structure erected or maintained or any use of property contrary to the provisions of this title shall be, and the same is hereby declared to be, unlawful and a public nuisance and the City Attorney shall immediately commence actions and proceedings for the abatement, removal and enjoinder thereof in the manner provided by law; and shall take such other steps and shall apply to any court as may have jurisdiction to grant such reliefs as will abate or remove such building, structure or use and restrain and enjoin any person, firm or corporations from erecting or maintaining such building or structure or using any property contrary to the provisions of this title.

This title may also be enforced in injunction issued out of the Superior Court upon the suit of the City or the owner or occupant of any real property affected by such violation or prospective violation. This method of enforcement shall be cumulative and in no way affect the penal provisions hereof. (Ord. 3710, 1974; Ord. 3547, 1972.)

28.98.002 Penalty.

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating any provision of this title shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each day that violation of this title continues shall be considered a separate offense. (Ord. 3710, 1974.)

EXHIBIT B

CITY OF SANTA BARBARA

Validation:

ZONING INFORMATION REPORT (ZIR) APPLICATION

U.S. MAIL DELIVERIES
CITY OF SANTA BARBARA - PLANNING DIVISION
P.O. BOX 1990, SANTA BARBARA, CA 93102-1990
(Check or Credit Card Only)**

PLANNING COUNTER
630 GARDEN STREET
(Check, Cash or Credit Card)**

FAX
Fax: (805) 564-5374
(Credit Card)**

PURSUANT TO SBMC §28.87.220.C or §30.285.030.A, 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.

DATE: _____ NUMBER OF UNITS: _____ APN: _____ CONDO:
ADDRESS OF PROPERTY: _____ UNIT# _____ S.B., CA _____ (ZIP)

In accordance with the City of Santa Barbara Municipal Code Section §28.87.220 or Chapter 30.285, I hereby make application for a Zoning Information Report on the above described property. Zoning Ordinance violations discovered as a result of this report will become a matter of record and shall be promptly corrected. Any claimed nonconforming buildings or uses that are not verified by City records shall be the responsibility of the owner to justify. This report is to be furnished to the buyer or buyer's authorized representative no later than three (3) days prior to consummation of the Transfer of Title. Proof of receipt of a copy of the report shall be obtained by the owner, or the owner's authorized agent (on the receipt form provided with the report), prior to consummation of the Transfer of Title. Such receipt shall be returned to the Planning Division at the above address no later than consummation of Transfer of Title.

I, _____ DO DO NOT VOLUNTARILY CONSENT TO CITY STAFF PERFORMING AN
PROPERTY OWNER OR AUTHORIZED AGENT (PRINT) INSPECTION OF THE SITE, INCLUDING THE INTERIOR AND EXTERIOR OF ALL STRUCTURES

SIGNATURE TELEPHONE NUMBER

COMPLETED REPORTS WILL BE **E-MAILED** TO _____ UNLESS NOTIFIED OTHERWISE.
E-MAIL ADDRESS

DATE ENTERED INTO AGREEMENT OF SALE: _____ DATE ESCROW CLOSES: _____

THE CITY RECOMMENDS THAT PROPERTY OWNERS APPLY FOR A ZIR ON THEIR PROPERTY AS SOON AS IT IS LISTED FOR SALE.

THE FOLLOWING FEES ARE CURRENT AS OF JULY 1, 2017 THROUGH JUNE 30, 2018:

INSPECTION	> One Unit (except condos) = \$475	> 1-3 Additional Units = \$65 each	> 5-15 Units = \$815
	> >= 16 Units = \$955	> Condos = \$335	
NO INSPECTION	> One Unit (except condos) = \$355	> 1-3 Additional Units = \$65 each	> 5-15 Units = \$610
	> >= 16 Units = \$715	> Condos = \$250	

- > **Condominiums** Zoning Information Reports are optional for condominiums.
- > **Escrows Instructions Req'd** If the close of escrow date is 25 days or less from the date the ZIR application is received; valid escrow instructions are required with the application.
- > **Expedited ZIR** Twice the applicable fee will be charged if the date of application receipt by our office and the close of escrow date is 14 days or less (escrows of 14 days or shorter, substantiated by valid escrow instructions, are exempt from the double fee). Allow at least five working days for completion of Expedited ZIRs.
- > **Extension of a Valid ZIR** Half of the applicable fee. Allow adequate time for a physical inspection to occur prior to the expiration of the current ZIR.
- > **Re-inspection Fee = \$190** If voluntary consent is granted for City staff to inspect the interior and exterior of all structures and the owner or agent is not present at the scheduled inspection time, a Re-inspection Fee will be applied, and a new inspection time scheduled.
- > ****PLEASE NOTE**
 - > Only **ONE** form of payment may be accepted per transaction. (Example: only 1 check, only 1 credit card account, **OR** only cash.) Multiple or combinations of checks, credit cards or checks cannot be processed.
 - > The credit card **holder** must be present to complete the credit card transaction.
 - > Mailed submittals must include a check or credit card payment. Mailed submittals are typically entered into the City's processing system within 24 hours of receipt on regular workdays (this does not include holiday and weekend submittals).

Inspection Date/Time _____ **ZIR APPLICATION NUMBER: ZIR20** _____
M - T - W - TH - F _____ / _____ / _____ at _____ : _____ **TOTAL FEE: \$** _____

\\condes\sv\comdex\Group\Folders\PL\AN\Handouts\Office\Handouts\Zoning\ZIR_Application_2017-09-30.docx Original 4/10/2017 4:51:00 PM Revised 4/10/2017 3:54:00 PM

(Cashier to detach along dotted line)
CARD TYPE (CHECK ONE): VISA MASTERCARD DISCOVER **TOTAL ZIR FEE: \$** _____

CARD HOLDER INFORMATION

NAME (AS PRINTED ON CARD): _____

BILLING ADDRESS: _____
(Street) (City) (State) (Zip Code)

PHONE NUMBER: _____

ACCOUNT NUMBER: _____

CARD EXPIRATION DATE: _____ CARD VERIFICATION CODE: _____

CARD HOLDER SIGNATURE HERE: _____ DATE: _____

Cardholder acknowledges receipt of goods and/or services in the amount of the total shown hereon and agrees to perform the obligations set forth in the Cardholder's agreement with the card issuer.

EXHIBIT C

General Information

Pursuant to **Santa Barbara Municipal Code (SMBC) §28.87.220** (<http://www.santabarbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=171581>), a Zoning Information Report (ZIR) is required for every transfer of residential property with limited exceptions.

The requirement for a ZIR is **mandatory and cannot be waived** by the property owner, potential buyer, real estate agent, or Title Company. If a property is transferred without a ZIR being obtained, the property owner of record must obtain an "after the fact" ZIR and may be subject to twice the current ZIR application fee.

The purpose of the ZIR is to provide information to the potential buyer regarding the zoning and permitted use of the property based on a physical site inspection and records research.

The ZIR inspector is neither a building inspector nor a licensed surveyor and the ZIR will not include a review of compliance with the Building Code or confirm the exact location of property lines.

A ZIR is valid for 12 months from the date of the issuance of the ZIR or until the next transfer of title occurs, whichever is sooner. You can apply for a one-year time extension prior to the expiration of the current ZIR. An additional physical inspection and application fee is required.

Please see the **ZONING INFORMATION REPORTS (ZIRS) - COMMON QUESTIONS** (<http://civicaweb.santabarbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=168048>) handout for frequently asked questions regarding the City of Santa Barbara ZIR program.

ZIR Application and Transmittal to Buyer

Although the SBMC requires a property owner to submit an application for a ZIR within five days of entering into an agreement of sale of a residential property, the City encourages property owners to submit an application as soon as they are preparing to sell or list their property. A property **does not** have to be in escrow for an owner to request a ZIR.

Under normal circumstances the ZIR will be available within 15 working days after the application is received by the City. However, every attempt is made to complete a ZIR within 10 working days after the application is received by the City.

The property owner or authorized agent is required to provide a copy of the ZIR to the potential buyer at least three days prior to the transfer of the property. Proof of receipt of the ZIR must be submitted to the City prior to the transfer of the property.

A ZIR application can be obtained on the City's website at www.SantaBarbaraCA.gov/PlanningHandouts (<http://www.santabarbaraca.gov/PlanningHandouts>) and click on the **Zoning Information Report (ZIR) Application** (<http://www.santabarbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=17553>), or by visiting the City's Planning Counter at 630 Garden Street. The ZIR application can be submitted in person at the City's Planning Counter, by mail (City of Santa Barbara - Planning Division; P.O. Box 1990, Santa Barbara, CA 93102-1990), or by FAX at (805)564-5374. The application fee must be submitted with the ZIR application.

How much is the application fee for a ZIR?

The fees are set by the City Council in a Fee Resolution and updated on July 1st of each year. For the current fees, please consult the **Fee Resolution** (<http://www.santabarbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=41830>) or contact Planning and Zoning Counter staff at (805) 564-5578, or in person at 630 Garden Street.

Site Inspection

As part of the ZIR preparation, a physical inspection of the property is performed.

The site inspection is performed by a Zoning Inspector to identify the buildings, structures, and improvements on the property, as well as their associated uses. The findings of the site inspection are compared with the City's official records for a determination of the property's conformance with the SBMC and whether the improvements were constructed with the proper City permits and approvals.

An adult must be present for the site inspection. This can be the seller, buyer, or agent for either party; tenant; or any other person over the age of 18. Failure of a representative to be present for the site inspection will result in the need to schedule a new inspection and assessment of a re-inspection fee.

Most inspections take approximately 15-20 minutes; however, multi-unit properties and large estates can exceed one hour, depending on the number of units and the size of the property.

The site inspection includes the interior of all residential units and accessory structures (garages, sheds, studios, etc.), and the entire grounds of the property. Access must be available to all buildings/structures at the time of the scheduled ZIR inspection. If all interior areas are not accessible, the ZIR inspector may need to return to the site when access is available and a re-inspection fee will be charged.

If your property also contains permitted non-residential uses/structures, those areas will not be inspected.

Please see the **ZIR SITE INSPECTIONS - COMMON QUESTIONS** (<http://civicaweb.santabarbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=168049>) handout for frequently asked questions regarding ZIR site inspections.

What happens if a violation(s) is found?

For the purposes of a ZIR, the City classifies violations as either "major" or "minor." If any of the following "major" violations are identified in the ZIR, they will be referred to enforcement staff for immediate follow-up and abatement:

- Illegal dwelling units
- Unpermitted floor area (habitable or non-habitable) or conditioned space

- Elimination of required parking
- Unpermitted improvements within 50 feet of coastal bluff
- Violations that pose an immediate health or safety risk

All other violations are considered "minor." Minor violations are kept on file and may be required to be abated prior to, or simultaneously with, the first building permit that is obtained by the property owner. If "major" violations are also identified on the property then both "major" and "minor" violations must be abated together. If a "minor" violation is not abated prior to the next transfer of the residential property, it is carried forward on the subsequent ZIR.

Please see the **ABATEMENT OF VIOLATIONS IDENTIFIED IN ZIRS - COMMON QUESTIONS**

(<http://civicaweb.santabarbaraca.gov/civica/filebank/blobdload.aspx?BlobID=172321>)
handout for frequently asked questions regarding the abatement of violations identified in ZIRs.

What if I have general questions regarding the ZIR process, a specific ZIR, or site specific questions?

If you have general questions regarding the ZIR process or information contained within a ZIR, you may contact the City's Planning Counter at (805) 564-5578.

If you have general questions regarding permitted uses, the types of alterations/additions that could occur on your property, or what zoning regulations pertain to your property, please contact the City's Planning Counter at (805) 564-5578. You can also obtain information regarding the City's planning process by visiting the "**Planning Central** (<http://www.santabarbaraca.gov/services/planning/default.asp>)" web page.

EXHIBIT D



Note: This form was amended in June 2017.

**Zoning Information Report
1118 PORTESUELLO AVE
ZIR2017-00375**

Report Date: 08/31/2017

Expiration Date: 08/31/2018

Prepared by: SAS, SSwanson@SantaBarbaraCA.gov, (805) 564-5470 x4569

NOTICE: BE ADVISED THAT THE PROPERTY OWNER OR AUTHORIZED AGENT REFUSED / CONSENTED TO AN INSPECTION OF THE INTERIOR AND EXTERIOR OF ALL STRUCTURES ON SITE.

I. INTRODUCTION

A Zoning Information Report (ZIR) is required by the City of Santa Barbara on all sales of residential property, with a few exceptions (SBMC §28.87.220). If your property also contains non-residential uses, those uses and related improvements are not included in the findings of this ZIR. The purpose of the ZIR is to provide information to the buyer on residential zoning standards for this property and to identify violations of any City ordinance or law. The ZIR is a good faith effort to provide information based on a physical inspection and review of available City records.

The conclusions of this ZIR are based on the Zoning Ordinance in effect as of the Report Date indicated above. Please note that on July 11, 2017, the City Council introduced an Ordinance to adopt a New Zoning Ordinance. It is anticipated that the City Council will adopt the New Zoning Ordinance on July 25, 2017. This New Zoning Ordinance changes zoning regulations for properties located outside of the Coastal Overlay Zone (SD-3 zone designations) and may affect this property. Information regarding the changes can be found on the City's website at www.SantaBarbaraCA.gov.

The ZIR is a report; it is not an entitlement document or a permit. If there are inconsistencies or errors in this report, or on previous reports or plans, the ZIR cannot be used to legalize any unpermitted construction. Only a building permit with valid city approvals can legalize construction. **The Zoning Inspector is neither a Building Inspector nor a licensed surveyor, and the ZIR will not include a review of compliance with the Building Codes nor confirm the exact location of property lines.** Property lines are an estimate and unless shown on archive plans, the interior or rear property lines are assumed to coincide with any interior or rear fence. City timelines for abatement of major violations is dependent on health and safety concerns and not tied to an escrow period.

II. SITE INSPECTION

On **August 30, 2017**, a physical inspection of the site was conducted that DID / ~~DID NOT~~ include the interior and exterior of all structures. As a result of the level of site access granted to the Zoning Inspector, the following buildings and structures were observed on the property. Please note that the description below includes all buildings and structures observed on-site at the time of the inspection and **is not a determination of the legal status of any buildings or structures on site:**

A physical inspection of the site from adjacent off site public viewing areas was conducted that DID NOT include an on-site inspection of the interior and exterior of all structures on this property. As a result of the limited level of site access granted to the Zoning Inspector, the following buildings and structures were observed on the property. Please note that the description below includes all buildings and structures observed on-site at the time of the inspection

Two-story single family dwelling with attached two-car garage. A deck off the second story overlooks the driveway.

NOTE: The following is based on a review of City records and the extent of site access granted to the Zoning Inspector, as noted in the Site Inspection section of this report.

III. VIOLATIONS

MAJOR VIOLATIONS HAVE BEEN IDENTIFIED FOR THIS PROPERTY. READ BELOW.

The violations described below have been identified for this property. Non-permitted dwelling units, non-permitted additions of new floor area or conditioned space, non-permitted removal of required parking, and new non-permitted development on the coastal bluff face are considered major violations. Please note that the property contains one or more major violations and the violations have been referred to the Building and Safety Division for code enforcement. There may be improvements listed below that are minor in nature; however, since there are major violations identified on your property, all violations must be abated concurrently. City timelines for abatement of major violations is dependent on health and safety concerns and not tied to an escrow period.

Building Violation:

1. The Building Permit for the second story addition (BLD2004-01156) was issued, with a revision, in 2006. An extension was granted in 2009, but the project never received its final occupancy clearance.

SEE ATTACHED NOTICE OF ENFORCEMENT.

All questions regarding abatement of the 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 permits or abatement of the building violations should be directed to the City's Building and Safety Counter at 630 Garden Street, or (805) 564-5485. For information on how to apply for a building permit to correct violations, please review the "As-Built Construction Plan Submittal Requirements" available at the Building and Safety Division Counter located at 630 Garden St. or online at: <http://santabarbaraca.gov/services/planning/forms/building.asp>.

** Staff cannot confirm if any other violations exist based on the limited access to the site.*

IV. PROPERTY DESCRIPTION

Lot Size (*Per County Assessor Records*): 0.24 Acres; 10,281.79 sq. ft.
Zone (*See Attached Zone Req'ts.*): E-1
Slope (*Approximate*): 11.00 %

UNIT DESCRIPTION(S):

NOTE: The following is based on a review of City records and the extent of site access granted to the Zoning Inspector, as noted in the Site Inspection section of this report.

Unit #:

	<u>Legal</u>	<u>Non-Permitted</u>
Bedrooms:	0	0
Full Baths:	0	0
Half Baths:	0	0
Sinks (other than kitchen sinks):	0	0

PARKING:

	<u>Existing on Site</u>	<u>Shown in City Records</u>
Garage:	0	2

Note: All required parking spaces shall be available for parking at all times, and garages shall not be used for storage that prevents access to required parking spaces (SBMC §28.90.060 and §28.90.100.G)

V. PROPERTY ATTRIBUTES

NOTES AND APPROVALS:

City records show the following City discretionary approvals and important notes for this property: (If none, this area will be blank.)

NO INTERIOR OR PERIMETER INSPECTION OF THE PROPERTY WAS CONDUCTED. Therefore no verification can be made regarding the number or configuration of rooms or any additions or alterations made to the dwelling or any accessory structures.

A building permit (BLD2004-01156) was issued in 2006, with an extension in 2009, for a second story addition. The permit has never received its final occupancy clearances.

With the above referenced addition, the archive plans show that the lot is developed with a 2,709 square foot (net) single family dwelling, with 4-bedrooms and 3 baths, and an attached 2-car garage. A wetbar is in the master suite on the second level.

PARCEL TAGS:

The following special districts or other attributes of the property are on file for this property: (If none, this area will be blank.)

GMP Development Area

Mesa

Hillside Design District

ZIR Area 2

VI. EXPIRATION DATE, AMENDMENTS TO THIS ZIR, AND APPEALS

EXPIRATION DATE:

This ZIR is valid until August 31, 2018, one year from the Report Date, or until the next transfer of title, whichever occurs first. A one year time extension of this ZIR can be applied for prior to the expiration date of this ZIR. The time extension requires an additional physical inspection and application fee.

AMENDING THE ZIR:

The City encourages property owners to provide any supplemental property information they may have to inform the conclusions of this report. Please contact the preparer of this report within 10 days of the date of this ZIR if you have general questions regarding the findings of this report or want to provide supplemental information to inform the conclusion of this report. Questions related to the abatement of violations can be directed to the appropriate staff noted under the "Violations" section above.

Once violations are corrected on the property, it is not necessary to amend the current ZIR. Either the final approval of the issued building permit will serve as documentation, or when the property is for sale again the subsequent ZIR will show that the violations no longer exist. The new property owner is not required to contact City Staff to amend this report once the violations have been abated.

APPEALS:

If you want to appeal the findings of this ZIR, you must do so within 10 days of the date of this ZIR. To file an appeal, submit a written letter or email to the preparer of this ZIR stating the grounds claimed for the appeal and any supporting documentation on the specific improvement or content in the ZIR that is in dispute. No fee is required for this appeal if it is filed within 10 days of the date of this ZIR. Staff time to research and resolve any appeals filed after the 10-day appeal period may be subject to the hourly rate fee as established by the City Council.

VII. RESOURCES USED FOR THE PREPARATION OF THIS ZIR

- Physical Inspection: From Public Viewing Areas Interior & Exterior of All Structures
- Archive Plans
- Street and/or Planning File
- Sanborn Maps
- Aerial Photographs
- Historic Photographs
- City of Santa Barbara Architectural & Historic Resource Survey
- County of Santa Barbara Residential Building Record (Supplied by Property Owner)

The above items can be reviewed at the City's Planning and Zoning Counter located at 630 Garden Street. In addition, the entire contents of the City street and planning files can be viewed online at www.SantaBarbaraCA.gov/PlanningCentral.

For additional information regarding regulations that pertain to properties within the City of Santa Barbara, environmental constraints that may pertain to the property, and the City's review process, please contact the Planning and Zoning Counter at (805) 564-5578 for more information or visit the City's Planning Central webpage at www.SantaBarbaraCA.gov/PlanningCentral.

Zoning Information Report #ZIR2017-00375 was prepared by:

SAS, SSwanson@SantaBarbaraCA.gov, (805) 564-5470 x4569


Signature

August 31, 2017

GENERAL ZONING INFORMATION

Zone Information

The property's Zoning Designation is **E-1**. The basic requirements of the property's primary zoning designation(s) are listed below. Always refer to the Municipal Code for complete information. If there are multiple zones, the standards for the more restrictive zone shall apply.

PLEASE NOTE: THE FOLLOWING GENERAL ZONING INFORMATION IS BASED ON THE ZONING ORDINANCE IN EFFECT AS OF THE REPORT DATE INDICATED ABOVE. PLEASE NOTE THAT ON JULY 25, 2017, THE CITY COUNCIL ADOPTED THE NEW ZONING ORDINANCE WHICH WILL GO INTO EFFECT ON OCTOBER 1, 2017. THIS NEW ZONING ORDINANCE CHANGES ZONING REGULATIONS FOR PROPERTIES LOCATED **OUTSIDE OF THE COASTAL OVERLAY ZONE (SD-3 ZONE DESIGNATIONS)** AND MAY AFFECT THIS PROPERTY. INFORMATION REGARDING THE CHANGES CAN BE FOUND ON THE CITY'S WEBSITE AT WWW.SANTABARBARACA.GOV/NZO.

E-1, ONE-FAMILY RESIDENCE ZONE (SBMC§28.15)	
Front Setback	30 feet
Interior & Rear Setback	10 feet
Distance Between Main Buildings	20 feet (Measure per SBMC§28.04.245). For accessory buildings see SBMC §28.04.010 and SBMC §28.87.062.D.
Required Open Yard Area	1,250 sq. ft. + Min. Dimensions + Location + Sloped lot req. + Exceptions
Allowable encroachments	See SBMC§28.87.062
Accessory Buildings	500 square feet (max. cumulative); may not exceed two stories and may not be located in the front yard - See SBMC §28.87.160
Maximum Net Floor Area – Floor to Lot Area Ratio (FAR)	See SBMC §28.15.083 for applicability
Maximum Height Limit	30 feet (Measure per SBMC§28.04.140). (The “Solar Access Ordinance” may further limit the maximum height. See handout and SBMC§28.11).
Required Off-Street Parking Spaces	2 covered or meet exceptions outlined in SBMC§28.90
Secondary Dwelling Unit (Granny Unit)	See “Secondary Dwelling Unit Guidelines” handout and SBMC§28.94.030.Z

NON-RESIDENTIAL USES IN RESIDENTIAL ZONES	
Non-Residential Uses	
Setbacks	Double Setbacks for all non-residential buildings and structures (see exceptions in specific zones)
Lot Coverage	25% of the net lot area may be covered by buildings used for non-residential purposes

FENCES, SCREENS, WALLS AND HEDGES:

Santa Barbara Municipal Code §28.87.170 regulates the height of fences, screens walls and hedges based on their location on the property. Plans in City records that show fences, screens, walls or hedges as "existing" do not necessarily legalize such items unless the project description included permitting these items. Over-height hedges that existed prior to 1957 are non-conforming 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 non-conforming.

SHORT-TERM RENTALS:

The conversion of an existing residence to a short-term rental (e.g., vacation rental, hotel) is considered by the Planning Division to be a change from a residential use to a non-residential use and will require compliance with the following standards described below. A "short-term rental" is a hotel when any building, group of buildings, or portion of a building is occupied for overnight stay by individuals for less than 30 consecutive days (See the definition of "hotel" at SBMC§28.04.395).

1. ALLOWED ZONES. Short-term rentals are allowed in all zones in which hotels are allowed: R-4, C-L, C-P, C-1, C-2, C-M, HRC-1, HRC-2, HRC-2/OC and M-1 Zones. If the property is not located in one of these zones, a short-term rental is not an allowed use in that zone and cannot be permitted.
2. BUSINESS LICENSE. The City of Santa Barbara requires that every person, firm, corporation, partnership or other business organization conducting business within the City obtain a business license. Short-term rental operators must have a business license and pay transient occupancy taxes (TOT). For additional information see <http://www.santabarbaraca.gov/business/license/tot/>
3. GROWTH MANAGEMENT PLAN MINOR AND SMALL ADDITIONS. All legal lots that existed as of December 6, 1989 can be allocated up to 1,000 square feet from the Minor Addition category. Only legal lots that are located within the Downtown Development Area can apply for square footage from the Small Addition category for 1,000 up to 3,000 square feet.
4. PARKING. The parking requirement for a short-term rental is the same as that for hotels: one parking space per sleeping unit (SBMC§28.90.100.J.10) or as otherwise stated in the Zoning Ordinance. In the case of short-term rentals, a bedroom is considered a sleeping unit.
5. SETBACKS. Buildings must comply with the required setbacks. Non-conforming buildings require approval of zoning modification(s) for a change-of-use in the setbacks.
6. TENANT DISPLACEMENT ASSISTANCE ORDINANCE (SBMC§28.89). Proposals that are limited to the conversion of only one existing residential unit shall comply with the provisions in the Tenant Displacement Assistance Ordinance (TDAO). A sixty (60) day Notice of Intent must be provided prior to filing any application and certification of displacement assistance to all eligible resident households must be provided prior to the issuance of a permit. Projects that involve more than one unit are subject to the Hotel Conversion Ordinance and must comply with the Tenant Protection Provisions outlined in SBMC§28.88.

7. OTHER DEPARTMENTAL REVIEW. The conversion of existing residential units to a short-term rental may require additional upgrades, permits, or review from the City Building and Safety Division, the Fire Department, or Public Works Department. Review all proposals with the Building and Safety Division and Fire Department for any code related questions.

8. ADDITIONAL LIMITATIONS. Be advised that additional limitations may apply related to project location and development history. Please review all records, documents, agreements, associated with your existing site.

DISCRETIONARY REVIEW:

Please be advised that some construction may be subject to design review approval or discretionary review prior to submitting for a building permit. If design review or discretionary review is required, the project will be subject to environmental review, as required by the California Environmental Quality Act (CEQA). If you would like additional information on how or when these processes are required, please contact the Planning and Zoning Counter at (805) 564-5578 for more information or visit our Planning Central webpage at www.SantaBarbaraCA.gov/PlanningCentral.



NOTICE OF ENFORCEMENT 1118 PORTESUELLO AVE

Violations have been identified on this property which require immediate abatement. Please refer to Section III of **ZIR2017-00375** for more information.

Enforcement Case

Enforcement case number **ENF2017-01059** has been created and forwarded to:

- Planning and Zoning: (805) 564-5578
 Building and Safety: (805) 564-5485

An enforcement officer will be assigned to the case for enforcement of the violations described in this ZIR. To speak with your assigned inspector call the number listed above. Reference the enforcement case number.

Procedural Information

(At 630 Garden Street; online at www.santabarbaraca.gov/forms; or phone number listed above)

1. Planning and Zoning: First, obtain information regarding the applicability of zoning regulations and whether discretionary review is required as part of the abatement of the violations.
2. Building and Safety: Then, obtain building permit information and apply for a building permit to correct violations.

Options

There are several options for abatement of these violations. They include:

- A. The issuance of a building permit (and/or other permits) to allow the improvements to remain, if found to comply with all City Codes and Ordinances. Prior to the issuance of a building permit, discretionary review and approval may be required;
- B. The issuance of a building permit to demolish the improvement; or
- C. A combination of A and B above.

Abatement

The property owner (seller) is responsible for abating these violations in a timely manner. However, 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.

Sewer Lateral Inspection Program Disclosure

The City of Santa Barbara has enacted a program to improve the condition of the private sewer laterals connected to the City's sewer system. Poorly maintained laterals allow rainwater and/or roots into the City's system, causing sewage spills.

(This section to be completed by City Staff)

SITUS ADDRESS: 1118 PORTESUELLO AVE
(please print)

Sewer Lateral Condition Disclosure (please check appropriate box)

- The sewer lateral has an inspection report in the Street File.
 There is no sewer lateral inspection report on file.

Advisory – Lateral Repair Required

Sewer laterals extend from buildings or dwellings to the City's sewer main (commonly in the street). The entire length of the pipe sewer lateral to the point where it connects to the City's sewer main is private property, and it is the responsibility of the property owner to maintain the lateral in properly functioning condition at all times. The City of Santa Barbara has enacted a proactive program to identify laterals that are defective, and requires property owners to repair or replace defective laterals.

Advisory – Lateral Inspection Recommended

Prospective buyers of real property served by the City's sewer system are strongly advised to have the sewer lateral inspected by a qualified individual prior to the close of escrow.

Acknowledgement of Advisories

I, _____ the Buyer(s) or my/our authorized agent acknowledge that I have read the above advisories and understand that it is the property owner's responsibility, at his/her sole cost, to maintain the sewer lateral in good condition.

Executed on: _____ (Date).

THIS FORM MUST BE SIGNED, DETACHED AND RETURNED TO:

Wastewater Collection System Project Coordinator
City of Santa Barbara, Public Works Department
P.O. Box 1990
Santa Barbara, CA 93102-1990

Please call (805) 568-1010 if you have any further questions regarding the Private Sewer Lateral Inspection Program.

cc: Street File

**Receipt of Zoning Information Report
1118 PORTESUELLO AVE
ZIR2017-00375**

This is to certify that I/We _____, the BUYER(s), or my/our authorized agent has received a copy of the Zoning Information Report. I/we understand that if violations exist on the property, there may be follow-up enforcement of these violations as specified in the Zoning Information Report. If there is an attached Notice of Enforcement, an enforcement case will be created, and follow-up enforcement will begin immediately.

Failure to abate these violations in a timely manner may result in the City's refusal to issue building permits and subsequent enforcement action. As the new owner (buyer), I/we understand that I am/we are responsible for the abatement of the violations.

Executed at _____ on _____.
City Date

I declare the above to be true under penalty of perjury.

Buyer's Name _____
Print Name of Buyer

Signature of Buyer or Authorized Agent

Mailing Address of Buyer (If different from property address)

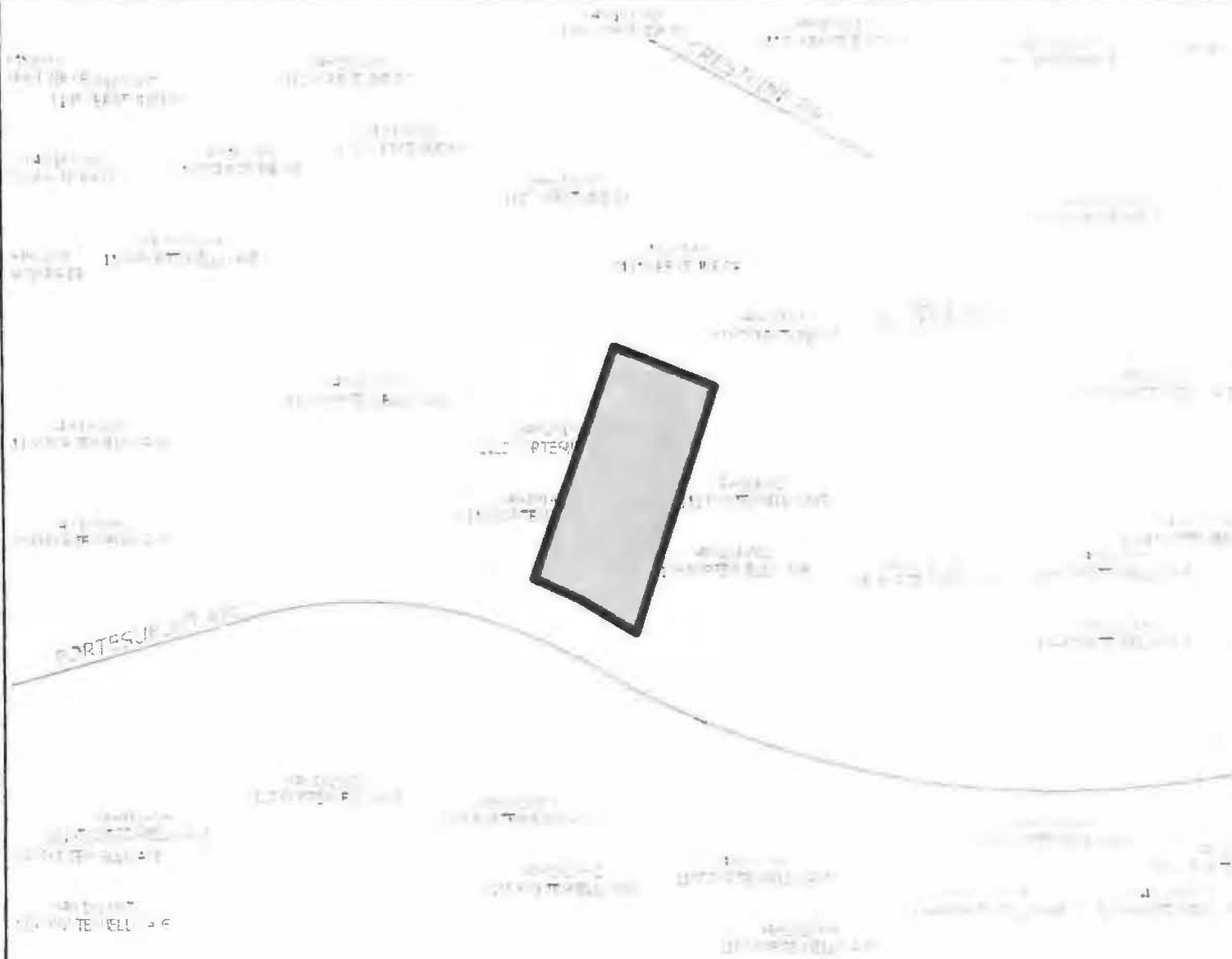
Pursuant to Santa Barbara Municipal Code Section 28.87.220, a copy of the above referenced Zoning Information Report must be delivered to the buyer of the property no later than three (3) days prior to the transfer of title to the property.

**PRIOR TO THE DATE OF TRANSFER OF TITLE
THIS RECEIPT MUST BE SIGNED, DETACHED AND RETURNED TO:**

City of Santa Barbara
Planning Division
P.O. Box 1990
Santa Barbara, CA 93102-1990
FAX #: (805) 564-5374



1118 PORTESUELLO AVE



Legend

- City Limits
- Assessor's Parcels - City
- Street Centerlines

1: 1,308



218.020 0 109.010 218.020 Feet

MAP DISCLAIMER

WGS_1984_Web_Mercator_Auxiliary_Sphere
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Notes

Enter Map Description

EXHIBIT E



City of Santa Barbara

City Administrator's Office

www.SantaBarbaraCA.gov

June 21, 2017

City Hall
735 Anacapa Street
Santa Barbara, CA
93101-1990

Krista Pleiser
Government Affairs Director & Professional Standards Administrator
Santa Barbara Association of REALTORS®
1415 Chapala Street
Santa Barbara, CA 93101

Mailing Address:
P.O. Box 1990
Santa Barbara, CA
93102-1990

Tel: 805.564.5305
Fax: 805.897.1993

RE: Zoning Information Reports

Dear Krista,

This letter is in response to our meeting on April 20, 2017 during which you expressed SBAOR's concerns with the City's Zoning Information Report process under Santa Barbara Municipal Code section 28.87.220. In particular, you asserted your legal counsel had opined that ZIR inspections conducted without the consent of the home owner constituted violations of the home owner's right to be free from unreasonable, warrantless search and seizure under the Fourth Amendment.

We asked for your legal counsel's written opinion and we received that promptly on April 21. At that time, I referred the matter to the City Attorney in order to gain a better understanding of both the law and my options. His opinion is attached. I am now in a position to report on the actions I intend to take.

Before I describe the City's next steps, I want to make it clear that I have no evidence that the City has ever sought to force entry into a home or to obtain an inspection warrant under the ZIR ordinance.

Nonetheless, I believe some process changes are warranted. These changes will be effective immediately. The changes are:

- The City will request written consent from home owners before interior or "curtilage" ZIR inspections are conducted.
- The City will create a new "physical inspection" option for ZIRs when a home owner chooses not to allow entry into a home. Physical inspections will examine the exterior of the property from the street, sidewalk or other public viewing points.
- The City will defend ZIR Ordinance consumer protection for home buyers by informing them in writing as to whether the City has been able to enter a home for a ZIR inspection or whether only an exterior physical inspection and records search has been done.

June 21, 2017

Santa Barbara Association of REALTORS®
Zoning Information Reports
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- The City estimates that its costs will drop by approximately 25% in those instances when a home owner opts for an exterior physical inspection only, so we will immediately reduce City ZIR fees by 25% when only an exterior physical inspection is allowed.
- I am directing City staff to analyze all ZIR fees to make sure they are appropriately set at full cost recovery. This may result in an increase or decrease of current ZIR fees.

I am happy to meet with you and your legal counsel should you wish to discuss these measures. We had intended to do that last Thursday, and to release the City Attorney's opinion, but your counsel cancelled the meeting.

I want to close by reminding you that for several years the City has worked with SBAOR to streamline the ZIR process, including the following process improvements:

- Reporting major and minor zoning violations separately in ZIRs so that home sellers and buyers can decide whether to make immediate or deferred repairs on minor violations.
- Extending minor violation compliance deadlines when fair and warranted.
- Creating a Minor Zoning Exception process to allow City staff to collaborate with home owners to speed up minor zoning corrections, and
- Publishing and web posting new, more accessible public information guides.

We have appreciated SBAOR's help and hope our collaborative approach can continue. I have no intention, however, of recommending any amendments to the ZIR ordinance as I believe all of the new changes outlined above are within my administrative authority.

Sincerely,


Paul Casey
City Administrator

Enclosure

cc: Bob Hart, Santa Barbara Association of Realtors
Meriem L. Hubbard, Pacific Legal Foundation w/ encl.
Ariel Calonne, City Attorney