

C. An applicant may receive only one 450-square foot exemption per site under paragraph A. An applicant who receives a 450-square foot exemption may receive an additional 200-foot exemption for the same site under paragraph B, but only for an attached parking area used to meet minimum parking requirements.

**3.3.3.** Porches, basements, and attics that meet the following requirements shall be excluded from the calculation of gross floor area:

A. A ground floor porch, including a screened porch, provided that:

1. the porch is not accessible by automobile and is not connected to a driveway; and
2. the exemption may not exceed 200 square feet if a porch has habitable space or a balcony above it.

B. A habitable portion of a building that is below grade if:

1. The habitable portion does not extend beyond the first-story footprint and is:
  - a. Below natural or finished grade, whichever is lower; and
  - b. Surrounded by natural grade for at least 50% of its perimeter wall area, if the habitable portion is required to be below natural grade under paragraph 1.a.
2. The finished floor of the first story is not more than three feet above the average elevation at the intersections of the minimum front yard setback line and the side property lines.

C. A habitable portion of an attic, if:

1. The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater;
2. It is fully contained within the roof structure;
3. It has only one floor;
4. It does not extend beyond the footprint of the floors below;
5. It is the highest habitable portion of the building, or a section of the building, and adds no additional mass to the structure; and
6. Fifty percent or more of the area has a ceiling height of seven feet or less.

**3.3.4.** An enclosed area shall be excluded from the calculation of gross floor area if it is five feet or less in height. For purposes of this subsection:

A. Area is measured on the outside surface of the exterior walls; and

B. Height is measured from the finished floor elevation, up to either:

1. the underside of the roof rafters; or
2. the bottom of the top chord of the roof truss, but not to collar ties, ceiling joists, or any type of furred-down ceiling.

*Source: Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022; Ord. 20080618-093.*

### **§ 3.4. HEIGHT.**

For purposes of this Subchapter, the HEIGHT of a building or setback plane shall be measured as follows:

**3.4.1.** Height shall be measured vertically from the average of the highest and lowest grades adjacent to the building to:

- A. For a flat roof, the highest point of the coping;
- B. For a mansard roof, the deck line;
- C. For a pitched or hip roof, the gabled roof or dormer with the highest average height; or
- D. For other roof styles, the highest point of the building.

**3.4.2.** The grade used in the measurement of height for a building or setback plane shall be the lower of natural grade or finished grade, except height shall be measured from finished grade if:

- A. The site's grade is modified to elevate it out of the 100-year floodplain; or
- B. The site is located on the approximately 698.7 acres of land known as the Mueller Planned Unit Development, which was zoned as a planned unit development (PUD) district by Ordinance Number 040826-61.

**3.4.3.** For a stepped or terraced building, the height of each segment is determined individually.

**3.4.4.** The height of a structure other than a building is measured vertically from the ground level immediately under the structure to the top of the structure. The height of a fence on top of a retaining wall is measured from the bottom of the retaining wall.

**3.4.5.** A maximum height is limited by both number of feet and number of stories if both measurements are prescribed, regardless of whether the measurements are conjoined with "or" or "and."

**3.4.6.** The habitable portion of a basement that is below natural grade and the habitable portion of an attic do not count toward the number of stories for purposes of Section 25-2-773(B)(5)

(*Duplex Residential Use*) if the area satisfies the requirements for an exemption from gross floor area under subsections 3.3.2.B-C of this Subchapter.

*Source: Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022; Ord. 20080618-093.*

### **§ 3.5. NATURAL GRADE.**

**3.5.1.** In this Subchapter, NATURAL GRADE is:

A. The grade of a site before it is modified by moving earth, adding or removing fill, or installing a berm, retaining wall, or architectural or landscape feature; or

B. For a site with a grade that was legally modified before October 1, 2006, the grade that existed on October 1, 2006.

**3.5.2.** Natural grade is determined by reference to an on-ground survey, City-approved topographic map, or other information approved by the director. The director may require an applicant to provide a third-party report that shows the natural grade of a site.

*Source: Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022.*

EXHIBIT  
Ex 5

RTAINS  
OF THE  
TO THE  
IBILITY  
AUSTIN

FAMILY ROOM HAS 20' CEILING  
FOYER HAS 22' CEILING

PERIMETER WALL  
16" O.C.

R. CEILING HEIGHTS  
NOTED OTHERWISE

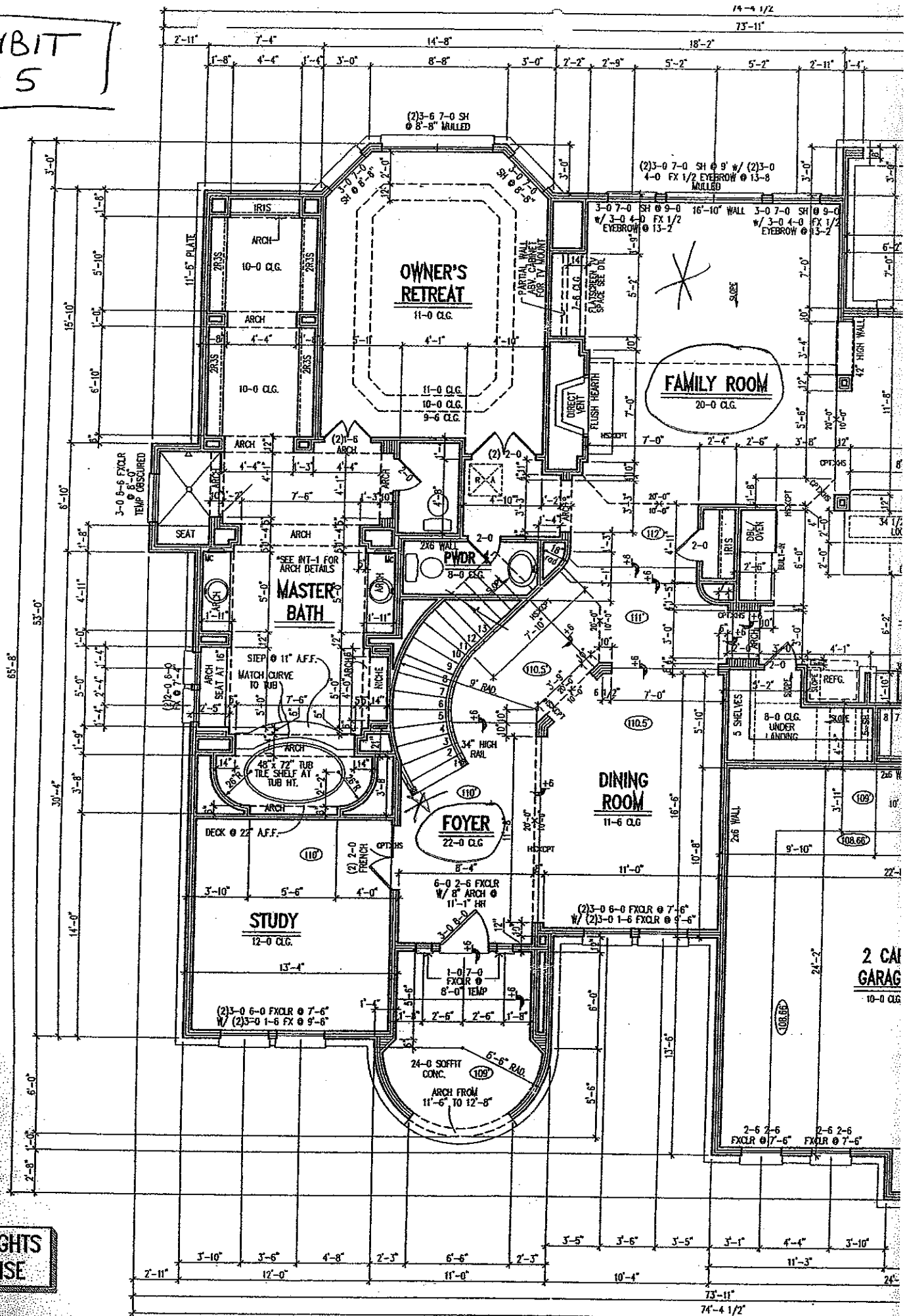



EXHIBIT  
Ex 6

**Item 93 - June 18, 2008**

Conduct a public hearing and consider an ordinance amending City Code Chapter 25-2, Subchapter F (Residential Design and Compatibility Standards), commonly referred to as the "McMansion" ordinance, and the related sections of city code regarding compatibility and to single family and duplex site development standards and procedures. Reviewed by the Planning Commission.

**The public hearing was closed and Ordinance No. 20080618-093 was approved as amended on Council Member McCracken's motion, Council Member Kim's second on a 7-0 vote. The amendments were: to correct a typo on page 10 to state that a sidewall articulation is required when the structure is an "average distance of less than 9 feet" rather than "9 feet or less;" and to include an uncodified section directing the City Manager to conform the drawings to the revised code language.**

**Executed Ordinance**


 Ordinance No. 20080618-093, PDF, 651kb *see Exhibit Ex7*

**Work Papers and Other Backup Documentation**

 20080618-093, Affidavit of Publication, PDF, 38kb *not included*

 20080618-093, Agenda Backup (Affordability Impact Statement), PDF, 66kb *not included*

 20080618-093, Agenda Backup (AIA Statement), PDF, 3.9mb *see Exhibit Ex8*


 20080618-093, Agenda Backup (Attic Exemption (Draft Memo)), PDF, 41kb *see Exhibit Ex9*


 20080618-093, Agenda Backup (Draft Ordinance), PDF, 71kb *see Exhibit Ex10*

 20080618-093, Agenda Backup (Recommendation for Council Action), PDF, 55kb *see Exhibit Ex11*

 20080618-093, Agenda Backup (Stakeholder Recommendations), PDF, 30kb *see Exhibit Ex12*

 20080618-093, Agenda Backup (Task Force Recommendations), PDF, 120kb *see Exhibit Ex13*

 20080618-093, Agenda Late Backup Part 1 of 2, PDF, 41kb *see Exhibit Ex14*

 20080618-093, Agenda Late Backup Part 2 of 2, PDF, 952kb *see Exhibit Ex15*

**ORDINANCE NO. 20080618-093**

**AN ORDINANCE AMENDING CITY CODE SECTION 25-2-773 RELATING TO DUPLEX HEIGHT REQUIREMENTS; AMENDING CITY CODE SECTION 25-2-1051 RELATING TO DESIGN STANDARDS AND MIXED USE; AMENDING CITY CODE SECTION 25-2-1406 RELATING TO NEIGHBORHOOD PLAN COMBINING DISTRICTS; AND AMENDING CITY CODE CHAPTER 25-2, SUBCHATER F RELATING TO RESIDENTIAL DESIGN AND COMPATABILITY.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Subsections (B) and (D) of City Code Section 25-2-773 (*Duplex Residential Use*) are amended to read

**§ 25-2-773 DUPLEX RESIDENTIAL USE.**

(B) For a duplex residential use:

- (1) minimum lot area is 7,000 square feet,
- (2) minimum lot width is 50 feet,
- (3) maximum building cover is 40 percent;
- (4) maximum impervious cover is 45 percent, and
- (5) maximum building height is the lesser of

(a) 30 feet, or

(b) two stories, except that an attic or basement does not count as a story for purposes of this subsection if it satisfies the requirements for an exemption from gross floor area under Subsections 3 3 2 and 3 4 6 of Subchapter F (*Residential Design and Compatibility Standards*)

(D) The two dwelling units are subject to the following requirements

(1) The two units must have a common [wall or] floor and ceiling or a common wall, which may be a common garage wall, that

(a) extends for at least 50 percent of the maximum depth of the building, as measured from the front to the rear of the lot, and

(b) maintains a straight line for a minimum of four foot intervals or segments

(2) The two units must have a common roof ~~[, and]~~

(3) At least one of the two units must have a front porch that faces the front street and an entry to the dwelling unit, except that units located on a corner lot must each have a front porch that faces a separate street and an entry to the dwelling unit

(4) The two units may not be separated by a breezeway, carport, or other open building element

**PART 2.** Subsection (A) of City Code Section 25-2-1051 (*Applicability*) is amended to read

#### **§ 25-2-1051 APPLICABILITY.**

(A) Except as provided in Section 25-2-1052 (*Exceptions*) or another specific provision of this title, this article applies to the following uses

(1) A ~~(a)~~ use in a townhouse and condominium residence (SF-6) or less restrictive zoning district and to a civic use described in Subsection (B) that is located on property

(a)(1) across the street from or adjoining property

(1)(a) in an urban family residence (SF-5) or more restrictive zoning district,

(ii)(b) on which a use permitted in an SF-5 or more restrictive zoning district is located, other than a dwelling permitted by Section 25-2-894 (*Accessory Uses For A Principal Commercial Use*), or

(iii)(c) in a traditional neighborhood (TN) zoning district, or

(b)(2) located 540 feet or less from property in

(i)(a) an SF-5 or more restrictive zoning district,

(ii)(b) a TN district, or

(iii)(c) a development reserve (DR) zoning district.

(2) A use listed in Subsections 12.2(K)-(Q) of Subchapter F (*Residential Design and Compatibility Standards*), if the owner has agreed to comply with the requirements of this article in a manner prescribed by the director under Subsection 13.3 of Subchapter F

**PART 3.** City Code Section 25-2-1406 (*Ordinance Requirements*) is amended to read

**§ 25-2-1406 ORDINANCE REQUIREMENTS.**

An ordinance zoning or rezoning property as a NP combining district.

(1) must prescribe the special uses described in Section 25-2-1403 (*Special Uses*) that are permitted in the district,

(2) must describe the location of each residential infill special use, neighborhood urban center special use, or neighborhood mixed use building special use, if any,

(3) may restrict the time of day during which a business in a neighborhood mixed use building special use may be open to the public,

(4) may restrict a corner store special use, cottage special use, secondary apartment special use, or urban home special use, if any, to a designated portion of the district,

(5) for a single-family residential use or a secondary apartment special use on an existing legal lot

(a) may reduce the required minimum lot area to 2,500 square feet,

(b) may reduce the required minimum lot width to 25 feet, and

(c) for a lot with an area of 4,000 square feet or less, may increase the maximum impervious coverage to 65 percent,

(6) may apply the requirements of Section 25-2-1602 (*Front Porch Setback*), Section 25-2-1603 (*Impervious Cover and Parking Placement Requirements*), or Section 25-2-1604 (*Garage Placement*) to the district or a designated portion of the district,

(7) may restrict front yard parking by including all or a portion of the district in the restricted parking area map described in Section 12-5-29 (*Front or Side Yard Parking*), and



(8) may apply the requirements of Section 25-2-812(N) (*Mobile Food Establishments*) to the district or a designated portion of the district

(9) may modify the following requirements of Subchapter F (*Residential Design And Compatibility Standards*) for the district or a designated portion of the district.

(a) the maximum floor-to-area ratio and maximum square footage of gross floor area prescribed by Subchapter F (*Residential Design And Compatibility Standards*),

(b) the maximum linear feet of gables or dormers protruding from the setback plane,

(c) the height of the side and rear setback planes, and

(d) the minimum front yard setback requirement.

**PART 4.** Subsection 1 2 2 of Section 1.2 (*Applicability*) of City Code Chapter 25-2, Subchapter F is amended to amend Subsections I and J and to add new Subsections K-Q to read

## **1.2. APPLICABILITY**

### **1.2 2 Used for a**

A Bed and breakfast (group 1) residential use,

B Bed and breakfast (group 2) residential use,

C Cottage special use,

D Duplex residential use,

E Secondary apartment special use,

F. Single-family attached residential use;

G Single-family residential use,

H Small lot single-family residential use;

I Two-family residential use, [Ø]

J Urban home special use, [-]

K Club or lodge,

L. Daycare services (general and limited),

M Family homes,

N Group homes (general and limited),

O. Condo residential,

P Retirement housing (small and large site); or

Q. Townhouse residential

**PART 5.** Subsections 1 3 1 and 1 3 3 of Section 1 3 (*Exceptions*) of City Code Chapter 25-2, Subchapter F are amended to read

### **1.3. Exceptions**

1.3.1. This Subchapter does not apply to a lot zoned as a single-family residence small lot (SF-4A) district unless the lot is adjacent to property zoned as a single-family residence standard lot (SF-1), single-family residence standard lot (SF-2) district, or family residence (SF-3) district

1 3 3 This Subchapter does not apply to uses listed in subsections 1.2.2(K)-(Q) of Section 1 2 if an applicant has agreed, in a manner prescribed by the director, to comply with the requirements of Chapter 25-2, Article 10 (*Compatibility Standards*). ~~[The side wall articulation requirement does not apply to new construction that is less than 2,000 square feet in gross floor area and that is less than 32 feet in height]~~

**PART 6.** Subsection 1 4 1(A) of Section 1 4 1 (*Conflicting Provisions*) of City Code Chapter 25-2, Subchapter F is amended to read

### **1.4. Conflicting Provisions**

1 4 1 To the extent of conflict, this Subchapter supersedes

A Section 25-1-21 (Definitions),

B [A] Section 25-2-492 (Site Development Regulations);

C.[B] Section 25-2-555 (Family Residence (SF-3) District Regulations),

D.[C] Section 25-2-773 (Duplex Residential Use),

E.[D] Section 25-2-774 (Two-Family Residential Use),

F.[E] Section 25-2-778 (Front Yard Setback for Certain Residential Uses),

G.[F] Section 25-2-779 (Small Lot Single-Family Residential Uses); and

H.[G] Section 25-4-232 (Small Lot Subdivisions)

**PART 7.** Section 2 1 (*Maximum Development Permitted*) of City Code Chapter 25-2, Subchapter F is amended to read

## **2.1. MAXIMUM DEVELOPMENT PERMITTED**

The maximum amount of development permitted on a property subject to this Subchapter is limited to the greater of 0.4 to 1.0 floor-to-area ratio or 2,300 square feet of gross floor area, as defined in Section 3.3. Floor-to-area ratio shall be measured using gross floor area as defined in Section 3.3, except that the lot area of a flag lot is calculated consistent with the requirements of Section 25-1-22 (*Measurements*)

**PART 8.** Subsection B of Section 2.3 (*Average Front Yard Setback*) of City Code Chapter 25-2, Subchapter F is amended to read

## **2.3. Average Front Yard Setback**

**B. Average Front Yard Setback.** The following rules apply for purposes of the setback calculation required by paragraph A 2:

1. A front yard setback is the distance between the front lot line and the closest front exterior wall or building façade of the principal residential structure located on the lot ~~[An average front yard setback is determined based on the setbacks of each principal residential structure that is built within 50 feet of its front lot line.]~~

2. Except as provided in paragraph 3[-], average front yard setback is determined using the front yard setback of the four principal residential structures that are: (a) built within fifty feet of the front lot line, and (b) closest to, and [the subject property] on the same side of the block, as the property subject to the setback required by this section ~~[shall be used in the calculation of average front~~

~~yard setback. If there are less than four structures on the same side of the block, the lesser number of structures is used in the calculation]~~

3 If less than four structures satisfy the criteria in paragraph B 2, average front yard setback is calculated using the number of existing residential structures on the same side of the street block as the property subject to the setback required by this section If there are no structures on the same side of the block, average front yard setback is calculated using the front yard setbacks of the four structures on the opposite side of the block that are closest to the [subject] property subject to the setback required by this section [and across the street are used in the calculation] If there are less than four structures on the opposite side of the block [across the street], the lesser number of structures is used in the calculation See Figure 1.

**PART 9.** Section 2.4 (*Rear Yard Setback*) of City Code Chapter 25-2, Subchapter F is amended to read

#### **2.4. REAR YARD SETBACK.**

The principal structure shall comply with the rear yard setback prescribed by other provisions of this Code All other structures shall comply with the rear yard setback provisions of this Code, but the minimum rear yard setback of a second dwelling unit may be reduced to five feet if the rear lot line is adjacent to an alley See Figure 2

**PART 10.** Subsections A, B, and D of Section 2.6 (*Setback Planes*) of City Code Chapter 25-2, Subchapter F are amended to read

#### **2.6 SETBACK PLANES**

##### **A. Side Setback Plane**

Except as provided in subsection [B-] D, an inwardly sloping 45-degree angle side setback plane begins at a horizontal line 15 feet directly above the side property line. The 15-foot height of the horizontal line is established for 40-foot deep portions of the lot beginning at the building line and extending to the rear of the lot, except that the last portion at the rear of the lot may be less than 40 feet deep See Figures 3 through 5

- 1 For the first portion, the 15-foot height of the horizontal line is measured at the highest of the elevations of the four intersections of the side lot lines, the building line, and a line 40 feet from and parallel to the building line.

- 2 For successive portions other than the last portion, the 15-foot height of the horizontal line is measured at the highest of the elevations of the four intersections of the side lot lines and the appropriate two lines that are 40 feet apart and parallel to the building line
- 3 For the last portion, the 15-foot height of the horizontal line is measured at the highest of the elevations of the four intersections of the side lot lines, the appropriate line parallel to the building line, and the rear lot line

**B. Rear Setback Plane**

Except as provided in subsection D, an [An] inwardly sloping 45-degree angle rear setback plane begins at a horizontal line directly above the rear property line at the same elevation as the horizontal line for the last portion of the side setback plane established in paragraph A 3 See Figures 6 through 9

**D. Side and Rear Setback Plane Exceptions for Existing One-Story Buildings.**

1 Except as provided in paragraph 3 below, an applicant proposing to add a second story [This subsection applies] to a one-story building may choose either of the following side setback planes for the portion of the project that is within the building footprint [was] originally constructed, or permitted for [received a building permit for the] original construction, before October 1, 2006[,]. [and that is remodeled to add a second story.]

a The side setback plane required under subsection A

b [1 For the portion of the construction that is within the footprint of the building that was originally constructed or received a building permit before October 1, 2006, the] The inwardly sloping 45-degree angle side setback plane that begins at a horizontal line directly above the outermost side wall at a height [that is] equal to the height of the first floor wall plate that was originally constructed or received a building permit before October 1, 2006, plus 10 and one-half [ten] feet. See Figure 12

The wall plate is the lowest point of the existing first floor ceiling framing that intersects the exterior wall

- 2 Except as provided in paragraph 3 below, an applicant proposing to add a second story to a one-story building may choose either of the following rear setback planes for the portion of the project that is within the building footprint originally constructed, or permitted for original construction, before October 1, 2006

a The rear setback plane required under subsection B.

b An inwardly sloping 45-degree angle rear setback plane that begins at a horizontal line directly above the rear property line at a height equal to the height of the first floor wall plate that was originally constructed or received a building permit before October 1, 2006, plus 10 and one-half feet

- 3 The side setback plane required under subsection A, and the rear setback plane required under subsection B, apply to

a any [~~For the~~] portion of the proposed construction that is outside of the building footprint originally constructed, or [~~received a building permit~~] permitted for original construction, before October 1, 2006[~~, the side setback plane prescribed by subsection A above applies~~], and

b the entire project, if any portion of the proposed construction requires the removal or demolition of exterior walls

**PART 11.** Section 2 7 (*Side Wall Articulation*) of City Code Chapter 25-2, Subchapter F is amended to add new Subsections 2.7.1 and 2.7 2 to read:

## 2.7. SIDE WALL ARTICULATION.

2 7 1 Except as provided in subsection 2 7 2, if a [A] side wall of a building ~~[that]~~ is more than 15 feet high and is an average distance of less than nine ~~[45]~~ feet ~~[or less]~~ from an interior lot line, the sidewall may not extend in an unbroken plane for more than 36 ~~[32]~~ feet along a side lot line without a sidewall articulation that meets the requirements of this section

A To break the plane, a sidewall articulation must

- 1 be perpendicular to the side property line, at least ~~[wall articulation of not less than]~~ four feet deep, and extend ~~[for a distance]~~ along the side property line for at least ~~[of not less than]~~ 10 feet, as shown in ~~[is required—See]~~ Figures 18 through 20, ~~[-]~~
- 2 extend the entire height of the first floor of an addition to, or remodel of, an existing one-story building,
- 3 extend the entire height of the second story of an addition to, or remodel of, a two or more story building;
- 4 extend to the height of the top floor of a newly constructed building, and
- 5 extend evenly upward for its entire height

B. A sidewall articulation cannot:

- 1 create patios or decks or be screened from view, or
- 2 serve as an eave or gutter

C Sidewall articulation required under this section may be satisfied by horizontal articulation, such that each story above the first story is setback further from the property line by at least nine feet and extends along the side property line for at least 10 feet

D For purposes of subsection 2 7 1, wall height

1. excludes side gables, and

2 is measured from the lower of natural or finished grade adjacent to the structure up to the first floor wall plate, which is the lowest point of the existing first floor ceiling framing that intersects the exterior wall.

2.7.2 The requirements of this section do not apply to

A Any side of a structure that is adjacent to a commercial use, unless the commercial use is occupying a residential structure

B An addition to or remodel of an existing principal structure, or the construction of a new principal structure, provided that the resulting structure is less than 2,000 square feet in net building coverage and less than or equal to 32 feet in height

C An addition to or remodel of an existing second structure, or the construction of a new second structure, provided that the principal structure is exempt under subsection 2.7.2 B and the resulting second structure

1 does not exceed 550 square feet,

2. does not exceed the maximum height allowed in the base zoning district; and

3 is either detached from the principal structure or connected by a covered breezeway that is open on all sides, with a walkway of no more than six (6) feet in width that is covered by a roof of no more than eight (8) feet in width.

D The addition of a second story to an existing one-story structure if the addition is directly above a portion of the existing one-story structure that was originally constructed, or received a permit for construction, before October 1, 2006

E An extension of the second floor of an existing two-story structure, provided that the building footprint of the structure is not increased

**PART 12.** Subsection 2.8.1 of Section 2.8 (*Modifications by the Residential Design and Compatibility Commission*) of City Code Chapter 25-2, Subchapter F is amended to read



**2.8.1. Modifications that May be Approved.** The Residential Design and Compatibility Commission may

- A Approve an increase of up to 25 percent in the
  - 1 Maximum floor-to-area ratio or maximum square footage of gross floor area,
  - 2 Maximum linear feet of gables or dormers protruding from the setback plane, or
- B Waive or modify the side wall articulation requirement of Section 2 7 (*Side Wall Articulation*)
- C In addition to modifications or waivers under subsections A and B of this section, the Residential Design and Compatibility Commission may waive the requirements of Section 2 6 (*Setback Planes*) for a subdivisions that meets the S M A R T Housing requirement in Section 25-1-703 (*Program Requirements*) if:
  - 1 The subdivision includes a minimum of 12 lots on at least one acre, and
  - 2 At least 40% of the units are reasonably priced, as provided in Section 25-1-703(C)-(D).

**PART 13.** Subsection 2 8 2(C) of Section 2 8 (*Modifications by the Residential Design and Compatibility Commission*) of City Code Chapter 25-2, Subchapter F is amended to read

- C. **Additional Procedures [Criteria] for Historic Properties.**  
~~[The Residential Design and Compatibility Commission may not approve a modification for]~~
  - 1 If the proposed development of a local historic landmark or a "contributing structure," as defined in Section 25-3-351 (*Contributing Structure*), would require both a modification from the requirements of this Subchapter and a certificate of appropriateness under Section 25-11-241, the applicant must request a modification under this section prior to seeking a certificate of appropriateness. If the Residential Design and Compatibility Commission determines that the request is consistent with the

approval criteria in subsection B of this section, it shall conditionally approve the modification contingent upon subsequent issuance of a certificate of appropriateness by the Historic Landmark Commission under Section 25-11-243. The applicant must include a copy of the approved modification with the application for a certificate of appropriateness. [A local, state, or national historic landmark, if the modification would adversely impact the landmark's historic status,]

- 2 If both a modification from the requirements of this Subchapter and a non-binding recommendation from the Historic Landmark Commission are sought, the Residential Design and Compatibility Commission may not approve a modification for a structure located in the National Register Historic District before the Historic Landmark Commission issues its recommendation. [A "contributing structure," as defined in Section 25-2-351 (Contributing Structure Defined), or a contributing structure in a National Register historic district, if the modification would adversely impact its status as a contributing structure, or
- ~~3 A property listed as Priority 1 or Priority 2 on the City's most current survey of historic assets, if the modification would adversely impact the property's architectural integrity or change its priority rating.]~~

**PART 14.** Section 3.3 (*Gross Floor Area*) of City Code Chapter 25-2, Subchapter F is amended to amend Subsections 3.3.1 and 3.3.2, and to add new Subsections 3.3.3 and 3.3.4, to read

### **3.3. GROSS FLOOR AREA**

3.3.1 In this Subchapter, GROSS FLOOR AREA means all enclosed space, regardless of its dimensions, that is not exempted under subsections 3.3.2, 3.3.3, or 3.3.4. [has the meaning assigned by Section 25-1-21(Definitions), with the following modifications.

~~3.3.1 The following shall be included in the calculation of gross floor area.~~

~~A The portion of a second or third story of a building that is covered by a roof, including a porch, portico, breezeway, passageway, or corridor,~~

~~B. A mezzanine or loft, and]~~

3.3 2 Subject to the limitations in paragraph C below, the following parking areas and structures are excluded from gross floor area for purposes of this Subchapter [~~C. The covered portion of a parking area, except for]~~

A.[1.] Up to 450 square feet of.

1.[a.] A detached rear parking area that is separated from the principal structure by not less than 10 feet, [~~or]~~

2 A rear parking area that is 10 feet or more from the principal structure, provided that the parking area is either

a detached from the principal structure, or

b attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width, or

3 [~~b-~~] A parking area that is open on two or more sides, if

i it does not have habitable space above it, and

ii the open sides are clear and unobstructed for at least 80% of the area measured below the top of the wall plate to the finished floor of the carport

B.[2.] Up to 200 square feet of

1. An [~~an~~] attached parking area if it used to meet the minimum parking requirement, or [~~-~~]

2. A garage that is less than 10 feet from the rear of the principal structure, provided that the garage is either

a detached from the principal structure, or

b. attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width

- C An applicant may receive only one 450-square foot exemption per site under paragraph A. An applicant who receives a 450-square foot exemption may receive an additional 200-foot exemption for the same site under paragraph B, but only for an attached parking area used to meet minimum parking requirements.

3.3.3 [3.3.2] Porches, basements, and attics that meet the [The] following requirements shall be excluded from the calculation of gross floor area.

- A A ground floor porch, including a screened porch, provided that,
- 1 the porch is not accessible by automobile and is not connected to a driveway, and
  - 2 the exemption may not exceed 200 square feet if a porch has habitable space or a balcony above it
- B. A habitable portion of a building that is below grade if
- 1 The habitable portion [It] does not extend beyond the first-story footprint[;] and is
    - a Below natural or finished grade, whichever is lower, and
    - b Surrounded by natural grade for at least 50% of its perimeter wall area, if the habitable portion is required to be below natural grade under paragraph 1 a
  - 2 The finished floor of the first story is not more than three feet above the average elevation at the intersections of the minimum front yard setback line and the side property lines[; and]
- C A habitable portion of an attic, if
- 1 The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater,
  - 2 It is fully contained within the roof structure;
  - 3 It has only one floor,
  - 4 It does not extend beyond the footprint of the floors below,

- 5     It is the highest habitable portion of the building, or a section of the building, and adds no additional mass to the structure, and
- 6     Fifty percent or more of the area has a ceiling height of seven feet or less

3 3 4     An enclosed area shall be excluded from the calculation of gross floor area if it is five feet or less in height. For purposes of this subsection

A.     Area is measured on the outside surface of the exterior walls; and

B     Height is measured from the finished floor elevation, up to either

1.     the underside of the roof rafters; or

2     the bottom of the top chord of the roof truss, but not to collar ties, ceiling joists, or any type of furred-down ceiling

**PART 15.** Section 3 4 (*Height*) of City Code Chapter 25-2, Subchapter F is amended to amend Subsection 3 4 1, and to add new a Subsection 3 4 6, to read:

### **3.4. HEIGHT**

For purposes of this Subchapter, the HEIGHT of a building or setback plane shall be measured as follows:

3 4 1     Height shall be measured vertically from the average of the highest and lowest grades adjacent to the building to

A.     For a flat roof, the highest point of the coping,

B     For a mansard roof, the deck line;

C.     For a pitched or hip roof, the gabled roof or dormer with the highest average height [~~the average height of the highest gable~~], or

D     For other roof styles, the highest point of the building

3.4.6     The habitable portion of a basement that is below natural grade and the habitable portion of an attic do not count toward the number of stories for purposes of Section 25-2-773(B)(5) (*Duplex Residential Use*) if the area satisfies the requirements for an exemption from gross floor area under subsections 3 3 2 B-C of this Subchapter

**PART 16.** The city council directs the city manager to conform the pictures in City Code Chapter 25-2, Subchapter F, to the code text amendments adopted by this ordinance See. Exhibit A (Corrected Drawings to Replace Figures 12, 18, 19, and 20 in City Code Chapter 25-2, Subchapter F)

**PART 17.** This ordinance takes effect on June 29, 2008.

**PASSED AND APPROVED**

\_\_\_\_\_, June 18, 2008

§  
§  
§

\_\_\_\_\_  
Will Wynn  
Mayor

**APPROVED:**

\_\_\_\_\_  
David Allan Smith  
City Attorney

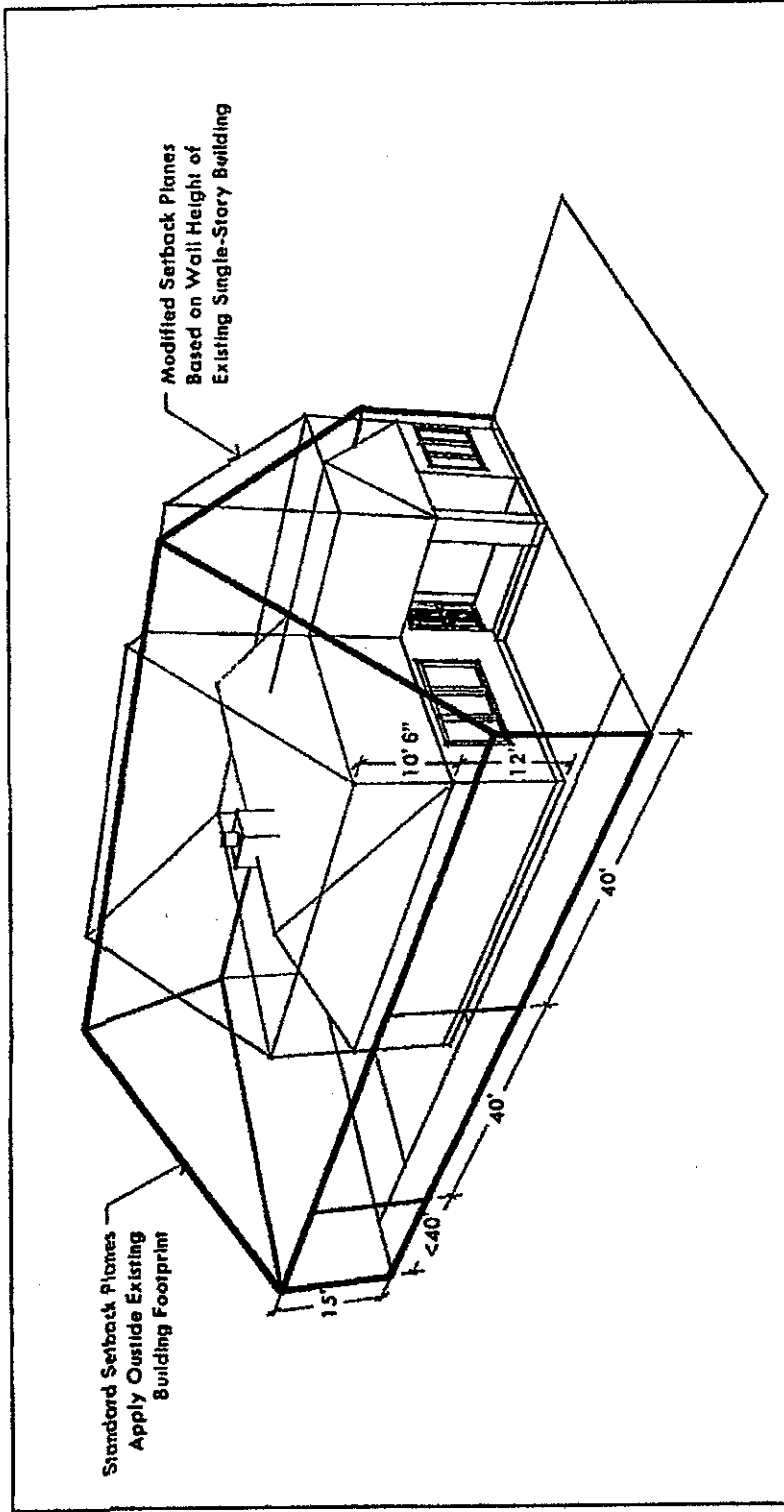
**ATTEST:**

\_\_\_\_\_  
Shirley A Gentry  
City Clerk

***CORRECTED DRAWINGS  
TO REPLACE FIGURES 12, 18, 19, AND 20 IN CITY CODE  
CHAPTER 25-2, SUBCHAPTER F***

**EXHIBIT A TO:**

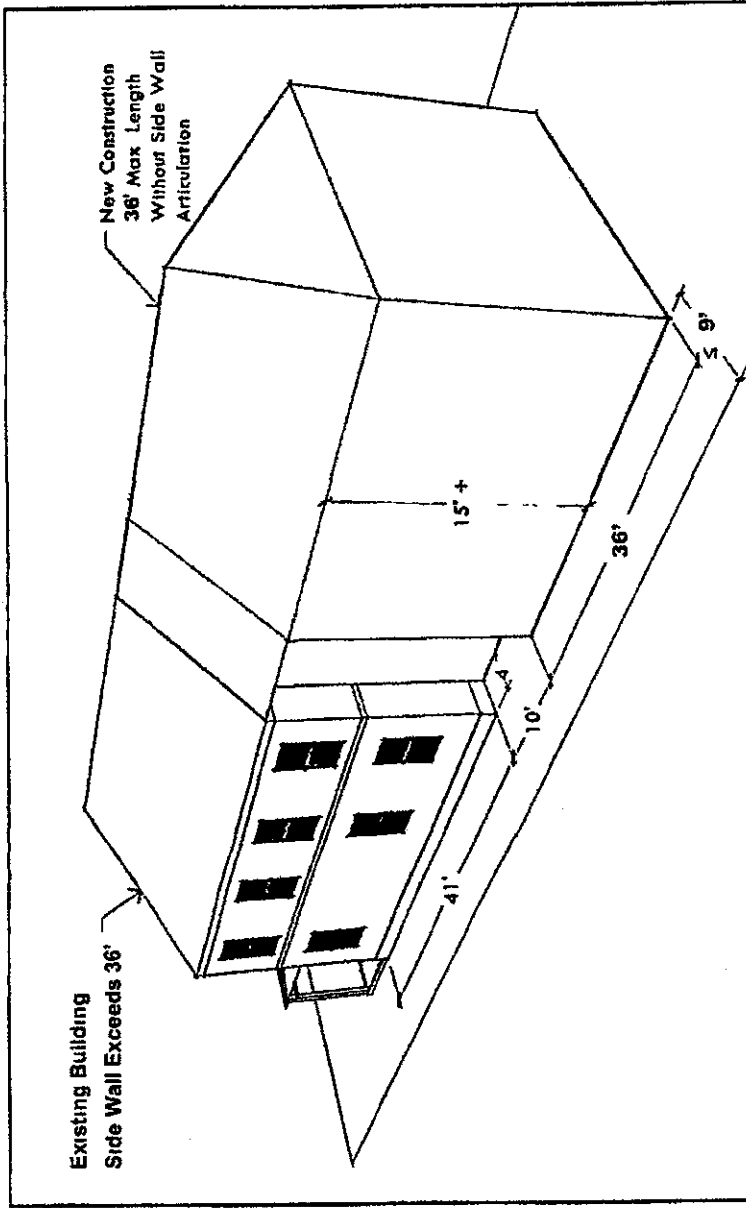
**ORDINANCE NO. 20080618-093**



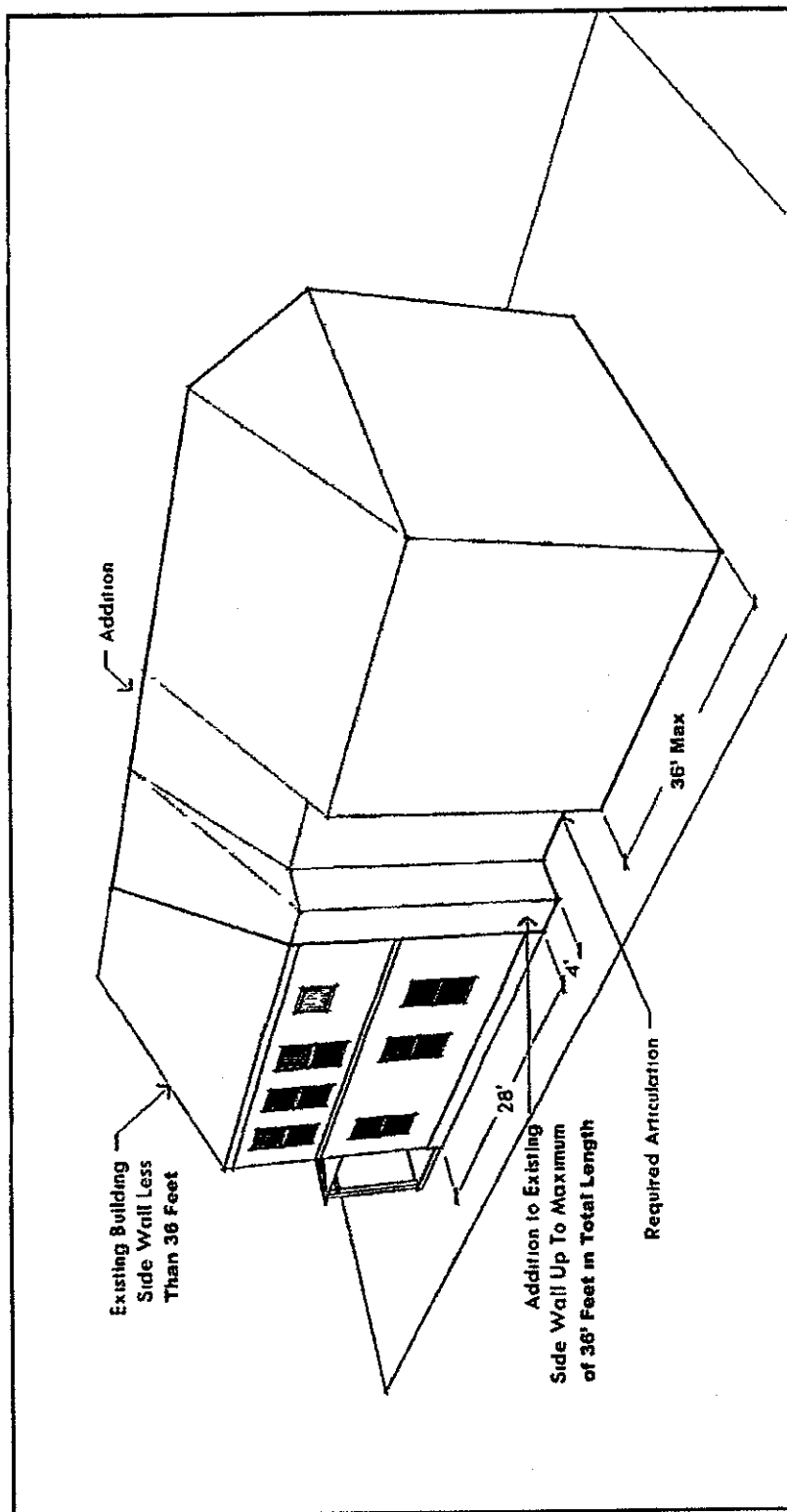
**Figure 12: Side Setback Plane Exception for Existing Single-Story Buildings**

The side setback planes for an existing single-story building are determined based on the height of the sidewall. In this example, the horizontal line that forms the base of the setback plane is placed ten feet and six inches above the sidewall height (12 feet). The revised plane rises above the standard setback plane within the area of the building footprint. The standard setback planes created in sections 2.6.A and B apply outside of the existing footprint.



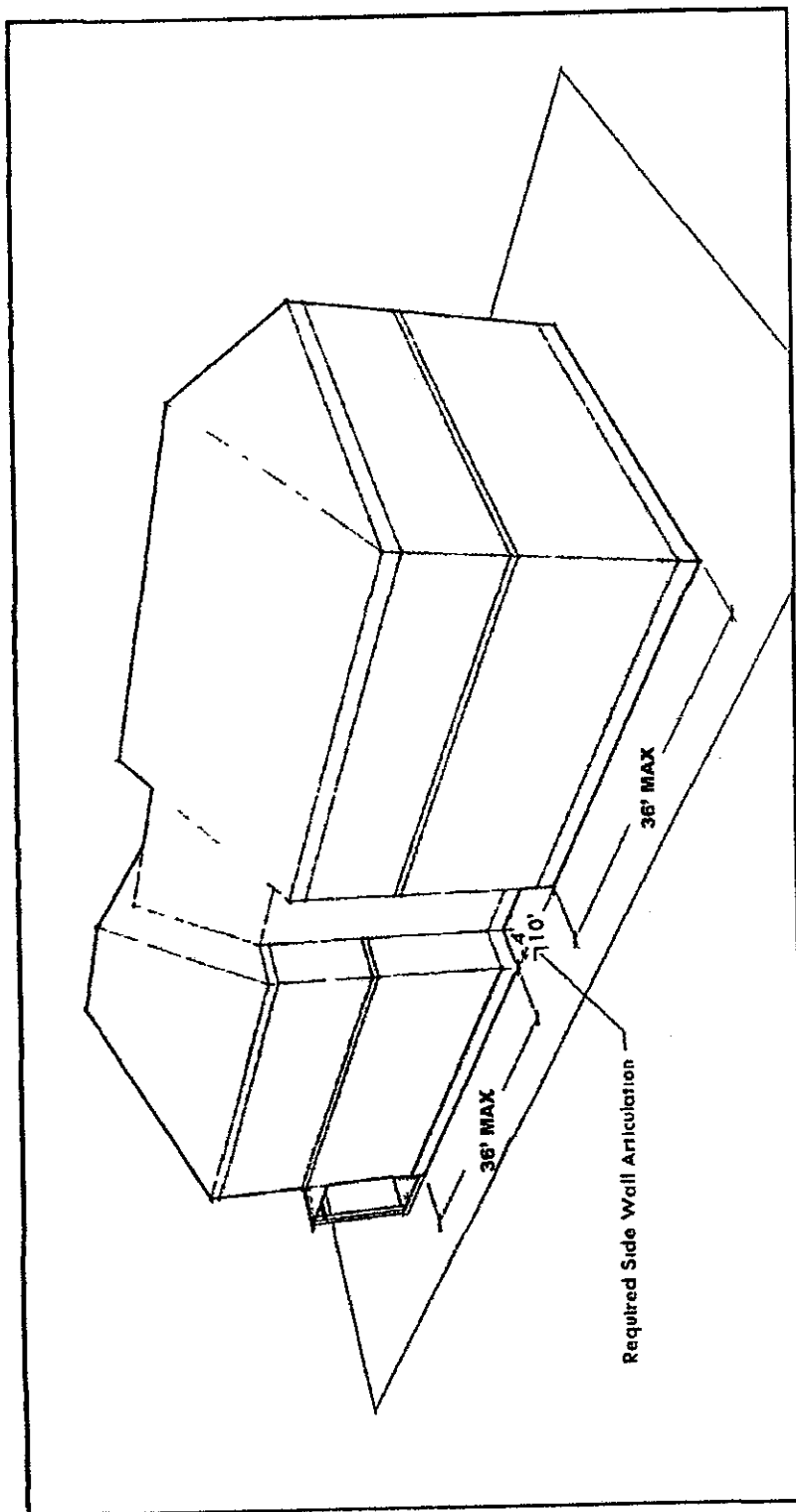


**Figure 18: Side Wall Articulation (Existing Side Wall Exceeds 36 Feet)**  
 Articulation is required for side walls on additions or new construction that are 15 feet or taller and located within 9 feet of the side lot line. No wall may extend for more than 36 feet without a projection or recession of at least 4 feet in depth and 10 feet in length.



**Figure 19: Side Wall Articulation (Existing Side Wall Less Than or Equal to 36 Feet)**

*An addition to an existing building may extend a side wall up to a maximum of 36' in total length without articulation*



**Figure 20: Side Wall Articulation (New Construction)**

*All new construction must meet the sidewall articulation standards*

EXHIBIT Ex8



american institute of architects

April 15, 2008

Mr. Jay Reddy  
Chair, Codes and Ordinances Sub-Committee  
Planning Commission  
City of Austin

Austin Center for Architecture  
801 W. 12th Street  
Austin, TX 78701  
512.452.4332  
FAX 512.452.2284  
[www.aiaaustin.org](http://www.aiaaustin.org)

Re: Agenda Item B. 3., 4/15/08 Codes and Ordinances Sub-Committee Proposed  
Revisions to *Chapter 25-2 Zoning, Land Development Code Subchapter F:  
Residential Design and Compatibility Standards*

Dear Mr. Reddy:

The Austin Chapter of the American Institute of Architects welcomes the opportunity for public dialogue and input regarding proposed changes to the *Residential Design and Compatibility Standards*. The AIA encourages its members to actively participate in the community, and to apply one's professional knowledge, skill and experience to engage in civic life. AIA Austin also embraces this policy, and works through its members – professional architects and design leaders – to advocate for responsible design that results in beautiful, healthy, sustainable places that reflect society's diverse cultures and needs. Recognizing that revised regulatory requirements have a profound impact on the nature and form of this design, we have engaged in an internal analysis of the proposed revisions.

Over the last two months, the Residential Committee of AIA Austin has facilitated discussions regarding the proposed revisions to the *Residential Design and Compatibility Standards*, and has explored other issues architects and designers are experiencing with the implementation, interpretation and enforcement of the ordinance. The Residential Committee is composed of practitioners – architects, designers, and homebuilders – with special expertise in residential building types. The Residential Committee has identified five items on which they offer additional comments for your consideration, and one item on which they offer recommended ordinance language, at the request of City staff.

We recognize and appreciate the considerable effort to analyze and propose revisions to the current ordinance that has been put forth by the Residential Development Regulation Task Force, including the work of AIA Austin's delegate to that body. The commentary from the AIA Austin practitioner group is intended to complement this effort. We hope these comments can be considered in the context of contemplating revisions to the *Residential Design and Compatibility Standards*, as the Codes and Ordinances Sub-Committee prepares its recommendations to the Planning Commission and Council.

Thank you for your service to our city.

Very truly yours,

Rudy Delgado, AIA  
President, AIA Austin

cc: Codes and Ordinances Sub-Committee members  
AIA Austin Executive Committee members  
Dora Anguiano  
Jessica King  
file

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Bess Althaus Graham, AIA  
Membership Commissioner

Lisa Tipps  
Honorary TSA/AIA Austin  
Public Member

Sally Ann Fly  
Honorary AIA  
Executive Director

**AIAA Comment Regarding Task Force Recommendation 10 – Side wall articulation - 15' wall height measurement (Section 2.7)**

In addition to the recommendations made by the Task Force, we suggest consideration of an alternative or additional method for wall height measurement on steeply sloping lots. This would make this change consistent with current requirements of determining the Side Setback Plane or 'tenting requirement' as determined by Section 2.6.A. The following language describes this suggestion:

*For purposes of this subsection (Section 2.7) the 15 feet height measurement will be measured from the highest point of natural grade in each 40' portion of the lot as determined by Setback Planes (Section 2.6) to the top of the wall plate (needs a definition). For purposes of this subsection a wall with a height of less than 10'-1" would be exempted from sidewall articulation regardless of the slope of lot, and a wall of greater than 15' would be required to have sidewall articulation regardless of the slope of the lot.*

**AIAA Comment Regarding Task Force Recommendation 13 – Parking area – Gross Floor Area (Section 3.3.1.C)**

There may be unintended consequences to the Task Force recommendation for this item, which may impact the economic viability of more moderately priced duplexes. The following language might be considered, as a way to mitigate this unintended consequence:

*An applicant can only receive one 200 square foot exemption per primary dwelling unit for attached parking under Section 3.3.1.C.2. Further under the subsection 3.3.1. A maximum exemption of up to 650 s.f. can be utilized per site if the 650 s.f. is utilized to meet the minimum parking requirement.*

**AIAA Comment Regarding Task Force Recommendation 18 - Below Grade (Basement) Exemption (Section 3.3.2 B)**

An unintended consequence of the proposed change may be the elimination of habitable basement spaces, and proposed revision may not properly restrict the abuse of the basement exemption. The following language might be considered, to mitigate this:

- 1.) Below grade portions must be achieved below natural grade; and*
- 2.) The exempted habitable space below grade must have at least 60 percent of the building's perimeter wall area surrounded by natural grade.*

**AIAA Comment Regarding Task Force Recommendation 21 - Gross Floor Area (Section 3.3)**

An unintended consequence of the proposed elimination of the FAR exemption for enclosed spaces below 6' is that this may be overly restrictive, and generally discourage the use of things like habitable attic spaces. Habitable attic spaces can effectively serve to reduce overall building mass, which is a goal of the *Residential Design and Compatibility Standards*. Under the proposed revision, the FAR area will now include unfinished, but enclosed spaces, even for things like mechanical equipment. It may be preferable to use a height lower than 6', and to also prohibit the use of "furr downs" to artificially reduce the height.

The following language might be considered, to mitigate this:

*Section 25-1-21 (43) GROSS FLOOR AREA means the total enclosed area of all floors in a building with a clear height of more than five feet, measured to the outside surface of the exterior walls.*

**AIAA Comment Regarding Task Force Recommendation 28 - Duplex Chart 5.3**

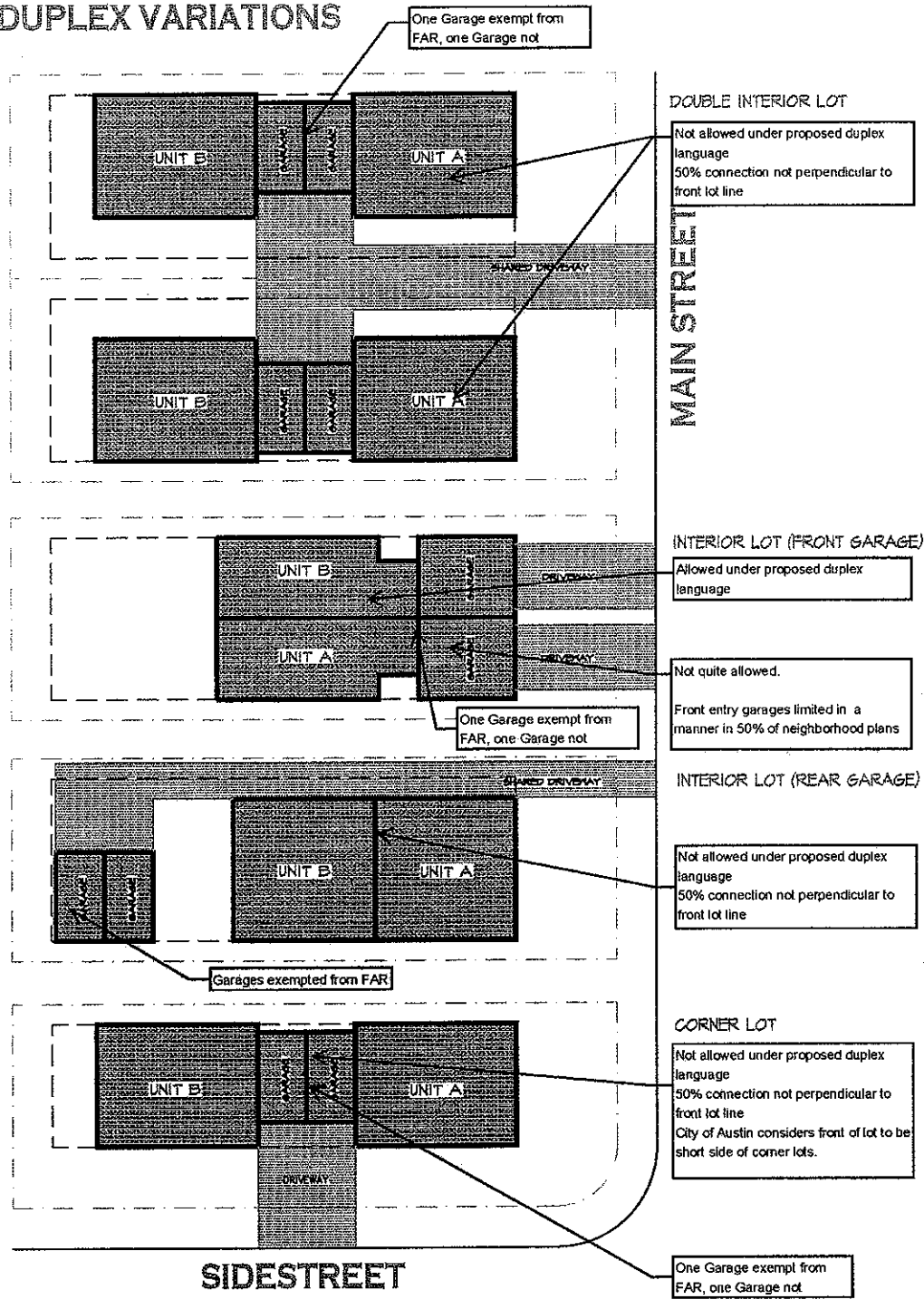
Duplexes are a useful building type to maintain affordability, density, and sustainability in communities. The proposed revision may limit design options that are compatible with the character and scale of traditional neighborhoods. While the intent of the suggested revision is apparently to limit incompatible infill development in traditional neighborhoods, the language put forth would also drastically limit the available design tools for bringing forth compatible duplex development. (See attached Duplex Variation diagrams.) We also recognize that this may well be a complex issue to resolve, requiring further thought and dialogue to do so. If AIA Austin can be helpful in that process, we would be happy to participate.

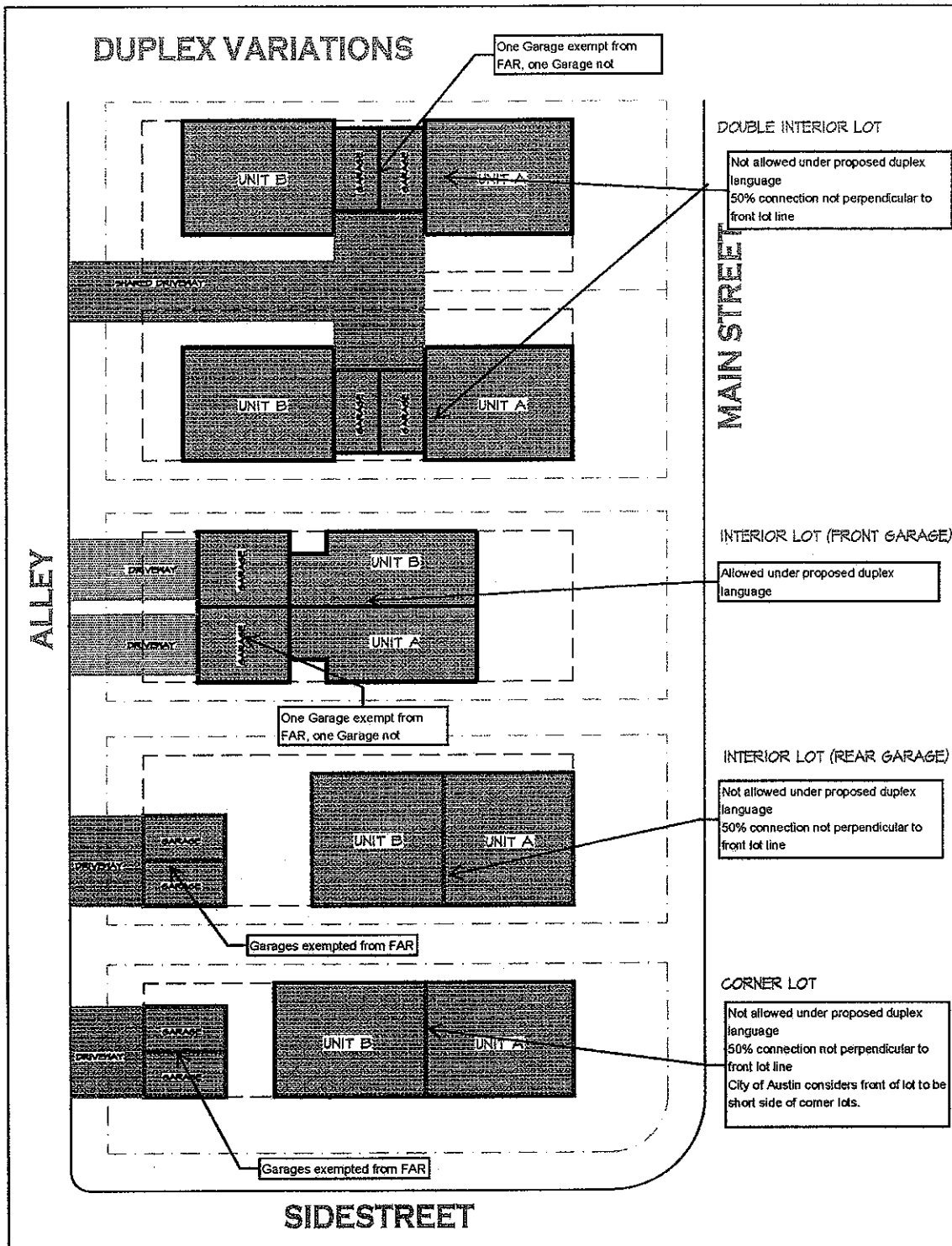
**AIAA Comment Regarding Horizontal Articulation (Input as requested by COA Residential Review Staff)**

The Task Force was not able to address this issue in the course of their review of the *Residential Design and Compatibility Standards*. The City of Austin Residential Review staff desired an additional design tool to use in providing compliance with the Side Wall Articulation provisions of Paragraph 2.7. In response to a staff request, we offer the following proposed language to be added to Paragraph 2.7. Side Wall Articulation:

*For lengths of sidewall 50' or less in length and with a wall height of 15' or less, the sidewall articulation requirement may be satisfied by the second floor being set back from the first floor so that the second floor wall is 9' or greater from the side property line.*

# DUPLEX VARIATIONS







# EXHIBIT Ex 9



## MEMORANDUM

**TO:** Residential Review Planners

**FROM:** Jessica Kingpetcharat, Planner Principal  
WPDRD Residential Review

**DATE:**

**SUBJECT:** Attic Exemption

On April 4, 2007, Erica Eichert, former supervisor of Residential Review released a memo regarding the calculation of attic space with regards to gross floor area. This memo replaces the previous memo and further clarifies the attic space exemption.

Land Development Code 25-2, Subchapter F ("McMansion") states that a habitable portion of an attic may be exempted from gross floor area calculations if:

1. The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater.
2. **It is fully contained within the roof structure;**
3. It has only one floor;
4. It does not extend beyond the footprint of the floors below;
5. It is the highest habitable portion of the building; and
6. **Fifty percent or more of the area has a ceiling height of seven feet or less.**

Unfinished, non-habitable attic spaces accessed with pull-down stairs or ladders are not counted towards the gross floor area of a building. These areas may only be used for storage. If walls are erected in these areas, the area must be counted towards gross floor area unless the space or a portion of the space qualifies for another type of exemption.

Roofing structure is intended to mean a structural element that provides structural support to the roofing system.

Because habitable attic space requires egress to meet Building Code standards, dormers and gables shall qualify as being fully contained within the roof structure. However, the space within the dormers and gables will be included in the height calculation when determining if the space to be exempted meets part 6 of the criteria listed above.

The height of the area to be exempted shall be measured from the finished floor elevation (FFE) of the floor area to be exempted to:

- The underside of the roof rafters at the outer most support wall of the attic, or
- The bottom of the top chord of the roof truss (e.g. underside of roof rafters or as defined in BCM. Height may not be measured to collar ties, ceiling joists or any type of furred down ceiling.)

When determining whether a habitable portion of an attic qualifies for the gross floor area exemption, the entire attic floor space is counted towards the area of the attic. In the example(s) below,  $X + Z$  must be greater than  $Y$  to be exempted from gross floor area calculations.

To be considered for the exemption, applicants must provide the following at a minimum:

- Lines on the plans identifying the finished floor elevation of each floor
- Line on the plan identifying underside of the roof decking, roof rafters, or bottom of the top chord of the roof truss
- Detail and sectional of the area to be exempted
- Floor plan of the area

Examples:

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE AMENDING CITY CODE SECTION 25-2-773 RELATING TO  
2 DUPLEX HEIGHT REQUIREMENTS; AMENDING CITY CODE SECTION 25-  
3 2-1051 RELATING TO DESIGN STANDARDS AND MIXED USE; AMENDING  
4 CITY CODE SECTION 25-2-1406 RELATING TO NEIGHBORHOOD PLAN  
5 COMBINING DISTRICTS; AND AMENDING CITY CODE CHAPTER 25-2,  
6 SUBCHATER F RELATING TO RESIDENTIAL DESIGN AND  
7 COMPATABILITY.

8  
9 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

10  
11 PART 1. Subsections (B) and (D) of City Code Section 25-2-773 (*Duplex Residential*  
12 *Use*) are amended to read:

13  
14 § 25-2-773 DUPLEX RESIDENTIAL USE.

15  
16 (B) For a duplex residential use:

- 17  
18 (1) minimum lot area is 7,000 square feet;  
19  
20 (2) minimum lot width is 50 feet;  
21  
22 (3) maximum building cover is 40 percent;  
23  
24 (4) maximum impervious cover is 45 percent; and  
25  
26 (5) maximum building height is the lesser of:

27  
28 (a) 30 feet; or  
29

30 (b) two stories, except that an attic or basement does not count as a story for  
31 purposes of this subsection if it satisfies the requirements for an exemption from gross  
32 floor area under Subsections 3.3.2 and 3.4.6 of Subchapter F (*Residential Design and*  
33 *Compatibility Standards*).

34  
35 (D) The two dwelling units are subject to the following requirements:

36 (1) The two units must have a common [wall-or] floor and ceiling or a common  
37 wall, which may be a common garage wall, that:

1           (a) extends for at least 50 percent of the maximum depth of the building, as  
2 measured from the front to the rear of the lot; and

3           (b) maintains a straight line for a minimum of four foot intervals or segments.

4           (2) The two units must have a common roof, [~~;~~ and]

5           (3) At least one of the two units must have a front porch that faces the front  
6 street and an entry to the dwelling unit, except that units located on a corner lot must each  
7 have a front porch that faces a separate street and an entry to the dwelling unit.

8  
9           (4) The two units may not be separated by a breezeway, carport, or other open  
10 building element.

11  
12 **PART 2.** Subsection (A) of City Code Section 25-2-1051 (*Applicability*) is amended to  
13 read:

14  
15 **§ 25-2-1051 APPLICABILITY.**

16  
17           (A) Except as provided in Section 25-2-1052 (*Exceptions*) or another specific  
18 provision of this title, this article applies to the following uses:

19  
20           (1) A (~~a~~) use in a townhouse and condominium residence (SF-6) or less  
21 restrictive zoning district and to a civic use described in Subsection (B) that is located on  
22 property:

23  
24           (a)[~~(1)~~] across the street from or adjoining property:

25  
26           (i)[~~(a)~~] in an urban family residence (SF-5) or more restrictive zoning  
27 district;

28  
29           (ii)[~~(b)~~] on which a use permitted in an SF-5 or more restrictive zoning  
30 district is located, other than a dwelling permitted by Section 25-2-894 (*Accessory Uses*  
31 *For A Principal Commercial Use*); or

32  
33           (iii)[~~(c)~~] in a traditional neighborhood (TN) zoning district; or

34  
35           (b)[~~(2)~~] located 540 feet or less from property in:

36  
37           (i)[~~(a)~~] an SF-5 or more restrictive zoning district;

38  
39           (ii)[~~(b)~~] a TN district; or

1  
2 (iii)(a) a development reserve (DR) zoning district.  
3

4 (2) A use listed in Subsections 1.2.2(K)-(Q) of Subchapter F (*Residential*  
5 *Design and Compatibility Standards*), if the owner has agreed to comply with the  
6 requirements of this article in a manner prescribed by the director under Subsection 1.3.3  
7 of Subchapter F.  
8

9 **PART 3.** City Code Section 25-2-1406 (*Ordinance Requirements*) is amended to read:

10  
11 **§ 25-2-1406 ORDINANCE REQUIREMENTS.**  
12

13 An ordinance zoning or rezoning property as a NP combining district:

14  
15 (1) must prescribe the special uses described in Section 25-2-1403 (*Special Uses*)  
16 that are permitted in the district;  
17

18 (2) must describe the location of each residential infill special use, neighborhood  
19 urban center special use, or neighborhood mixed use building special use, if any;  
20

21 (3) may restrict the time of day during which a business in a neighborhood mixed  
22 use building special use may be open to the public;  
23

24 (4) may restrict a corner store special use, cottage special use, secondary apartment  
25 special use, or urban home special use, if any, to a designated portion of the district;  
26

27 (5) for a single-family residential use or a secondary apartment special use on an  
28 existing legal lot:  
29

30 (a) may reduce the required minimum lot area to 2,500 square feet;

31 (b) may reduce the required minimum lot width to 25 feet; and  
32

33 (c) for a lot with an area of 4,000 square feet or less, may increase the maximum  
34 impervious coverage to 65 percent;  
35

36  
37 (6) may apply the requirements of Section 25-2-1602 (*Front Porch Setback*),  
38 Section 25-2-1603 (*Impervious Cover and Parking Placement Requirements*), or Section  
39 25-2-1604 (*Garage Placement*) to the district or a designated portion of the district;  
40

1 (7) may restrict front yard parking by including all or a portion of the district in the  
2 restricted parking area map described in Section 12-5-29 (*Front or Side Yard Parking*);  
3 and  
4

5 (8) may apply the requirements of Section 25-2-812(N) (*Mobile Food*  
6 *Establishments*) to the district or a designated portion of the district.  
7

8 (9) may modify the following requirements of Subchapter F (*Residential Design*  
9 *And Compatibility Standards*) for the district or a designated portion of the district:  
10

11 (a) the maximum floor-to-area ratio and maximum square footage of gross floor  
12 area prescribed by Subchapter F (*Residential Design And Compatibility Standards*);  
13

14 (b) the maximum linear feet of gables or dormers protruding from the setback  
15 plane;  
16

17 (c) the height of the side and rear setback planes; and  
18

19 (d) the minimum front yard setback requirement.  
20

21 **PART 4.** Subsection 1.2.2 of Section 1.2 (*Applicability*) of City Code Chapter 25-2,  
22 Subchapter F is amended to amend Subsections I and J and to add new Subsections K-Q  
23 to read:  
24

## 25 **1.2. APPLICABILITY**

26  
27 1.2.2. Used for a:

28  
29 A. Bed and breakfast (group 1) residential use;

30  
31 B. Bed and breakfast (group 2) residential use;

32  
33 C. Cottage special use;

34  
35 D. Duplex residential use;

36  
37 E. Secondary apartment special use;

38  
39 F. Single-family attached residential use;

40  
41 G. Single-family residential use;

- 1  
2 H. Small lot single-family residential use;  
3  
4 I. Two-family residential use; [øø]  
5  
6 J. Urban home special use;[-]  
7  
8 K. Club or lodge;  
9  
10 L. Daycare services (general and limited);  
11  
12 M. Family homes;  
13  
14 N. Group homes (general and limited);  
15  
16 O. Condo residential;  
17  
18 P. Retirement housing (small and large site); or  
19  
20 Q. Townhouse residential.

21  
22 **PART 5.** Subsections 1.3.1 and 1.3.3 of Section 1.3 (*Exceptions*) of City Code Chapter  
23 25-2, Subchapter F are amended to read:  
24

25 **1.3. Exceptions**

26  
27 1.3.1. This Subchapter does not apply to a lot zoned as a single-family residence  
28 small lot (SF-4A) district unless the lot is adjacent to property zoned as a  
29 single-family residence standard lot (SF-1), single-family residence standard  
30 lot (SF-2) district, or family residence (SF-3) district.  
31

32 1.3.3. This Subchapter does not apply to uses listed in subsections 1.2.2(K)-(Q) of  
33 Section 1.2 if an applicant has agreed, in a manner prescribed by the  
34 director, to comply with the requirements of Chapter 25-2, Article 10  
35 (Compatibility Standards). [~~The side wall articulation requirement does not~~  
36 ~~apply to new construction that is less than 2,000 square feet in gross floor~~  
37 ~~area and that is less than 32 feet in height.~~]  
38

39 **PART 6.** Subsection 1.4.1(A) of Section 1.4.1 (*Conflicting Provisions*) of City Code  
40 Chapter 25-2, Subchapter F is amended to read:  
41

## 1.4. Conflicting Provisions

1.4.1. To the extent of conflict, this Subchapter supersedes:

A. Section 25-1-21 (Definitions);

B.[A] Section 25-2-492 (Site Development Regulations);

C.[B] Section 25-2-555 (Family Residence (SF-3) District Regulations);

D.[C] Section 25-2-773 (Duplex Residential Use);

E.[D] Section 25-2-774 (Two-Family Residential Use);

F.[E] Section 25-2-778 (Front Yard Setback for Certain Residential Uses);

G.[F] Section 25-2-779 (Small Lot Single-Family Residential Uses); and

H.[G] Section 25-4-232 (Small Lot Subdivisions).

**PART 7.** Section 2.1 (*Maximum Development Permitted*) of City Code Chapter 25-2, Subchapter F is amended to read:

### 2.1. MAXIMUM DEVELOPMENT PERMITTED

The maximum amount of development permitted on a property subject to this Subchapter is limited to the greater of 0.4 to 1.0 floor-to-area ratio or 2,300 square feet of gross floor area, as defined in Section 3.3. Floor-to-area ratio shall be measured using gross floor area as defined in Section 3.3, except that the lot area of a flag lot is calculated consistent with the requirements of Section 25-1-22 (*Measurements*).

**PART 8.** Subsection B of Section 2.3 (*Average Front Yard Setback*) of City Code Chapter 25-2, Subchapter F is amended to read:

### 2.3. Average Front Yard Setback

**B. Average Front Yard Setback.** The following rules apply for purposes of the setback calculation required by paragraph A.2:

1. A front yard setback is the distance between the front lot line and the closest front exterior wall or building façade of the principal residential structure



1 located on the lot. ~~[An average front yard setback is determined based on the~~  
2 ~~setbacks of each principal residential structure that is built within 50 feet of its~~  
3 ~~front lot line.]~~  
4

5 2. Except as provided in paragraph 3[-], average front yard setback is  
6 determined using the front yard setback of the four principal residential structures  
7 that are: (a) built within fifty feet of the front lot line; and (b) closest to, and [the  
8 subject property] on the same side of the block, as the property subject to the  
9 setback required by this section ~~[shall be used in the calculation of average front~~  
10 ~~yard setback. If there are less than four structures on the same side of the block,~~  
11 ~~the lesser number of structures is used in the calculation].~~  
12

13 3. If less than four structures satisfy the criteria in paragraph B.2, average  
14 front yard setback is calculated using the number of existing residential structures  
15 on the same side of the street block as the property subject to the setback required  
16 by this section. If there are no structures on the same side of the block, average  
17 front yard setback is calculated using the front yard setbacks of the four structures  
18 on the opposite side of the block that are closest to the [subject] property subject to  
19 the setback required by this section ~~[and across the street are used in the~~  
20 ~~calculation].~~ If there are less than four structures on the opposite side of the block  
21 ~~[across the street],~~ the lesser number of structures is used in the calculation. See  
22 Figure 1.  
23

24 **PART 9.** Section 2.4 (*Rear Yard Setback*) of City Code Chapter 25-2, Subchapter F is  
25 amended to read:  
26

## 27 **2.4. REAR YARD SETBACK.**

28  
29 The principal structure shall comply with the rear yard setback prescribed by  
30 other provisions of this Code. All other structures shall comply with the rear  
31 yard setback provisions of this Code, but the minimum rear yard setback of a  
32 second dwelling unit may be reduced to five feet if the rear lot line is  
33 adjacent to an alley. See Figure 2.  
34

35 **PART 10.** Subsections A, B, and D of Section 2.6 (*Setback Planes*) of City Code  
36 Chapter 25-2, Subchapter F are amended to read:  
37

## 38 **2.6 SETBACK PLANES**

### 39 **A. Side Setback Plane**

40

1 Except as provided in subsection [B.] D, an inwardly sloping 45-  
2 degree angle side setback plane begins at a horizontal line 15 feet  
3 directly above the side property line. The 15-foot height of the  
4 horizontal line is established for 40-foot deep portions of the lot  
5 beginning at the building line and extending to the rear of the lot,  
6 except that the last portion at the rear of the lot may be less than 40  
7 feet deep. See Figures 3 through 5.

- 8  
9 1. For the first portion, the 15-foot height of the horizontal line is  
10 measured at the highest of the elevations of the four  
11 intersections of the side lot lines, the building line, and a line 40  
12 feet from and parallel to the building line.
- 13  
14 2. For successive portions other than the last portion, the 15-foot  
15 height of the horizontal line is measured at the highest of the  
16 elevations of the four intersections of the side lot lines and the  
17 appropriate two lines that are 40 feet apart and parallel to the  
18 building line.
- 19  
20 3. For the last portion, the 15-foot height of the horizontal line is  
21 measured at the highest of the elevations of the four  
22 intersections of the side lot lines, the appropriate line parallel to  
23 the building line, and the rear lot line.

24  
25 **B. Rear Setback Plane**

26 Except as provided in subsection D, an [A.] inwardly sloping 45-  
27 degree angle rear setback plane begins at a horizontal line directly  
28 above the rear property line at the same elevation as the horizontal  
29 line for the last portion of the side setback plane established in  
30 paragraph A.3. See Figures 6 through 9.

31  
32 **D. Side and Rear Setback Plane Exceptions for Existing One-Story**  
33 **Buildings.**

- 34  
35 1. Except as provided in paragraph 3 below, an applicant  
36 proposing to add a second story [This subsection applies] to a  
37 one-story building may choose either of the following side  
38 setback planes for the portion of the project that is within the  
39 building footprint [was] originally constructed, or permitted for  
40 [received a building permit for the] original construction, before

1 October 1, 2006<sup>[5]</sup>; ~~[and that is remodeled to add a second~~  
2 ~~story.]~~  
3

4 a. The side setback plane required under subsection A.  
5

6 b. ~~[1. For the portion of the construction that is within the~~  
7 ~~footprint of the building that was originally constructed~~  
8 ~~or received a building permit before October 1, 2006,~~  
9 ~~the] The inwardly sloping 45-degree angle side setback~~  
10 plane that begins at a horizontal line directly above the  
11 outermost side wall at a height [that is] equal to the  
12 height of the first floor wall plate that was originally  
13 constructed or received a building permit before October  
14 1, 2006, plus 10 and one-half [ten] feet. See Figure 12.  
15 The wall plate is the lowest point of the existing first  
16 floor ceiling framing that intersects the exterior wall.  
17

18 2. Except as provided in paragraph 3 below, an applicant  
19 proposing to add a second story to a one-story building may  
20 choose either of the following rear setback planes for the  
21 portion of the project that is within the building footprint  
22 originally constructed, or permitted for original construction,  
23 before October 1, 2006:  
24

25 a. The rear setback plane required under subsection B.  
26

27 b. An inwardly sloping 45-degree angle rear setback plane  
28 that begins at a horizontal line directly above the rear  
29 property line at a height equal to the height of the first  
30 floor wall plate that was originally constructed or  
31 received a building permit before October 1, 2006, plus  
32 10 and one-half feet.  
33

34 3. The side setback plane required under subsection A, and the  
35 rear setback plane required under subsection B, apply to:  
36

37 a. any ~~[For the]~~ portion of the proposed construction that is  
38 outside of the building footprint originally constructed, or  
39 ~~[received a building permit]~~ permitted for original  
40 construction, before October 1, 2006<sup>[5]</sup>, ~~the side setback~~  
41 ~~plane prescribed by subsection A. above applies.]; and~~

- b. the entire project, if any portion of the proposed construction requires the removal or demolition of exterior walls.

**PART 11.** Section 2.7 (*Side Wall Articulation*) of City Code Chapter 25-2, Subchapter F is amended to add new Subsections 2.7.1 and 2.7.2 to read:

**2.7. SIDE WALL ARTICULATION.**

2.7.1. Except as provided in subsection 2.7.2, if a [A] side wall of a building [that] is more than 15 feet high and is an average distance of 9 [15] feet or less from an interior lot line, the sidewall may not extend in an unbroken plane for more than 36 [32] feet along a side lot line without a sidewall articulation that meets the requirements of this section.

A. To break the plane, a sidewall articulation must:

1. be perpendicular to the side property line, at least [wall articulation of not less than] four feet deep, and extend [for a distance] along the side property line for at least [of not less than] 10 feet, as shown in [is required. See] Figures 18 through 20; [-]
2. extend the entire height of the first floor of an addition to, or remodel of, an existing one-story building;
3. extend the entire height of the second story of an addition to, or remodel of, a two or more story building;
4. extend to the height of the top floor of a newly constructed building; and
5. extend evenly upward for its entire height.

B. A sidewall articulation cannot:

1. create patios or decks or be screened from view; or
2. serve as an eave or gutter.

1           C.   Sidewall articulation required under this section may be satisfied by  
2           horizontal articulation, such that each story above the first story is  
3           setback further from the property line by at least nine feet and extends  
4           along the side property line for at least 10 feet.

5  
6           D.   For purposes of subsection 2.7.1, wall height:

7  
8               1.   excludes side gables; and

9  
10              2.   is measured from the lower of natural or finished grade adjacent  
11              to the structure up to the first floor wall plate, which is the  
12              lowest point of the existing first floor ceiling framing that  
13              intersects the exterior wall.

14  
15   2.7.2   The requirements of this section do not apply to:

16  
17           A   Any side of a structure that is adjacent to a commercial use, unless the  
18           commercial use is occupying a residential structure.

19  
20           B.   An addition to or remodel of an exiting principal structure, or the  
21           construction of a new principal structure, provided that the resulting  
22           structure is less than 2,000 square feet in net building coverage and  
23           less than or equal to 32 feet in height.

24  
25           C.   An addition to or remodel of an existing second structure, or the  
26           construction of a new second structure, provided that the principal  
27           structure is exempt under subsection 2.7.2.B and the resulting second  
28           structure:

29  
30               1.   does not exceed 550 square feet;

31  
32               2.   does not exceed the maximum height allowed in the base  
33               zoning district; and

34  
35               3.   is either detached from the principal structure or connected by a  
36               covered breezeway that is open on all sides, with a walkway of  
37               no more than six (6) feet in width that is covered by a roof of no  
38               more than eight (8) feet in width.

39  
40           D.   The addition of a second story to an existing one-story structure if the  
41           addition is directly above a portion of the existing one-story structure

1 that was originally constructed, or received a permit for construction,  
2 before October 1, 2006.

3  
4 E. An extension of the second floor of an existing two-story structure,  
5 provided that the building footprint of the structure is not increased.  
6

7 **PART 12.** Subsection 2.8.1 of Section 2.8 (*Modifications by the Residential Design and*  
8 *Compatibility Commission*) of City Code Chapter 25-2, Subchapter F is amended to read:  
9

10 **2.8.1. Modifications that May be Approved.** The Residential Design and  
11 Compatibility Commission may:  
12

13 A. Approve an increase of up to 25 percent in the:

- 14  
15 1. Maximum floor-to-area ratio or maximum square footage of  
16 gross floor area;  
17  
18 2. Maximum linear feet of gables or dormers protruding from the  
19 setback plane; or  
20

21 B. Waive or modify the side wall articulation requirement of Section 2.7.  
22 (*Side Wall Articulation*).  
23

24 C. In addition to modifications or waivers under subsections A and B of  
25 this section, the Residential Design and Compatibility Commission  
26 may waive the requirements of Section 2.6 (*Setback Planes*) for a  
27 subdivisions that meets the S.M.A.R.T. Housing requirement in  
28 Section 25-1-703 (*Program Requirements*) if:  
29

- 30 1. The subdivision includes a minimum of 12 lots on at least one  
31 acre; and  
32  
33 2. At least 40% of the units are reasonably priced, as provided in  
34 Section 25-1-703(C)-(D).  
35

36 **PART 13.** Subsection 2.8.2(C) of Section 2.8 (*Modifications by the Residential Design*  
37 *and Compatibility Commission*) of City Code Chapter 25-2, Subchapter F is amended to  
38 read:  
39

1 C. **Additional Procedures ~~[Criteria]~~ for Historic Properties.**  
2 ~~[The Residential Design and Compatibility Commission may~~  
3 ~~not approve a modification for:]~~  
4

- 5 1. If the proposed development of a local historic landmark  
6 or a "contributing structure," as defined in Section 25-3-  
7 351 (*Contributing Structure*), would require both a  
8 modification from the requirements of this Subchapter  
9 and a certificate of appropriateness under Section 25-11-  
10 241, the applicant must request a modification under this  
11 section prior to seeking a certificate of appropriateness.  
12 If the Residential Design and Compatibility Commission  
13 determines that the request is consistent with the  
14 approval criteria in subsection B of this section, it shall  
15 conditionally approve the modification contingent up  
16 subsequent issuance of a certificate of appropriateness by  
17 the Historic Landmark Commission under Section 25-11-  
18 243. The applicant must include a copy of the approved  
19 modification with the application for a certificate of  
20 appropriateness. [A local, state, or national historic  
21 landmark, if the modification would adversely impact the  
22 landmark's historic status;]
- 23
- 24 2. If both a modification from the requirements of this  
25 Subchapter and a non-binding recommendation from the  
26 Historic Landmark Commission are sought, the  
27 Residential Design and Compatibility Commission may  
28 not approve a modification for a structure located in the  
29 National Register Historic District before the Historic  
30 Landmark Commission issues its recommendation. [A  
31 "contributing structure," as defined in Section 25-2-351  
32 (*Contributing Structure Defined*), or a contributing  
33 structure in a National Register historic district, if the  
34 modification would adversely impact its status as a  
35 contributing structure; or
- 36
- 37 ~~3. A property listed as Priority 1 or Priority 2 on the City's~~  
38 ~~most current survey of historic assets, if the modification~~  
39 ~~would adversely impact the property's architectural~~  
40 ~~integrity or change its priority rating.]~~  
41

**PART 14.** Section 3.3 (*Gross Floor Area*) of City Code Chapter 25-2, Subchapter F is amended to amend Subsections 3.3.1 and 3.3.2, and to add new Subsections 3.3.3 and 3.3.4, to read:

### **3.3. GROSS FLOOR AREA**

3.3.1. In this Subchapter, GROSS FLOOR AREA means all enclosed space, regardless of its dimensions, that is not exempted under subsections 3.3.2, 3.3.3, or 3.3.4. [has the meaning assigned by Section 25-1-21(Definitions), with the following modifications:

~~3.3.1. The following shall be included in the calculation of gross floor area:~~

~~A. The portion of a second or third story of a building that is covered by a roof, including a porch, portico, breezeway, passageway, or corridor;~~

~~B. A mezzanine or loft; and]~~

3.3.2. Subject to the limitations in paragraph C below, the following parking areas and structures are excluded from gross floor area for purposes of this Subchapter [C. The covered portion of a parking area, except for]:

A.[1.] Up to 450 square feet of:

1.[a.] A detached rear parking area that is separated from the principal structure by not less than 10 feet; [or]

2. A rear parking area that is 10 feet or more from the principal structure, provided that the parking area is either:

a. detached from the principal structure; or

b. attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width; or

3. [b.] A parking area that is open on two or more sides, if:

i. it does not have habitable space above it; and



- 1                                   ii.     the open sides are clear and unobstructed for at least 80%  
2   of the area measured below the top of the wall plate to  
3   the finished floor of the carport.  
4

5     B.[2.] Up to 200 square feet of:  
6

- 7             1.     An [an] attached parking area if it used to meet the minimum parking  
8                     requirement; or [.]  
9  
10            2.     A garage that is less than 10 feet from the rear of the principal  
11                     structure, provided that the garage is either:  
12  
13                    a.     detached from the principal structure; or  
14  
15                    b.     attached by a covered breezeway that is completely open on all  
16                             sides, with a walkway not exceeding 6 feet in width and a roof  
17                             not exceeding 8 feet in width.  
18

19     C.     An applicant may receive only one 450-square foot exemption per site under  
20             paragraph A. An applicant who receives a 450-square foot exemption may  
21             receive an additional 200-foot exemption for the same site under paragraph  
22             B, but only for an attached parking area used to meet minimum parking  
23             requirements.  
24

25     3.3.3.[3.3.2.]Porches, basements, and attics that meet the [The] following  
26             requirements shall be excluded from the calculation of gross floor area:  
27

28     A.     A ground floor porch, including a screened porch, provided that:  
29

- 30             1.     the porch is not accessible by automobile and is not connected to a  
31                     driveway; and  
32  
33             2.     the exemption may not exceed 200 square feet if a porch has habitable  
34                     space or a balcony above it.  
35

36     B.     A habitable portion of a building that is below grade if:  
37

- 38             1.     The habitable portion [It] does not extend beyond the first-story  
39                     footprint[;] and is:  
40  
41                    a.     Below natural or finished grade, whichever is lower; and

b. Surrounded by natural grade for at least 50% of its perimeter wall area, if the habitable portion is required to be below natural grade under paragraph 1.a.

2. The finished floor of the first story is not more than three feet above the average elevation at the intersections of the minimum front yard setback line and the side property lines[;and].

C. A habitable portion of an attic, if:

1. The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater;
2. It is fully contained within the roof structure;
3. It has only one floor;
4. It does not extend beyond the footprint of the floors below;
5. It is the highest habitable portion of the building, or a section of the building, and adds no additional mass to the structure; and
6. Fifty percent or more of the area has a ceiling height of seven feet or less.

3.3.4 An enclosed area shall be excluded from the calculation of gross floor area if it is five feet or less in height. For purposes of this subsection:

A. Area is measured on the outside surface of the exterior walls; and

B. Height is measured from the finished floor elevation, up to either:

1. the underside of the roof rafters; or
2. the bottom of the top chord of the roof truss, but not to collar ties, ceiling joists, or any type of furred-down ceiling.

**PART 15.** Section 3.4 (*Height*) of City Code Chapter 25-2, Subchapter F is amended to amend Subsection 3.4.1, and to add new a Subsection 3.4.6, to read:

1 **3.4. HEIGHT**

2  
3 For purposes of this Subchapter, the HEIGHT of a building or setback plane shall be  
4 measured as follows:

5  
6 3.4.1. Height shall be measured vertically from the average of the highest and  
7 lowest grades adjacent to the building to:

8  
9 A. For a flat roof, the highest point of the coping;

10  
11 B. For a mansard roof, the deck line;

12  
13 C. For a pitched or hip roof, the gabled roof or dormer with the highest average  
14 height [the average height of the highest gable]; or

15  
16 D. For other roof styles, the highest point of the building.

17  
18 3.4.6. The habitable portion of a basement that is below natural grade and the  
19 habitable portion of an attic do not count toward the number of stories for  
20 purposes of Section 25-2-773(B)(5) (Duplex Residential Use) if the area  
21 satisfies the requirements for an exemption from gross floor area under  
22 subsections 3.3.2.B-C of this Subchapter.

23  
24 **PART 16.** This ordinance takes effect on \_\_\_\_\_, 2008.

25  
26 **PASSED AND APPROVED**

27  
28 §  
29 §  
30 \_\_\_\_\_, 2008 § \_\_\_\_\_  
31 Will Wynn  
32 Mayor

33  
34  
35 **APPROVED:** \_\_\_\_\_  
36 David Allan Smith  
37 City Attorney

**ATTEST:** \_\_\_\_\_  
Shirley A. Gentry  
City Clerk

## AGENDA



Wednesday, June 18, 2008

EXHIBIT  
EX II
**Public Hearings and Possible Actions**  
**RECOMMENDATION FOR COUNCIL ACTION**

Item No. 93

**Subject:** Conduct a public hearing and consider an ordinance amending City Code Chapter 25-2, Subchapter F (Residential Design and Compatibility Standards), commonly referred to as the "McMansion" ordinance, and the related sections of city code regarding compatibility and to single family and duplex site development standards and procedures.

**For More Information:** Jessica Kingpetcharat, 974-2728; Joi Harden, 974-2212

**Boards and Commission Action:** Reviewed by the Planning Commission.

**Prior Council Action:** On March 6, 2008, the City Council adopted Resolution No. 20080306-039 initiating code amendments to implement recommendations of the Residential Development Regulations Task Force and other stakeholders.

The proposed ordinance amends City Code Chapter 25-2, including Subchapter F (Residential Design and Compatibility Standards), commonly referred to as the "McMansion" ordinance and Section 25-2-773 (Duplex Residential Use) to include changes proposed by the Residential Development Regulations Task Force and other stakeholders. In general, the proposed amendments clarify and modify residential development regulations for single family and duplex construction and the application of residential design and/or compatibility standards in a townhouse and condominium (SF-5) district. The proposed amendments also expand the authority of the Residential Design and Compatibility Commission to consider historic structures and subdivisions that meet certain criteria.

On April 22, 2008, the Planning Commission considered and approved 90% of the proposed amendments and tabled discussion on the remaining 10% for their May 13, 2008 meeting. On May 13, 2008 the Planning Commission referred the remaining items back to the Task Force for additional consideration and input.

On May 15, 2008, the City Council received a staff presentation on the remaining items and postponed action on all proposed amendments until the Task Force could return with their recommendations of the remaining items. The Council also directed staff to remove the following three items from consideration:

1. Expansion of RDCC authority to consider commercial compatibility and impervious cover modifications,
2. Exempting homes of 1,5000 square feet or less from McMansion regulations, and
3. Alteration of McMansion boundaries.

The Task Force reconvened for 3 additional meetings. Task Force members accepted public comment and limited their discussion to the items referred back to them from the Planning Commission.

On June 10, 2008, the Planning Commission considered the Task Force's final recommendations on the remaining items. The attached amendment tracking sheets document the recommendations from both the Task Force and the Planning Commission.