

6-22-06

Item #22

ORDINANCE NO.

1 **AN ORDINANCE AMENDING SECTION 25-2-492 OF THE CITY CODE**
2 **RELATING TO SITE DEVELOPMENT REGULATIONS; ADDING SECTION**
3 **25-2-566 TO THE CITY CODE RELATING TO SPECIAL REQUIREMENTS**
4 **FOR CERTAIN RESIDENTIAL DISTRICTS; AMENDING SECTION 25-2-773**
5 **OF THE CITY CODE RELATING TO DUPLEX RESIDENTIAL USE;**
6 **AMENDING SECTIONS 25-2-963 AND 25-2-964 OF THE CITY CODE**
7 **RELATING TO NONCOMPLYING STRUCTURES; AMENDING SECTION 25-**
8 **2-1406 OF THE CITY CODE RELATING TO NEIGHBORHOOD PLAN**
9 **COMBINING DISTRICTS; AND REPEALING ORDINANCE NUMBER**
10 **20060309-058 RELATING TO DEVELOPMENT REGULATIONS FOR**
11 **CERTAIN SINGLE-FAMILY, SINGLE-FAMILY ATTACHED, TWO-FAMILY,**
12 **SECONDARY APARTMENT, AND DUPLEX STRUCTURES.**

13
14 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

15
16 **PART 1.** The table in Section 25-2-492(D) (*Site Development Regulations*) of the City
17 Code is amended to add a footnote for the "maximum height", "minimum setbacks: front
18 yard", and "minimum setbacks: rear yard" cells for the SF-2, SF-3, and SF-4A districts
19 that states, "See Section 25-2-566 (*Special regulations For Certain Residential*
20 *Districts*)".

21 **PART 2.** Chapter 25-2 (*Zoning*) of the City Code is amended to add Section 25-2-566 to
22 read:

23 **§ 25-2-566 SPECIAL REGULATIONS FOR CERTAIN RESIDENTIAL**
24 **DISTRICTS.**

25 (A) Except as provided in Subsection (B), this section applies to property that is:

26 (1) within the area bounded by:

27 (a) Highway 183 from Loop 360 to Ben White Boulevard;

28 (b) Ben White Boulevard from Highway 183 to Loop 360;

29 (c) Loop 360 from Ben White Boulevard to Loop 1;

30 (d) Loop 1 from Loop 360 to the Colorado River;

31 (e) the Colorado River from Loop 1 to Loop 360; and

1 (f) Loop 360 from the Colorado River to Highway 183; and

2 (2) used for a:

3 (a) bed and breakfast (group 1) residential use;

4 (b) cottage special use;

5 (c) duplex residential use;

6 (d) secondary apartment special use;

7 (e) single-family attached residential use;

8 (f) single-family residential use;

9 (g) small lot single-family residential use;

10 (h) two-family residential use; or

11 (i) urban home special use.

12 (B) This section does not apply to approximately 698.7 acres of land known as the
13 Mueller Planned Unit Development, which was zoned as a planned unit
14 development (PUD) district by Ordinance Number 040826-61.

15 (C) To the extent of conflict, this section supersedes:

16 (1) Section 25-2-492 (*Site Development Regulations*);

17 (2) Section 25-2-555 (*Family Residence (SF-3) District Regulations*);

18 (3) Section 25-2-773 (*Duplex Residential Use*);

19 (4) Section 25-2-774 (*Two-Family Residential Use*);

20 (5) Section 25-2-778 (*Front Yard Setback For Certain Residential Uses*);

21 (6) Section 25-2-779 (*Small Lot Single-Family Residential Uses*); and

22 (7) Section 25-4-232 (*Small Lot Subdivisions*).

23 (D) This section does not supersede:

24 (1) Section 25-2-1424 (*Urban Home Regulations*);

25 (2) Section 25-2-1444 (*Cottage Regulations*);

1 (3) Section 25-2-1463 (*Secondary Apartment Regulations*); or

2 (4) the provisions of an ordinance designating property as a:

3 (a) neighborhood plan (NP) combining district;

4 (b) neighborhood conservation (NC) combining district; or

5 (c) historic area (HD) combining district.

6 (E) In this section, GROSS FLOOR AREA has the meaning assigned by Section
7 25-1-21 (*Definitions*), except:

8 (1) the term:

9 (a) includes:

10 (i) the portion of a second or third story of a building that is covered
11 by a roof, including a porch, portico, breezeway, passageway, or
12 corridor;

13 (ii) a mezzanine or loft; and

14 (iii) the covered portion of a parking facility, except for:

15 1. up to 450 square feet of:

16 a. a detached rear parking area that is separated from the
17 principal structure by not less than 10 feet; or

18 b. a parking area that is open on two or more sides, if it
19 does not have habitable space above it; and

20 2. up to 200 square feet of an attached parking area if it used to
21 meet the minimum parking requirement; and

22 (b) excludes:

23 (i) a ground floor porch, including a screened porch;

24 (ii) a habitable portion of a building that is below grade if:

25 1. it does not extend beyond the first story footprint; and

26 2. the finished floor of the first story is not more than three feet
27 above the average elevation at the intersections of the

1 minimum front yard setback line and the side property lines;
2 and

3 (iii) a habitable portion of an attic, if:

- 4 1. the roof above it is not a flat or mansard roof and has a slope
5 of 3 to 12 or greater;
- 6 2. it is fully contained within the roof structure;
- 7 3. it has only one floor;
- 8 4. it does not extend beyond the footprint of the floors below;
- 9 5. it is the highest habitable portion of the building; and
- 10 6. 50 percent or more of the area has a ceiling height of seven
11 feet or less; and

12 (2) an area with a ceiling height greater than 15 feet is counted twice.

13 (F) This subsection prescribes height measurement for a building.

- 14 (1) In this subsection, NATURAL GRADE is the topography of a site before
15 it is modified by moving earth, adding or removing fill, or installing a
16 berm, retaining wall, or architectural or landscape feature. Natural grade
17 is determined by reference to an on-ground survey, City-approved
18 topographic map, or other information approved by the director.
- 19 (2) The director may require an applicant to provide a third-party report that
20 shows the natural grade of a site.
- 21 (3) The height of a building is measured from the lower of natural grade or
22 finished grade, except the height is measured from finished grade if:
 - 23 (a) the site's grade was legally modified before October 1, 2006; or
 - 24 (b) the site's grade is modified to elevate it out of the 100-year
25 floodplain.
- 26 (4) The height of a building is measured vertically from the average of the
27 highest and lowest grades adjacent to the building to:
 - 28 (a) for a flat roof, the highest point of the coping;
 - 29 (b) for a mansard roof, the deck line;

1 (c) for a pitched or hip roof, the average height of the highest gable;

2 (d) for other roof styles, the highest point of the building.

3 (5) For a stepped or terraced building, the height of each segment is
4 determined individually.

5 (G) Maximum building height is 32 feet. Section 25-2-531 (*Height Limit*
6 *Exceptions*) does not apply, except for a chimney, vent, antenna, or energy
7 conservation or production equipment or feature.

8 (H) Except for the principal structure, the minimum rear yard setback is five feet if
9 the lot has a rear lot line adjacent to an alley.

10 (I) This subsection prescribes minimum front yard setbacks.

11 (1) In this subsection:

12 (a) An average front yard setback is determined based on the setbacks of
13 each principal residential structure that is built within 50 feet of its
14 front lot line.

15 (b) Except as provided in Subparagraph (c), the four structures that are
16 closest to the subject property and on the same side of the block are
17 used in the calculation. If there are less than four structures on the
18 same side of the block, the lesser number of structures is used in the
19 calculation.

20 (c) If there are no structures on the same side of the block, the four
21 structures that are closest to the subject property and across the street
22 are used in the calculation. If there are less than four structures
23 across the street, the lesser number is used in the calculation.

24 (2) The minimum front yard setback is the lesser of:

25 (a) the minimum front yard setback prescribed by the other provisions of
26 this title; or

27 (b) the average front yard setback described in Paragraph (1), if an
28 average may be determined under Paragraph (1).

29 (J) This subsection applies to a side wall of a building if the side wall is more than
30 15 feet high and is an average distance of 15 feet or less from an interior lot
31 line. The side wall may not extend in an unbroken plane for more than 32 feet
32 along a side lot line. To break the plane, a perpendicular wall articulation of

1 not less than four feet, for a distance along the side property line of not less
2 than 10 feet, is required.

3 (K) Development on a site is limited to the greater of 0.4 to 1 floor-to-area ratio or
4 2,300 square feet of gross floor area.

5 (L) This subsection prescribes side and rear setback planes.

6 (1) In this subsection, BUILDING LINE means a line that is parallel to the
7 front lot line and that intersects the principal residential structure at the
8 point where the structure is closest to the front lot line.

9 (2) Except as provided in Paragraph (3), an inwardly sloping 45 degree angle
10 side setback plane begins at a horizontal line 15 feet directly above the
11 side property line. The height of the horizontal line is established for 40-
12 foot deep portions of the lot, beginning at the building line and extending
13 to the rear of the lot. For the first portion, height is measured at the
14 highest of the elevations of the four intersections of the side lot lines, the
15 building line, and a line 40 feet from and parallel to the building line. For
16 each successive portion, height is measured at the highest of the
17 elevations of the four intersections of the side lot lines and the appropriate
18 two lines that are 40 feet apart and parallel to the building line.

19 (3) This paragraph applies to a one-story building that is remodeled to add a
20 second story. An inwardly sloping 45 degree angle side setback plane
21 begins at a horizontal line directly above the outermost side wall at a
22 height that is equal to the height of the first floor wall plate plus ten feet.

23 (4) An inwardly sloping 45 degree angle rear setback plane begins at a
24 horizontal line 15 feet directly above the rear property line. The height of
25 the horizontal line is measured from the same elevation as is measured the
26 height of the principal building on the lot.

27 (5) A structure may not extend beyond a setback plane, except for:

28 (a) a roof overhang or eave, up to two feet beyond the envelope;

29 (b) a chimney, vent, antenna, or energy conservation or production
30 equipment or feature; and

31 (c) either:

32 (i) a side gabled roof structure, with a total horizontal length of not
33 more than 30 feet, measured from the front of the building along
34 the intersection with the building envelope; or

(ii) gables or a shed roof, with a total horizontal length of not more than 18 feet on each side of the building, measured along the intersection with the building envelope; and dormers, with a total horizontal length of not more than 15 feet on each side of the building, measured along the intersection with the building envelope.

(M) Section 25-2-1406 (*Ordinance Requirements*) provides for city council modification of certain requirements of this section.

PART 3. Section 25-2-773 (*Duplex Residential Use*) of the City Code is amended to add Subsection (D) to read:

(D) The two dwelling units:

- (1) must share a demising wall or roof assembly for at least 50 percent of the maximum depth and height of the building;
- (2) may not be separated by a breezeway, carport, or other open building element; and
- (3) may be separated by a garage common wall.

PART 4. Section 25-2-963 (*Modification And Maintenance Of Noncomplying Structures*) of the City Code is amended to read:

§ 25-2-963 MODIFICATION AND MAINTENANCE OF NONCOMPLYING STRUCTURES.

(A) Except as provided in Subsection (B) [~~of this section~~], a person may modify or maintain a noncomplying structure.

(B) Except as provided in Subsections (C) or [~~and~~] (D) [~~of this section~~], a person may not modify or maintain a noncomplying structure in a manner that increases the degree to which the structure violates a requirement that caused the structure to be noncomplying.

(C) This subsection applies to property other than that which is subject to Section 25-2-566 (*Special Regulations For Certain Residential Districts*).

(1) [~~(C)~~] A person may increase the height of a building that is a noncomplying structure based on a height requirement of this title if:

(a) [~~(1)~~] the increase is made to a portion of the building that does not exceed the existing maximum height of the building;

1 (b) ~~[(2)]~~ the increase does not exceed 15 percent of the existing
2 maximum height of the building; and

3 (c) ~~[(3)]~~ after modification, the height of the modified portion of the
4 building does not exceed the existing maximum height of the
5 building.

6 (2) ~~[(D)]~~ A person may modify a building that is a noncomplying structure
7 based on a yard setback requirement of this title if:

8 (a) ~~[(4)]~~ the modified portion of the building does not extend further into
9 the required yard setback than the existing noncomplying portion of
10 the building; and

11 (b) ~~[(2)]~~ the additional length of a modified portion of the building does
12 not exceed 25 feet measured from the existing building and parallel
13 to the lot line.

14 (3) ~~[(E)]~~ Paragraph (2) ~~[Subsection (D)]~~ applies to each yard setback
15 requirement with which the existing building does not comply.

16 (4) ~~[(F)]~~ A person may modify a noncomplying building once under
17 Paragraph (1) ~~[Subsection (C)]~~ and once under Paragraph (2) ~~[Subsection~~
18 ~~(D) of this section]~~. This subsection ~~[section]~~ does not prohibit a person
19 from modifying a building along more than one yard setback as part of a
20 single project.

21 (D) This subsection applies to property that is subject to Section 25-2-566
22 (Special Regulations For Certain Residential Districts).

23 (1) A person may increase the height of a building that is a noncomplying
24 structure based on a height requirement of this title if:

25 (a) the increase is made to a portion of the building that:

26 (i) does not exceed the existing maximum height of the building;
27 and

28 (ii) complies with the yard setback requirements of this title;

29 (b) the increase does not exceed 15 percent of the existing maximum
30 height of the building; and

31 (c) after modification, the height of the modified portion of the building
32 does not exceed the existing maximum height of the building.

1 (2) A person may modify a building that is a noncomplying structure based
2 on a yard setback requirement of this title if:

3 (a) the modified portion of the building:

4 (i) does not extend further into the required yard setback and is not
5 greater in height than the existing noncomplying portion of the
6 building; and

7 (ii) complies with the height requirements of this title; and

8 (b) the additional length of a modified portion of the building does not
9 exceed the lesser of 50 percent of the length of the noncomplying
10 portion of the building or 25 feet, measured from the existing
11 building and parallel to the lot line.

12 (3) Paragraph (2) applies to each yard setback requirement with which the
13 existing building does not comply.

14 (4) A person may modify a noncomplying building once under Paragraph (1)
15 and once under Paragraph (2). This subsection does not prohibit a person
16 from modifying a building along more than one yard setback as part of a
17 single project.

18 **PART 5. Section 25-2-964 (*Restoration And Use Of Damaged Or Destroyed***
19 ***Noncomplying Structures*) of the City Code is amended to read:**

20 **§ 25-2-964 RESTORATION AND USE OF DAMAGED OR DESTROYED**
21 **NONCOMPLYING STRUCTURES.**

22 (A) This subsection applies to property other than that which is subject to Section
23 25-2-566 (*Special Regulations For Certain Residential Districts*). A person
24 may restore a damaged or destroyed noncomplying structure if the restoration
25 begins not later than 12 months after the date the damage or destruction
26 occurs.

27 (B) This subsection applies to property that is subject to Section 25-2-566
28 (*Special Regulations For Certain Residential Districts*).

29 (1) A person may restore a noncomplying structure that is damaged or
30 destroyed by fire, explosion, flood, tornado, riot, act of the public enemy,
31 or accident of any kind if the restoration begins not later than 12 months
32 after the date the damage or destruction occurs.

1 (2) Except as provided in Section 25-2-963(D) (*Modification And*
2 *Maintenance Of Noncomplying Structures*):

3 (a) a structure restored under this section is limited to the same building
4 footprint, gross floor area, and interior volume as the damaged or
5 destroyed structure; and

6 (b) a noncomplying portion of the structure may be restored only in the
7 same location and to the same degree of noncompliance as the
8 damaged or destroyed structure.

9 **PART 6.** Section 25-2-1406 (*Ordinance Requirements*) of the City Code is amended to
10 read:

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

12 An ordinance zoning or rezoning property as a NP combining district;

- 13 (1) must prescribe the special uses described in Section 25-2-1403 (Special
14 Uses) that are permitted in the district;
- 15 (2) must describe the location of each residential infill special use,
16 neighborhood urban center special use, or neighborhood mixed use
17 building special use, if any;
- 18 (3) may restrict the time of day during which a business in a neighborhood
19 mixed use building special use may be open to the public;
- 20 (4) may restrict a corner store special use, cottage special use, secondary
21 apartment special use, or urban home special use, if any, to a designated
22 portion of the district;
- 23 (5) for a single-family residential use or a secondary apartment special use on
24 an existing legal lot:
- 25 (a) may reduce the required minimum lot area to 2,500 square feet;
- 26 (b) may reduce the required minimum lot width to 25 feet; and
- 27 (c) for a lot with an area of 4,000 square feet or less, may increase the
28 maximum impervious coverage to 65 percent;
- 29 (6) may apply the requirements of Section 25-2-1602 (*Front Porch Setback*),
30 Section 25-2-1603 (*Impervious Cover and Parking Placement*
31 *Requirements*), or Section 25-2-1604 (*Garage Placement*) to the district
32 or a designated portion of the district; ~~[and]~~

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

4 (8) may modify the following requirements of Section 25-2-566 (*Special*
5 *Regulations For Certain Residential Districts*):

6 (a) the maximum floor-to-area ratio and maximum square footage of
7 gross floor area prescribed by Section 25-2-566(K) (*Special*
8 *Regulations For Certain Residential Districts*):

9 (b) the maximum linear feet of gables or dormers protruding from the
10 setback plane;

11 (d) the height of the side and rear setback planes; and

12 (e) the minimum front yard setback requirement.

13 **PART 7.** Ordinance No. 20060309-058 is repealed, except that Part 6 (*Waiver*) is
14 continued in effect and applies to a waiver application filed before October 1, 2006.

15 **PART 8.** This ordinance takes effect on October 1, 2006.

16 **PASSED AND APPROVED**

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18 §
19 §
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21 _____, 2006
22 Will Wynn
23 Mayor

24
25 **APPROVED:**

26 David Allan Smith
27 City Attorney

ATTEST:

Shirley A. Gentry
City Clerk