#22
6-22-06

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 2-1 OF THE CITY CODE TO ADD ARTICLE 53 RELATING TO THE RESIDENTIAL DESIGN COMMISSION; ADDING SECTION 25-2-566 TO THE CITY CODE RELATING TO SPECIAL REQUIREMENTS FOR CERTAIN RESIDENTIAL DISTRICTS; AMENDING SECTION 25-2-773 OF THE CITY CODE RELATING TO DUPLEX RESIDENTIAL USE; AMENDING SECTIONS 25-2-963 AND 25-2-964 OF THE CITY CODE RELATING TO NONCOMPLYING STRUCTURES; AMENDING SECTION 25-2-1406 OF THE CITY CODE RELATING TO NEIGHBORHOOD PLAN COMBINING DISTRICTS; PROVIDING FOR AN ORGANIZATIONAL MEETING OF THE RESIDENTIAL DESIGN COMMISSION; AND REPEALING ORDINANCE NUMBER 20060309-058 RELATING TO DEVELOPMENT REGULATIONS FOR CERTAIN SINGLE-FAMILY, SINGLE-FAMILY ATTACHED, TWO-FAMILY, SECONDARY APARTMENT, AND DUPLEX STRUCTURES.

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

PART 1. Chapter 2-1 *(Boards And Commissions)* of the City Code is amended to add Article 53 to read:

ARTICLE 53. RESIDENTIAL DESIGN COMMISSION.

§ 2-1-531 CREATION; MEMBERSHIP.

(A) The Residential Design Commission is created and composed of nine members appointed by the city council.

(B) To obtain a broad range of community viewpoints, the commission shall be appointed from a diverse group of persons having knowledge of massing, scale, and compatibility issues in residential neighborhoods, and shall include:

(1) five residential design professionals; and

(2) four citizens at large.

§ 2-1-532 TERMS.

(A) Each commission member shall be appointed to serve a two-year term.

(B) Five commission members shall be appointed to terms that expire on June 1 of even-numbered years and four commission members shall be appointed to terms that expire on June 1 of odd-numbered years.

§ 2-1-533 QUORUM.

Five members of the commission constitute a quorum for the conduct of business.

§ 2-1-534 DUTIES AND RESPONSIBILITIES.

The Residential Design Commission shall make determinations on requested modifications of certain residential design standards for specific developments, as prescribed by Section 25-2-566 *(Special Regulations For Certain Residential Districts)* of the City Code.

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

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

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

(1) within the area bounded by:

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

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

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

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

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

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

(2) used for a:

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

(b) cottage special use;

(c) duplex residential use;

(d) secondary apartment special use;

(e) single-family attached residential use;

(f) single-family residential use;

(g) small lot single-family residential use;

(h) two-family residential use; or

(i) urban home special use.

(B) This section does not apply to:

(1) a lot designated as a single-family residence small lot (SF-4A) district unless the lot is adjacent to property designated as a single-family residence standard lot (SF-2) district or family residence (SF-3) district; or

(2) 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.

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

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

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

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

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

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

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

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

(D) To the extent of conflict, the following provisions supersede this section:

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

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

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

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

(a) neighborhood plan (NP) combining district;

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

(c) historic area (HD) combining district.

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

(1) the term:

(a) includes:

(i) 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;

(ii) a mezzanine or loft; and

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

1. up to 450 square feet of:

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

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

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

(b) excludes:

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

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

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

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

(iii) 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; and

6. 50 percent or more of the area has a ceiling height of seven feet or less; and

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

(F) This subsection prescribes height measurement for a building or setback plane.

(1) In this subsection, NATURAL GRADE is the topography 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. Natural grade is determined by reference to an on-ground survey, City-approved topographic map, or other information approved by the director.

(2) The director may require an applicant to provide a third-party report that shows the natural grade of a site.

(3) The height of a building or setback plane is measured from the lower of natural grade or finished grade, except the height is measured from finished grade if:

(a) the site's grade was legally modified before October 1, 2006; or

(b) the site's grade is modified to elevate it out of the 100-year floodplain.

(4) The height of a building is 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 average height of the highest gable;

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

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

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

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

(I) This subsection prescribes minimum front yard setbacks.

(1) In this subsection:

(a) 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.

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

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

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

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

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

(J) This subsection applies to a side wall of a building if the side wall is more than 15 feet high and is an average distance of 15 feet or less from an interior lot line. The side wall may not extend in an unbroken plane for more than 32 feet along a side lot line. To break the plane, a perpendicular wall articulation of not less than four feet, for a distance along the side property line of not less than 10 feet, is required.

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

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

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

(2) Except as provided in Paragraph (3), 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.

(a) 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.

(b) 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.

(c) 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.

(3) This paragraph applies to a one-story building that was originally constructed or received a building permit for the original construction before October 1, 2006, and that is remodeled to add a second story. An inwardly sloping 45 degree angle side setback plane 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 plus ten feet.

(4) 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 (2)(c).

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

(a) a structure authorized by the Residential Design Commission in accordance with Subsection (M);

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

(c) a chimney, vent, antenna, or energy conservation or production equipment or feature not designed for occupancy; and

(d) either:

(i) a side gabled roof structure, with a total horizontal length of not more than 30 feet, measured from the front of the building along 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) This subsection provides for modification by the Residential Design Commission of certain requirements of this section for a proposed development.

(1) The Residential Design Commission may approve:

(a) an increase of up to 25 percent in the:

(i) maximum floor-to-area ratio or maximum square footage of gross floor area;

(ii) maximum linear feet of gables or dormers protruding from the setback plane;

(iii) maximum side wall length before articulation is required; or

(iv) maximum height of the side or rear setback plane; or

(b) a decrease of up to 25 percent in the minimum depth or length of a required wall articulation.

(2) A person may request a modification by filing an application with the director on a form provided by the director.

(3) Not later than the 14th day after an application is filed, the director shall:

(a) mail notice of the application to:

(i) each notice owner of property immediately adjacent to the subject property;

(ii) the appropriate neighborhood association, if any; and

(iii) the neighborhood plan team, if any; and

(b) post notice of the application in accordance with Section 25-1-135 *(Posting Of Signs)*.

(4) The Residential Design Commission may approve a modification if it determines that the proposed development is compatible in scale and bulk with the structures in the vicinity of the development. In making this determination, the commission shall consider:

(a) the recommendation of the neighborhood plan team, if any;

(b) the development's:

(i) compliance with neighborhood design guidelines, if any;

(ii) consistency with the streetscape of the properties in the vicinity;

(iii) consistency with the massing, scale, and proximity of structures located on either side of or behind the development;

(iv) impact on privacy of adjacent rear yards; and

(v) topography and lot shape; and

(c) for a development of an entire block, whether the development will have a negative impact on adjacent property.

(5) The Residential Design Commission may not approve a modification for:

(a) a local, state, or national historic landmark, if the modification would adversely impact the landmark's historic status;

(b) a "contributing structure", as defined in Section 25-2-351 *(Contributing Structure Defined)*, if the modification would adversely impact its status as a contributing structure; or

(c) 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.

(6) An interested party may appeal the Residential Design Commission's decision to the council.

(7) This subsection does not prohibit the Board of Adjustment from granting a variance from a requirement of this section under 25-2-473 *(Variance Requirements)*.

(N) 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 have a common wall, which may be a common garage wall, for at least 50 percent of the maximum depth of the building;

(2) must have a common roof; and

(3) may not be separated by a breezeway, carport, or other open building element.

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;

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

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

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

(a) [~~(1)~~] the modified portion of the building does not extend further into the required yard setback than the existing noncomplying portion of the building; and

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

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

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

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

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

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

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

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

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

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

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

(a) the modified portion of the building:

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

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

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

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

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

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

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

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

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

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

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

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

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

PART 6. Section 25-2-1406 *(Ordinance Requirements)* of the City Code 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; [~~and~~]

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

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

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

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

(e) the minimum front yard setback requirement.

PART 7. The Residential Design Commission members shall conduct an organizational meeting as soon as practicable after their appointment. At the first meeting of the commission, the members shall draw lots to determine whose terms shall expire on October 1 of even-numbered years and whose terms shall expire on October 1 of odd-numbered years.

PART 8. Ordinance No. 20060309-058 is repealed, except that Part 6 *(Waiver)* is continued in effect and applies to a waiver application filed before October 1, 2006.

PART 9. This ordinance takes effect on October 1, 2006.

PASSED AND APPROVED

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§
_____, 2006 §

Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk