



To: Mayor and Council

From: Greg Guernsey, Neighborhood Planning and Zoning Department

Date: September 27, 2006

Subject: Changes to proposed ordinance for Residential Development Regulation Task Force Code amendments (Item 22, September 28 Council agenda)

Since you received your backup for the Code amendments recommended by the Residential Development Regulation Task Force, Staff and Clarion Associates, with input from the Task Force, have made new nonsubstantive changes to Attachment A of the proposed ordinance, which is Clarion Associates' work that, if adopted, will become Subchapter F of Chapter 25-2 of the City Code. The changes presented to you at this time are in addition to the changes since first reading that were previously outlined in your backup. The current changes correct typographical errors and provide further detail and clarification that maintain the intent of what Council has already approved.

A revised draft ordinance is attached that includes the following changes to Attachment A:

- **Section 2.2. Building Height (page 5)**
We have added the sentence "Building height shall be measured under the requirements defined in Section 3.4."
- **Section 2.6. Setback Planes (page 7)**
We have added the sentence "The height of a setback plane shall be measured under the requirements defined in Section 3.4."
- **Section 2.6.C. Setback Planes, Buildable Area (page 12)**
We have replaced the former Figure 11 with a modified figure and added text to the caption.
- **Section 2.6.E. Setback Planes, Exceptions (page 13)**
We have deleted exception number 2 that references neighborhood plan customization of the new standards and renumbered the other sections accordingly. We have also replaced the term "envelope" with "setback plane."

Both of these changes are shown below.

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

1. A structure authorized by the Residential Design and Compatibility Commission in accordance with Section 2.8. below;

~~2. A structure consistent with an adopted neighborhood plan that has customized the requirements of this subchapter as provided in Section 25-2-1406 of this Code;~~

3. 2. A roof overhang or eave, up to two feet beyond the envelope setback plane...

- **Section 2.9. Modifications within Neighborhood Plan (NP) Combining Districts (page 21)**

Because we have deleted reference to neighborhood customization in section 2.6.E., we have added a new section 2.9. that reads,

**2.9. MODIFICATIONS WITHIN NEIGHBORHOOD PLAN (NP)
COMBINING DISTRICTS**

Under Section 25-2-1406 of the Code, an ordinance zoning or rezoning property as a neighborhood plan (NP) combining district may modify certain development standards of this subchapter.

- **Section 2.7. Side Wall Articulation (page 18)**

We have replaced the former Figure 18 with a modified figure.

- **Section 3.4.1.C. Height (page 23)**

To correct the typographical error, we have reworded this section to read, "For a pitched or hip roof, the average height of the highest ~~grade~~ gable." (The revised language is what Council approved on June 22, 2006 as part of the new residential standards.)

- **Section 3.4.2. Height (page 23)**

We have reworded this section to read, "The grade used in the measurement of height for a building, ~~or in the selection of the highest point for purposes of establishing a setback plane, or setback plane~~ shall be the lower of natural grade or finished grade."

If you have any questions, please contact Tina Bui in my department at 974.2755 or tina.bui@ci.austin.tx.us.

Attachment

cc Laura Huffman, Assistant City Manager
 Marty Terry, Division Chief, City Attorney's Office
 Marci Morrison, Senior Attorney, City Attorney's Office
 Victoria Hsu, Director, Watershed Protection and Development Review Department
 Paul Hilgers, Director, Neighborhood Housing and Community Development
 Department
 Matt Goebel, Principal, Clarion Associates

Task Force Code Amendments

REVISED (as of 09/27/06) DRAFT ORDINANCE
ORDINANCE NO.

1 AN ORDINANCE AMENDING CHAPTER 2-1 OF THE CITY CODE TO ADD
2 ARTICLE 53 RELATING TO THE RESIDENTIAL DESIGN AND
3 COMPATIBILITY COMMISSION; AMENDING TITLE 25 OF THE CITY
4 CODE RELATING TO THE CAPITOL VIEW CORRIDOR OVERLAY
5 DISTRICT, DUPLEX RESIDENTIAL USES, RESIDENTIAL DESIGN AND
6 COMPATIBILITY STANDARDS, NONCOMPLYING STRUCTURES,
7 COMPATIBILITY HEIGHT LIMITATIONS, ORDINANCE REQUIREMENTS
8 FOR NEIGHBORHOOD PLAN COMBINING DISTRICTS, BUILDING
9 PERMITS, AND DEMOLITION PERMITS; PROVIDING FOR AN
10 ORGANIZATIONAL MEETING OF THE RESIDENTIAL DESIGN AND
11 COMPATIBILITY COMMISSION; REPEALING ORDINANCE NUMBERS
12 20060309-058 AND 20060622-022; AND PROVIDING FOR EMERGENCY
13 PASSAGE.

14
15 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

16
17 PART 1. Chapter 2-1 (*Boards And Commissions*) of the City Code is amended to add
18 Article 53 to read:

19 **ARTICLE 53. RESIDENTIAL DESIGN AND COMPATIBILITY COMMISSION.**

20 **§ 2-1-531 CREATION; MEMBERSHIP.**

- 21 (A) The Residential Design and Compatibility Commission is created and
22 composed of nine members appointed by the city council.
- 23 (B) To obtain a broad range of community viewpoints, the commission shall be
24 appointed from a diverse group of persons having knowledge of massing,
25 scale, and compatibility issues in residential neighborhoods, and shall include:
- 26 (1) five residential design professionals; and
- 27 (2) four citizens at large.

28 **§ 2-1-532 TERMS.**

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

1 (B) Five commission members shall be appointed to terms that expire on October
2 1 of even-numbered years and four commission members shall be appointed to
3 terms that expire on October 1 of odd-numbered years.

4 **§ 2-1-533 QUORUM.**

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

6 **§ 2-1-534 DUTIES AND RESPONSIBILITIES.**

7 The Residential Design and Compatibility Commission shall make determinations
8 on requested modifications of certain residential design standards for specific
9 developments, as prescribed by Chapter 25-2, Subchapter F (*Residential Design And*
10 *Compatibility Standards*).

11 **PART 2.** Section 25-2-642 (*Capital View Corridor Overlay District Regulations*) is
12 amended to amend Subsection (B) to read:

13 (B) In a Capitol view corridor, a structure may not exceed the elevation [height] of
14 the plane delineating the corridor. The height limitation exceptions of
15 Section 25-2-531 (*Height Limitation Exceptions*) do not apply to this
16 subsection.

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

19 (D) The two dwelling units:

- 20 (1) must have a common wall, which may be a common garage wall, for at
21 least 50 percent of the maximum depth of the building;
- 22 (2) must have a common roof; and
- 23 (3) may not be separated by a breezeway, carport, or other open building
24 element.

25 **PART 4.** Chapter 25-2 of the City Code is amended to add Subchapter F as shown on
26 Attachment "A".

27 **PART 5.** Section 25-2-963 (*Modification And Maintenance Of Noncomplying*
28 *Structures*) of the City Code is amended to read:

1 **§ 25-2-963 MODIFICATION AND MAINTENANCE OF NONCOMPLYING**
2 **STRUCTURES.**

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

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

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

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

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

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

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

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

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

20 (1) the modified portion of the building:

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

23 (b) unless located in a street side yard, is not greater in height than the
24 existing noncomplying portion of the building; and

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

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

30 (E) Subsection (D) applies to each yard setback requirement with which the
31 existing building does not comply.

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

5 **PART 6.** Section 25-2-964 (*Restoration And Use Of Damaged Or Destroyed*
6 *Noncomplying Structures*) of the City Code is amended to read:

7 **§ 25-2-964 RESTORATION AND USE OF DAMAGED OR DESTROYED**
8 **NONCOMPLYING STRUCTURES.**

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

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

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

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

21 ~~[A person may restore a damaged or destroyed noncomplying structure if the~~
22 ~~restoration begins not later than 12 months after the date the damage or destruction~~
23 ~~occurs.]~~

24 **PART 7.** Section 25-2-1062(D) (*Height Limitations And Setbacks For Small Sites*) of
25 the City Code is amended to read:

26 (D) The height limitations for a structure are ~~[A person may not construct a~~
27 ~~structure that exceeds a height of]:~~

28 (1) two stories and [or] 30 feet, if the structure is 50 feet or less from
29 property:

30 (a) in an SF-5 or more restrictive zoning district; or

31 (b) on which a use permitted in an SF-5 or more restrictive zoning
32 district is located; or

- 1 (2) three stories and ~~[or]~~ 40 feet, if the structure is more than 50 feet and not
2 more than 100 feet from property:
- 3 (a) in an SF-5 or more restrictive zoning district; or
- 4 (b) on which a use permitted in an SF-5 or more restrictive zoning
5 district is located;
- 6 (3) for a structure more than 100 feet but not more than 300 feet from
7 property zoned SF-5 or more restrictive, 40 feet plus one foot for each 10
8 feet of distance in excess of 100 feet from the property zoned SF-5 or
9 more restrictive; or
- 10 (4) for a structure more than 300 feet but not more than 540 feet from
11 property zoned SF-5 or more restrictive, 60 feet plus one foot for each
12 four feet of distance in excess of 300 feet from the property zoned SF-5 or
13 more restrictive.

14 **PART 8.** Section 25-2-1063(C) (*Height Limitations And Setbacks For Large Sites*) of
15 the City Code is amended to read:

16 (C) The height limitations for a structure are ~~[A person may not construct a~~
17 ~~structure that exceeds a height of]~~:

- 18 (1) two stories and ~~[or]~~ 30 feet, if the structure is 50 feet or less from
19 property:
- 20 (a) in an SF-5 or more restrictive zoning district; or
- 21 (b) on which a use permitted in an SF-5 or more restrictive zoning
22 district is located; or
- 23 (2) three stories and ~~[or]~~ 40 feet, if the structure is more than 50 feet and not
24 more than 100 feet from property:
- 25 (a) in an SF-5 or more restrictive zoning district; or
- 26 (b) on which a use permitted in an SF-5 or more restrictive zoning
27 district is located;
- 28 (3) for a structure more than 100 feet but not more than 300 feet from
29 property zoned SF-5 or more restrictive, 40 feet plus one foot for each 10
30 feet of distance in excess of 100 feet from the property zoned SF-5 or
31 more restrictive; or

- 1 (4) for a structure more than 300 feet but not more than 540 feet from
2 property zoned SF-5 or more restrictive, 60 feet plus one foot for each
3 four feet of distance in excess of 300 feet from the property zoned SF-5 or
4 more restrictive.

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

7 **§ 25-2-1406 ORDINANCE REQUIREMENTS.**

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

- 9 (1) must prescribe the special uses described in Section 25-2-1403 (*Special*
10 *Uses*) that are permitted in the district;
- 11 (2) must describe the location of each residential infill special use,
12 neighborhood urban center special use, or neighborhood mixed use
13 building special use, if any;
- 14 (3) may restrict the time of day during which a business in a neighborhood
15 mixed use building special use may be open to the public;
- 16 (4) may restrict a corner store special use, cottage special use, secondary
17 apartment special use, or urban home special use, if any, to a designated
18 portion of the district;
- 19 (5) for a single-family residential use or a secondary apartment special use on
20 an existing legal lot:
- 21 (a) may reduce the required minimum lot area to 2,500 square feet;
- 22 (b) may reduce the required minimum lot width to 25 feet; and
- 23 (c) for a lot with an area of 4,000 square feet or less, may increase the
24 maximum impervious coverage to 65 percent;
- 25 (6) may apply the requirements of Section 25-2-1602 (*Front Porch Setback*),
26 Section 25-2-1603 (*Impervious Cover and Parking Placement*
27 *Requirements*), or Section 25-2-1604 (*Garage Placement*) to the district
28 or a designated portion of the district; ~~and~~
- 29 (7) may restrict front yard parking by including all or a portion of the district
30 in the restricted parking area map described in Section 12-5-29 (*Front or*
31 *Side Yard Parking*); and

(8) may modify the following requirements of Subchapter F (Residential Design And Compatibility Standards):

(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;

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

(e) the minimum front yard setback requirement.

PART 10. Section 25-11-32 (*Building Permit Requirement*) of the City Code is amended to read:

§ 25-11-32 BUILDING PERMIT REQUIREMENT.

(A) Unless a technical code exempts an activity from its permitting requirements, a person may not perform the following activities unless the person first obtains the appropriate permit from the building official:

- (1) an activity regulated by Chapter 25-12, Article 1 (*Uniform Building Code*), Article 4 (*Electrical Code*), Article 5 (*Uniform Mechanical Code*), or Article 6 (*Uniform Plumbing Code*);
- (2) constructing or structurally altering a pier or other structure in or along the shores of:
 - (a) Lake Austin below an elevation of 504.9 feet above mean sea level;
 - (b) Town Lake below an elevation of 435.0 feet above mean sea level; or
 - (c) Lake Walter E. Long;
- (3) altering the shoreline or bed of Lake Austin, Town Lake, or Lake Walter E. Long by filling or dredging;
- (4) constructing, altering, or repairing a sidewalk, curb, gutter, or driveway approach on property under a person's control or in public right-of-way adjoining property under a person's control;
- (5) erecting, moving, or structurally altering or repairing an outdoor sign; or
- (6) causing or permitting the activities described in this section to occur.

1 (B) A building permit does not authorize the demolition or removal of any part of
2 a structure.

3 **PART 11.** Section 25-11-37 (*Demolition Permit Requirement*) of the City Code is
4 amended to read:

5 **§ 25-11-37 DEMOLITION PERMIT REQUIREMENT.**

6 (A) Except as provided in Subsection (B), a [A] person may not demolish all or
7 part of a structure unless the person first obtains a demolition permit from the
8 building official.

9 (B) A demolition permit is not required to demolish all or part of an interior wall,
10 floor, or ceiling.

11 (C) ~~(B)~~ Except as provided in Article 4 (*Special Requirements For Historic*
12 Landmarks), the building official may issue a permit to demolish all or part of
13 a structure.

14 **PART 12.** The Residential Design and Compatibility Commission members shall
15 conduct an organizational meeting as soon as practicable after their appointment. At the
16 first meeting of the commission, the members shall draw lots to determine whose terms
17 shall expire on October 1 of even-numbered years and whose terms shall expire on
18 October 1 of odd-numbered years.

19 **PART 13.** Ordinance Number 20060309-058 is repealed, except that Part 6 (*Waiver*) is
20 continued in effect and applies to a waiver application filed before October 1, 2006.

21 **PART 14.** Ordinance Number 20060622-022 is repealed.

1 **PART 15.** The Council finds that the need to provide continuity and improvement to the
2 residential design and compatibility regulations constitutes an emergency. Because of
3 this emergency, this ordinance takes effect on October 1, 2006 for the immediate
4 preservation of the public peace, health, and safety.

5 **PASSED AND APPROVED**

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9 _____, 2006

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14 **APPROVED:**

15 _____
16 David Allan Smith
17 City Attorney
18
19

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ATTEST:

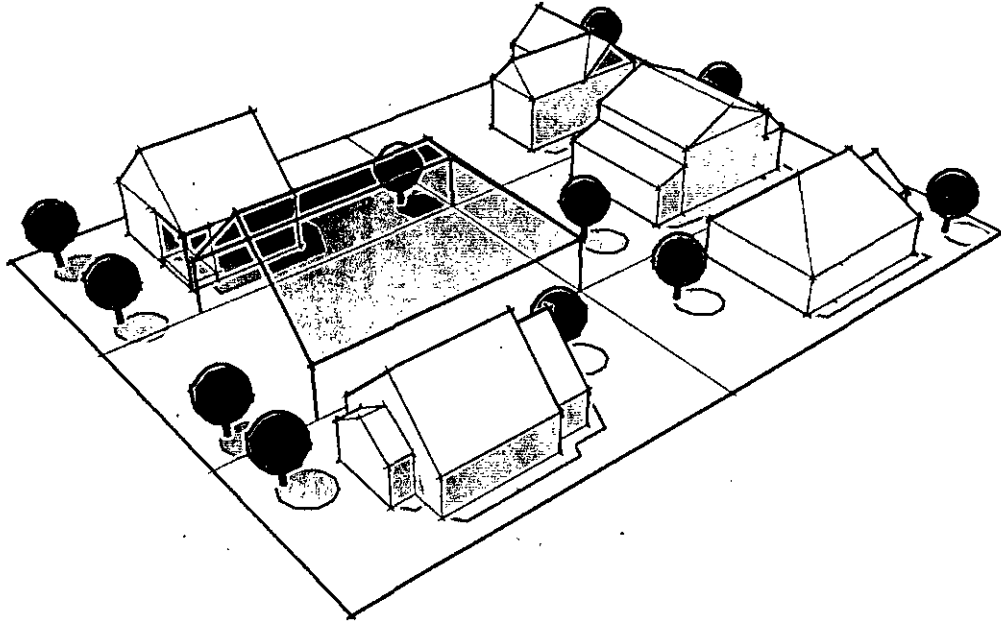
Will Wynn
Mayor

Shirley A. Gentry
City Clerk

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SUBCHAPTER F: RESIDENTIAL DESIGN AND COMPATIBILITY STANDARDS

Austin, Texas



**REVISED DRAFT
SEPTEMBER 27, 2006**

**BASED ON THE JUNE 22, 2006
CITY COUNCIL ORDINANCE AND
SUBSEQUENT AMENDMENTS**

SUBCHAPTER F: RESIDENTIAL DESIGN AND COMPATIBILITY STANDARDS

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ARTICLE 1: GENERAL PROVISIONS

1.1. INTENT

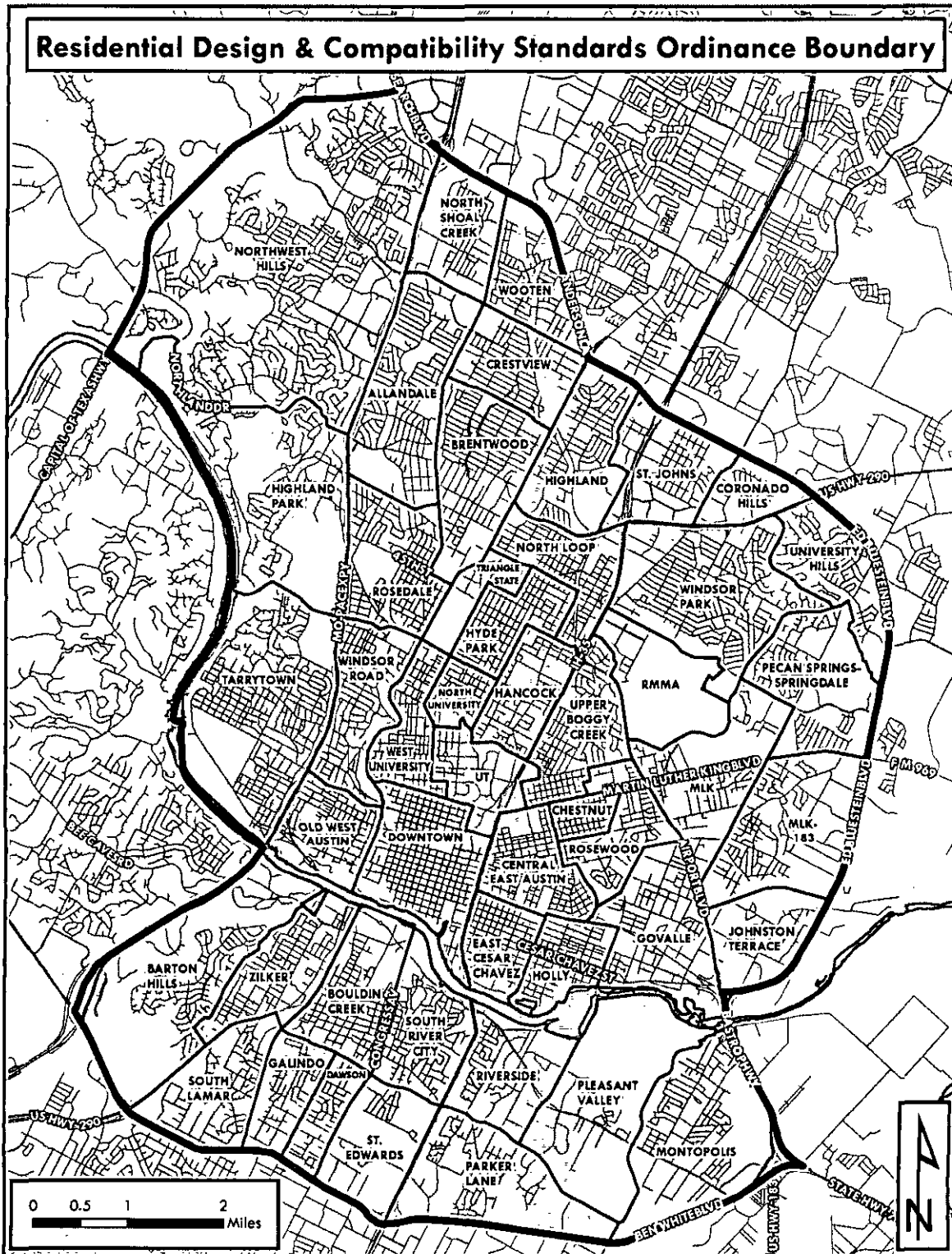
This Subchapter is intended to minimize the impact of new construction, remodeling, and additions to existing buildings on surrounding properties in residential neighborhoods by defining an acceptable buildable area for each lot within which new development may occur. The standards are designed to protect the character of Austin's older neighborhoods by ensuring that new construction and additions are compatible in scale and bulk with existing neighborhoods.

1.2. APPLICABILITY

Except as provided in Section 1.3, this Subchapter applies to property that is:

1.2.1. 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



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; or
- J. Urban home special use.

1.3. EXCEPTIONS

This Subchapter does not apply to:

- 1.3.1. 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-2) district or family residence (SF-3) district; or
- 1.3.2. 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.

1.4. CONFLICTING PROVISIONS

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

- A. Section 25-2-492 (Site Development Regulations);
- B. Section 25-2-555 (Family Residence (SF-3) District Regulations);
- C. Section 25-2-773 (Duplex Residential Use);
- D. Section 25-2-774 (Two-Family Residential Use);
- E. Section 25-2-778 (Front Yard Setback for Certain Residential Uses);

- F.** Section 25-2-779 (Small Lot Single-Family Residential Uses); and
- G.** Section 25-4-232 (Small Lot Subdivisions).

1.4.2. To the extent of conflict, the following provisions supersede this Subchapter:

- A.** Section 25-2-1424 (Urban Home Regulations);
- B.** Section 25-2-1444 (Cottage Regulations);
- C.** Section 25-2-1463 (Secondary Apartment Regulations); or
- D.** The provisions of an ordinance designating property as a:
 - 1.** Neighborhood plan (NP) combining district;
 - 2.** Neighborhood conservation (NC) combining district; or
 - 3.** Historic area (HD) combining district.

ARTICLE 2: DEVELOPMENT STANDARDS

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.

2.2. BUILDING HEIGHT

Except where these regulations are superseded, the maximum building height for development subject to this Subchapter is 32 feet. Section 25-2-531 (*Height Limit Exceptions*) does not apply to development subject to this Subchapter, except for a chimney, vent, antenna, or energy conservation or production equipment or feature not designed for occupancy. Building height shall be measured under the requirements defined in Section 3.4.

2.3. FRONT YARD SETBACK

A. Minimum Setback Required

The minimum front yard setback required for development subject to this Subchapter is the lesser of:

1. The minimum front yard setback prescribed by the other provisions of this Code; or
2. The average front yard setback, if an average may be determined as provided in subsection B. below.

B. Average Front Yard Setback

1. 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., the four structures that are closest to the subject property on the same side of the block 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 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. See Figure 1.

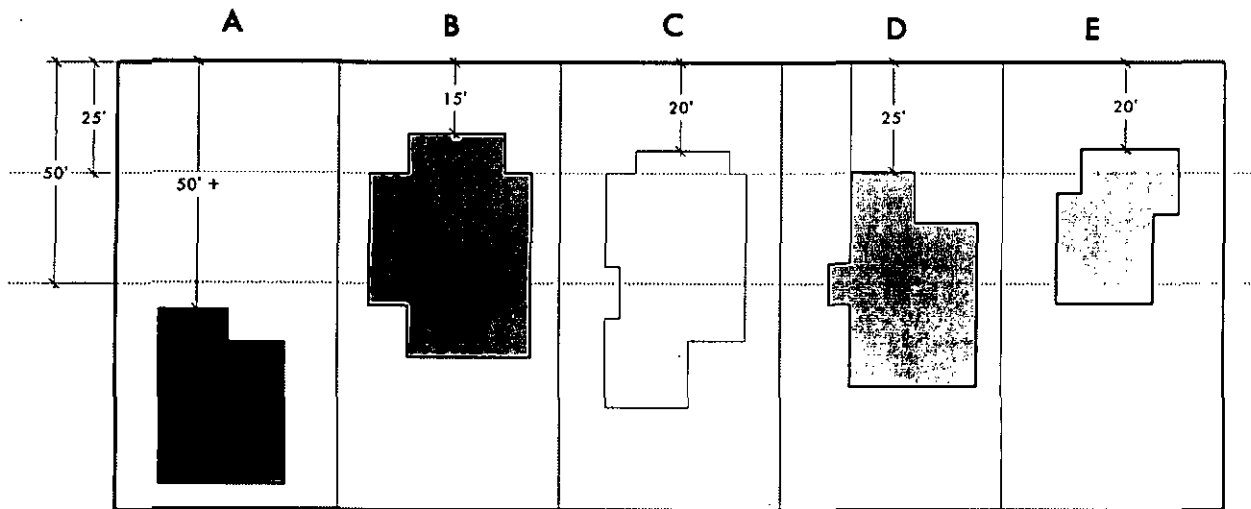


Figure 1: Average Front Yard Setback

In this example, the minimum required front setback in the underlying zoning district is 25 feet. However, because of the variety in existing setbacks of buildings on the same block face, new development on lot C may be located with a setback of only 20 feet, which is the average of the setbacks of lots B, D, and E. The building on lot A is not included in the average because it is located more than 50 feet from the property line.

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 may be reduced to five feet if the rear lot line is adjacent to an alley. See Figure 2.

2.5. SIDE YARD SETBACKS

All structures shall comply with the side yard setbacks prescribed by other provisions of this Code.

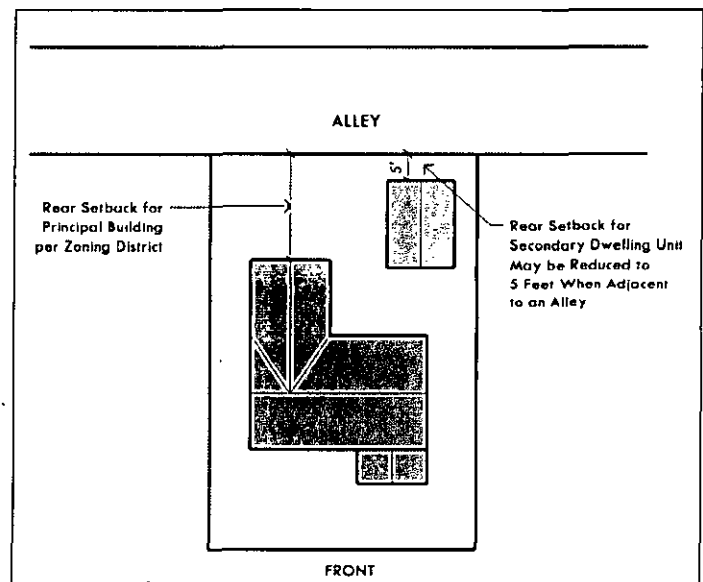


Figure 2: Rear Yard Setback

2.6. SETBACK PLANES

This subsection prescribes side and rear setback planes in order to minimize the impact of new development and rear development on adjacent properties. A structure may not extend beyond a setback plane except as authorized by subsection D. below. The height of a setback plane shall be measured under the requirements defined in Section 3.4.

A. Side Setback Plane

Except as provided in subsection B. below, 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.

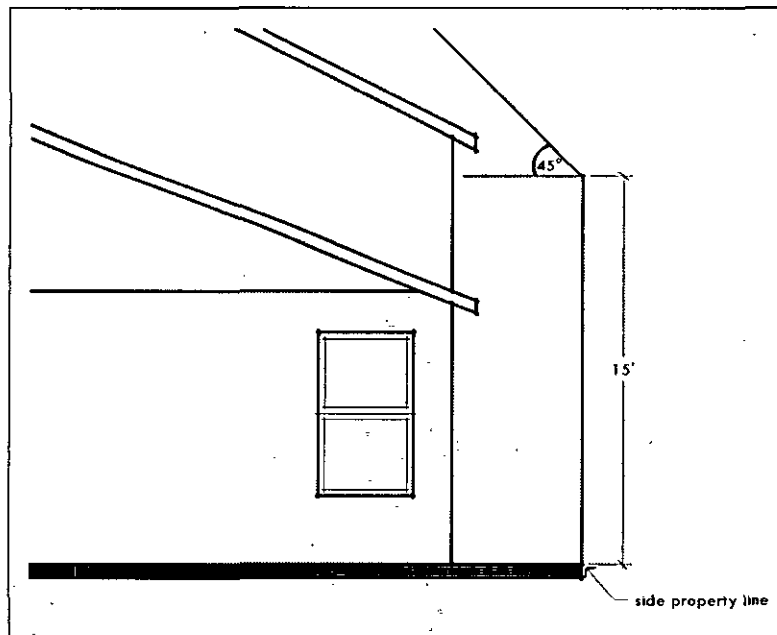


Figure 3: Side Setback Plane Measured From Side Property Line

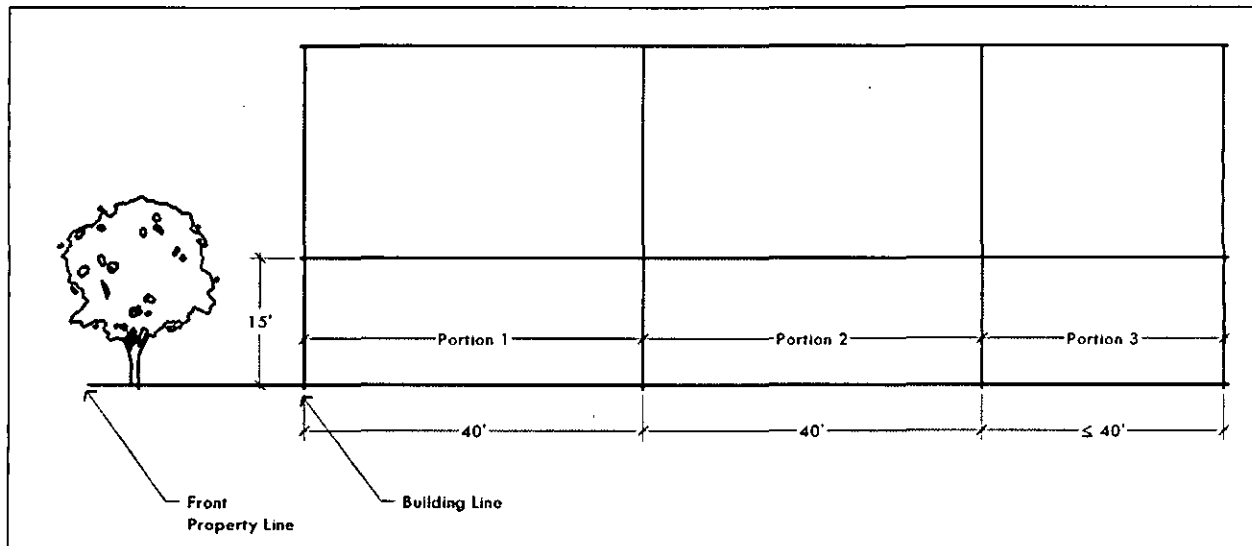


Figure 4: (Elevation View) Dividing Lot into 40-foot Portions to Create Side Setback Planes (Rear Setback Plane Not Shown)

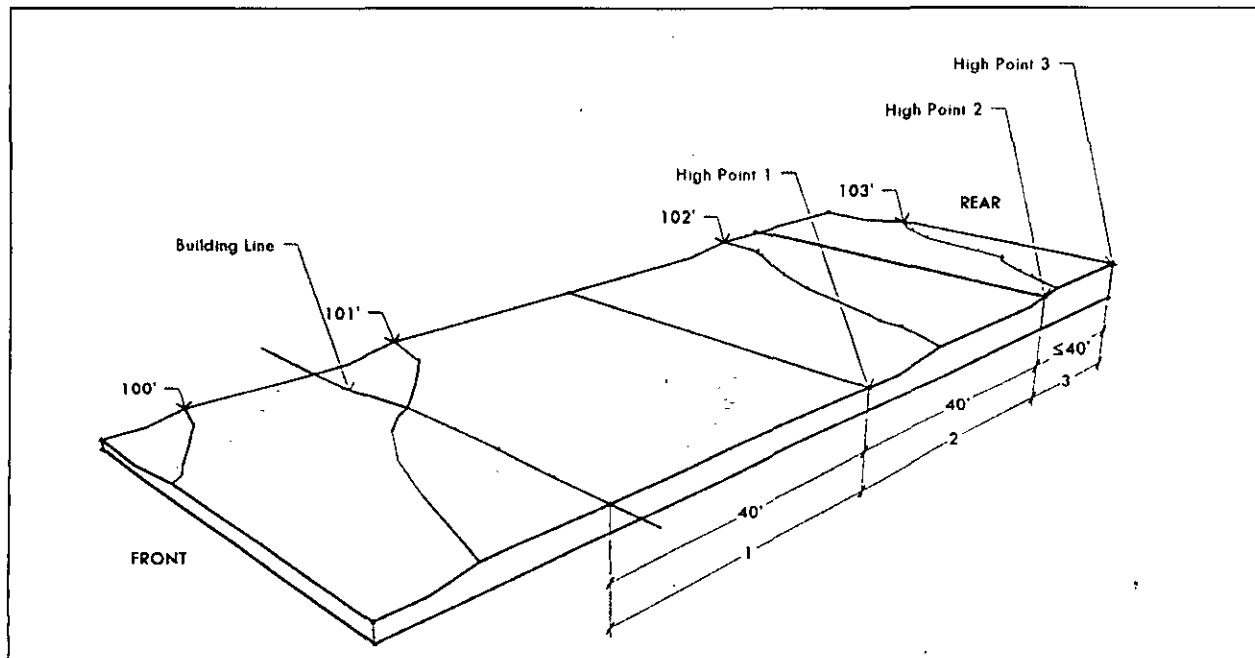


Figure 5: Determining High Points on a Sloping Lot

For each portion of the side setback plane, the 15-foot height of the horizontal line is measured starting from the highest point of the four intersections defining the portion. In this example, topography lines indicate that the lot is sloping downward from the rear to the front of the lot, and from the right to the left. The high points for Portions 1, 2, and 3 are indicated, along with the Building Line.

B. Rear Setback Plane

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.

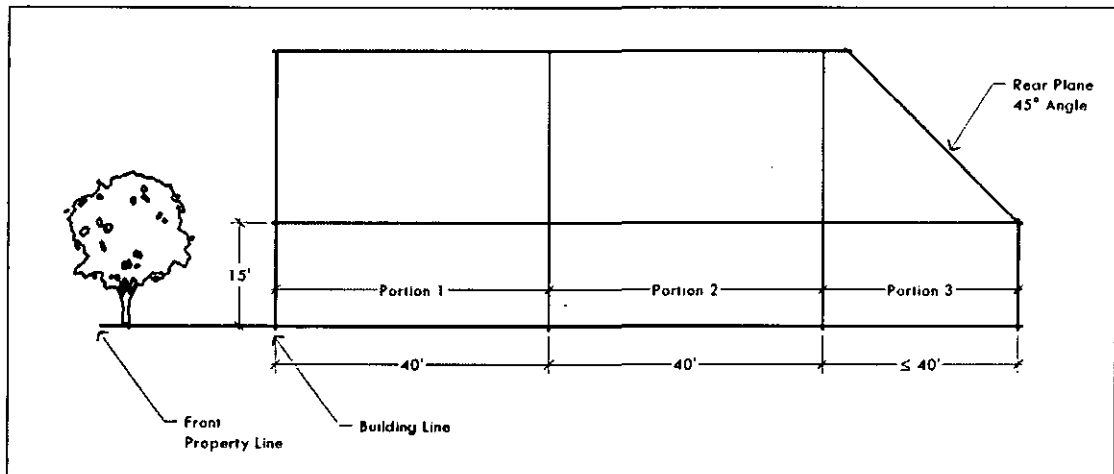


Figure 6: (Elevation View) Rear Setback Plane (Level Ground)

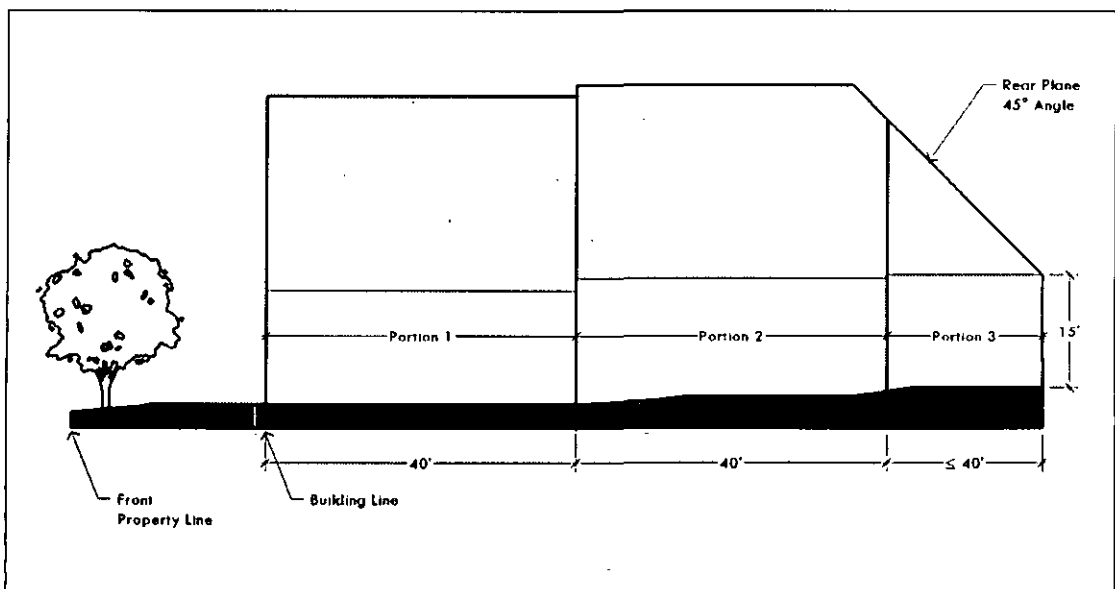


Figure 7: (Elevation View) Rear Setback Plane (Sloping Ground)

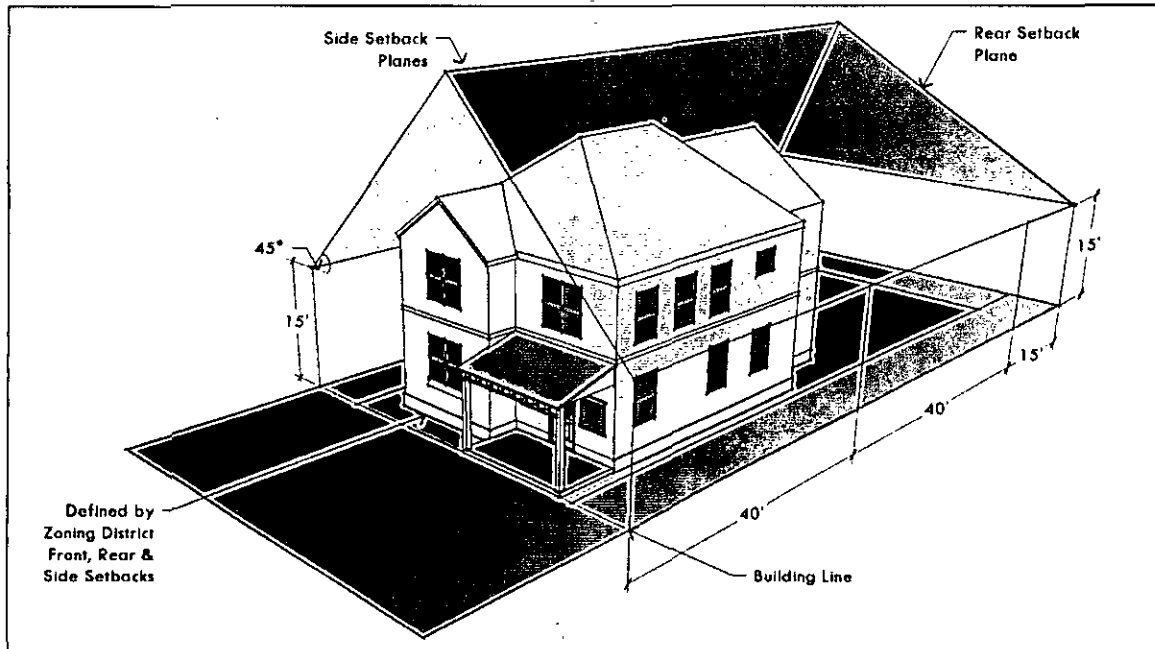


Figure 8: Side and Rear Setback Planes on Level Ground

The side and rear setback planes form a "tent" over the lot, rising from the property lines for 15 feet and then angling in at 45-degree angles from the side and rear. The required front, rear, and side yard setbacks are indicated by the darker shading on the ground.

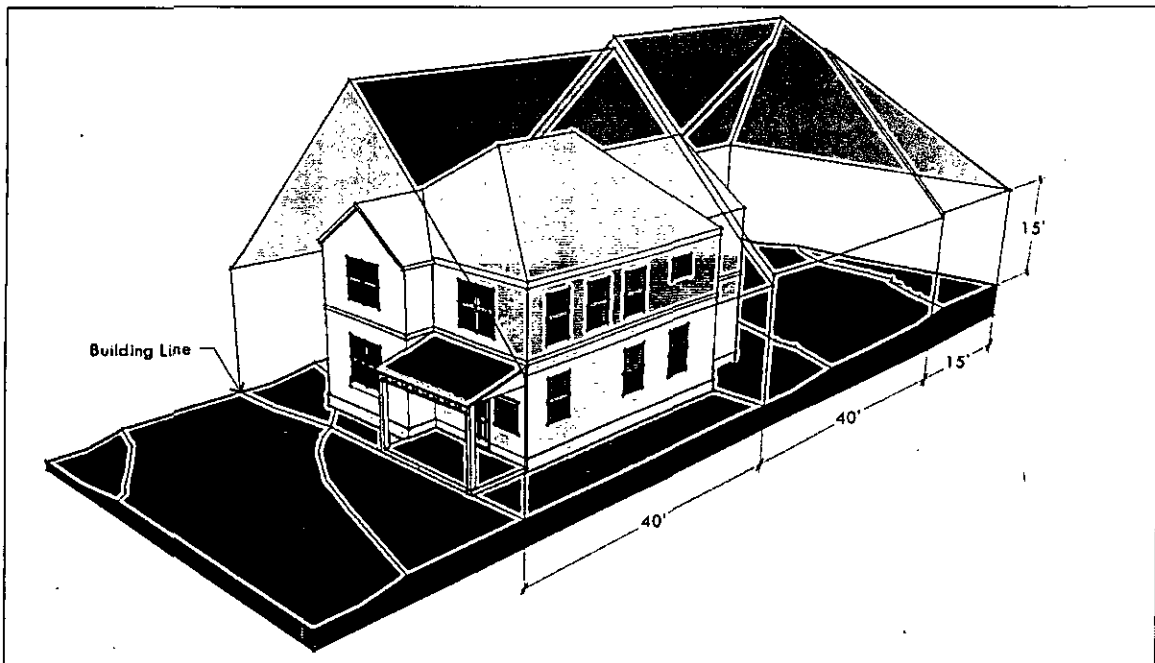


Figure 9: Side and Rear Setback Planes on Sloping Ground

C. Buildable Area

The buildable area, as defined in Section 3.3., consists of the smallest area within the front, side, and rear yard setbacks; maximum height limit; and the combined side and rear setback planes. See Figures 10 and 11.

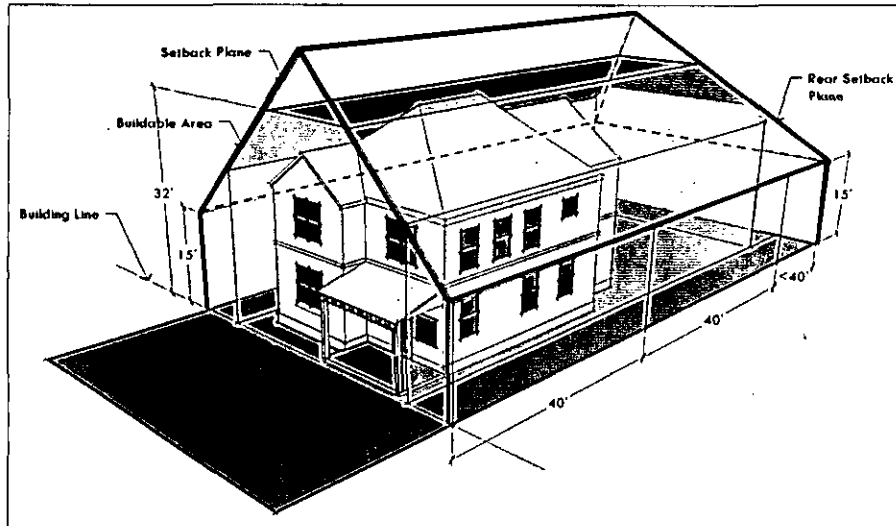


Figure 10: Buildable Area (Combination of Yard Setbacks, Maximum Height Limit, and Setback Planes)

The heavy blue line indicates the "tent" formed by the side and rear setback planes. The buildable area is the smallest area included within the front, side, and rear yard setbacks; maximum height limit; and the combined side and rear setback planes (shown here as the green area).

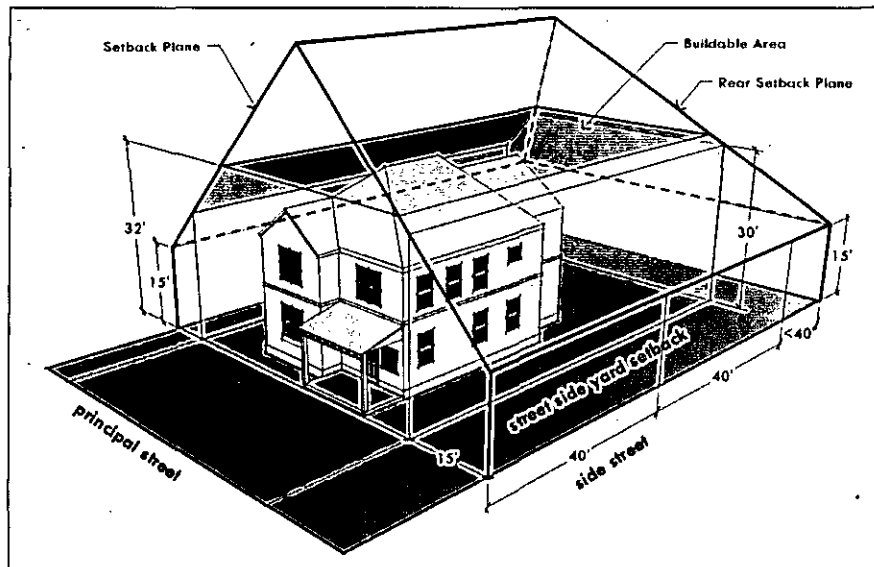


Figure 11: Buildable Area on Corner Lot

This figure shows the same concept illustrated in Figure 10 but for a corner lot that has a greater street side yard setback requirement. In this example, the minimum required street side yard setback in the underlying zoning district is 15 feet. Because the side setback plane is measured from the side property line, the height of the setback plane is 30 feet at the 15-foot street side yard setback line.

D. Side Setback Plane Exception for Existing One-Story Buildings

This subsection 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.

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 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 that was originally constructed or received a building permit before October 1, 2006, plus ten feet. See Figure 12.
2. For the portion of the construction that is outside the footprint of the building that was originally constructed or received a building permit before October 1, 2006, the side setback plane prescribed by subsection A. above applies.

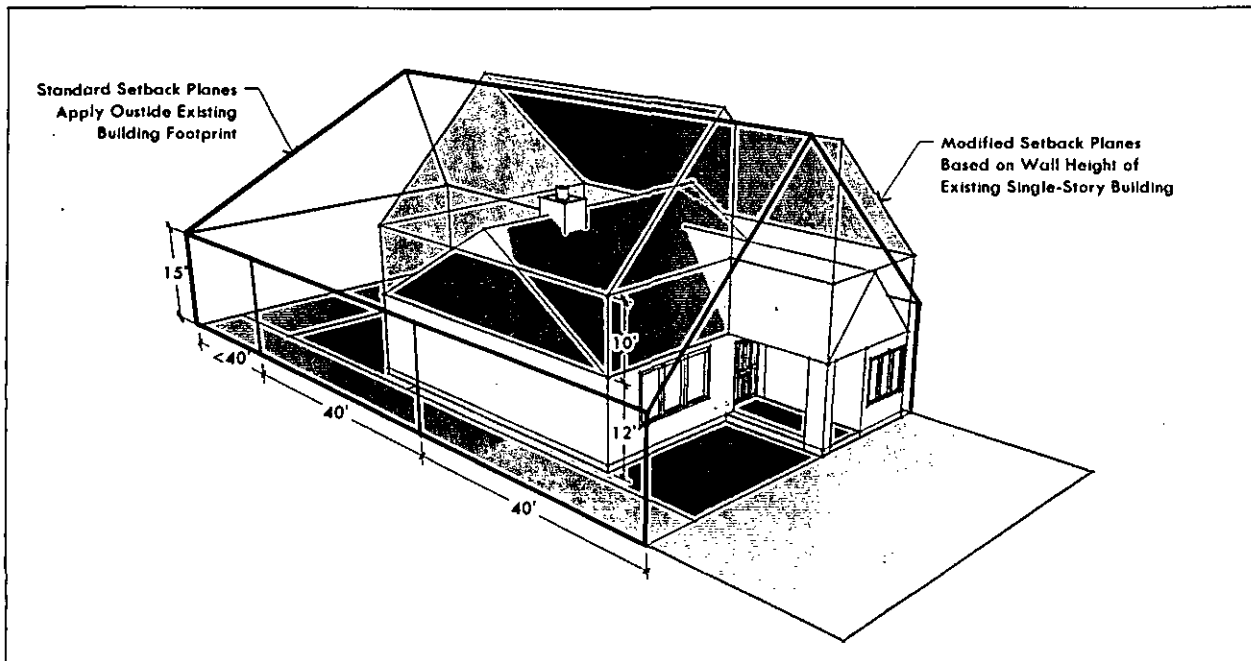


Figure 12: Side Setback Plane Exception for Existing Single-Story Buildings

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 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.

E. Exceptions

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

1. A structure authorized by the Residential Design and Compatibility Commission in accordance with Section 2.8. below;
2. A roof overhang or eave, up to two feet beyond the setback plane;
3. A chimney, vent, antenna, or energy conservation or production equipment or feature not designed for occupancy; and
4. Either:

a. 30-Foot Side-Gabled Roof Exception

A side-gabled roof structure on each side of the building, with a total horizontal length of not more than 30 feet, measured from the building line along the intersection with the side setback plane (See Figure 13.); or

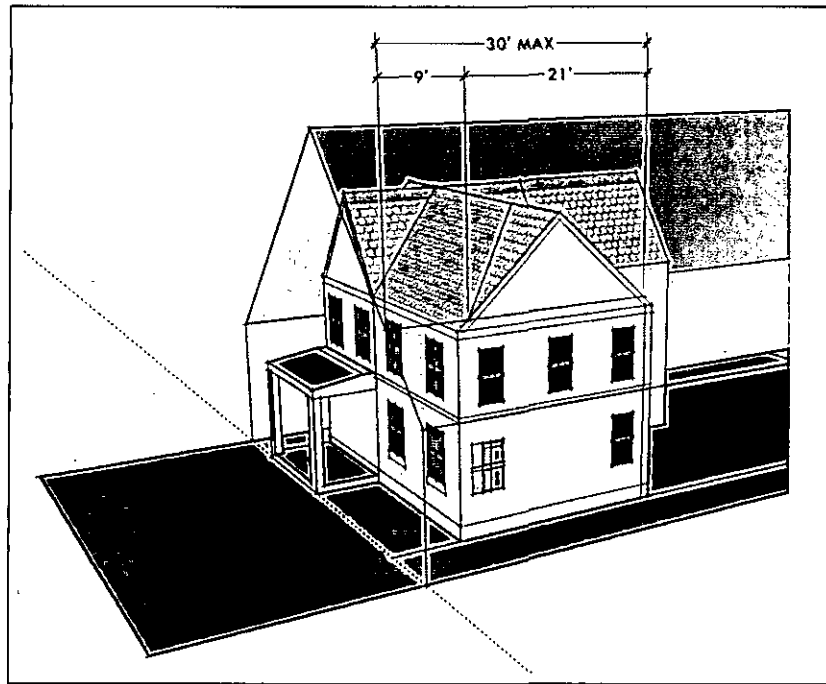


Figure 13: Side-Gabled Roof Exception

A side-gabled roof may project through the side setback plane for a horizontal distance of up to a maximum of 30 feet, measured from the building line. In this example, the gable intrudes into the setback plane beginning 9 feet behind the building line. Therefore, the maximum length of the gable intrusion would be 21 feet.

b. Gables Plus Dormers Exception

- (i) 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 setback plane (See Figures 14 and 17.); and
- (ii) Dormers, with a total horizontal length of not more than 15 feet on each side of the building, measured along the intersection with the setback plane. (See Figures 15 and 16.)

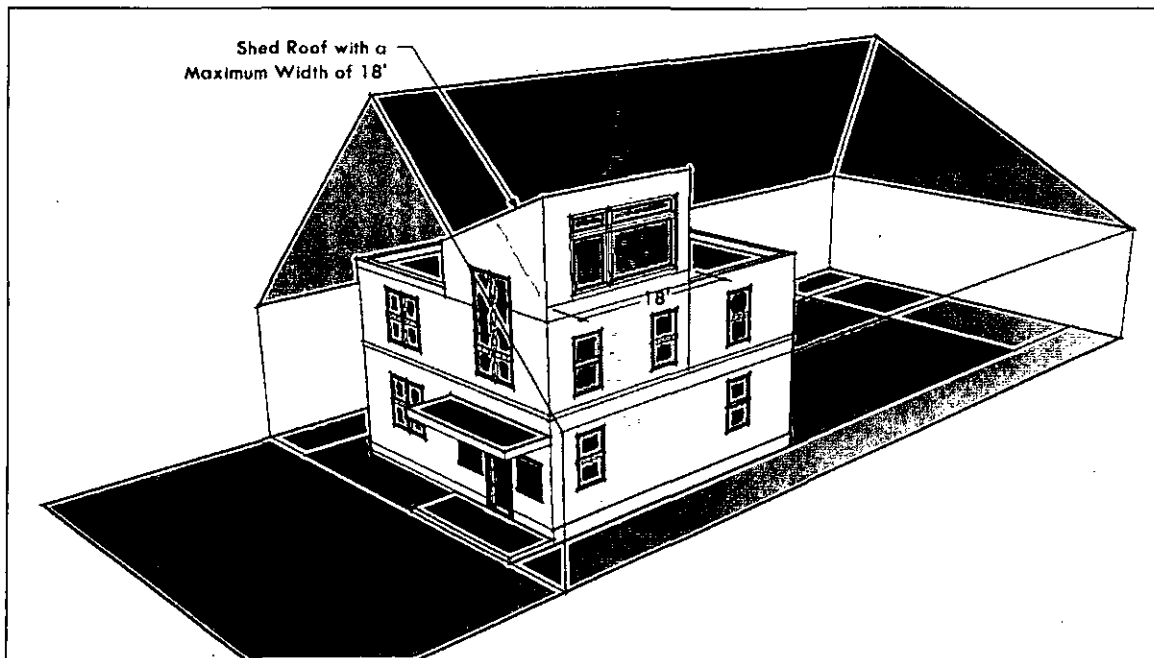


Figure 14: 18-foot Exception for Shed Roof

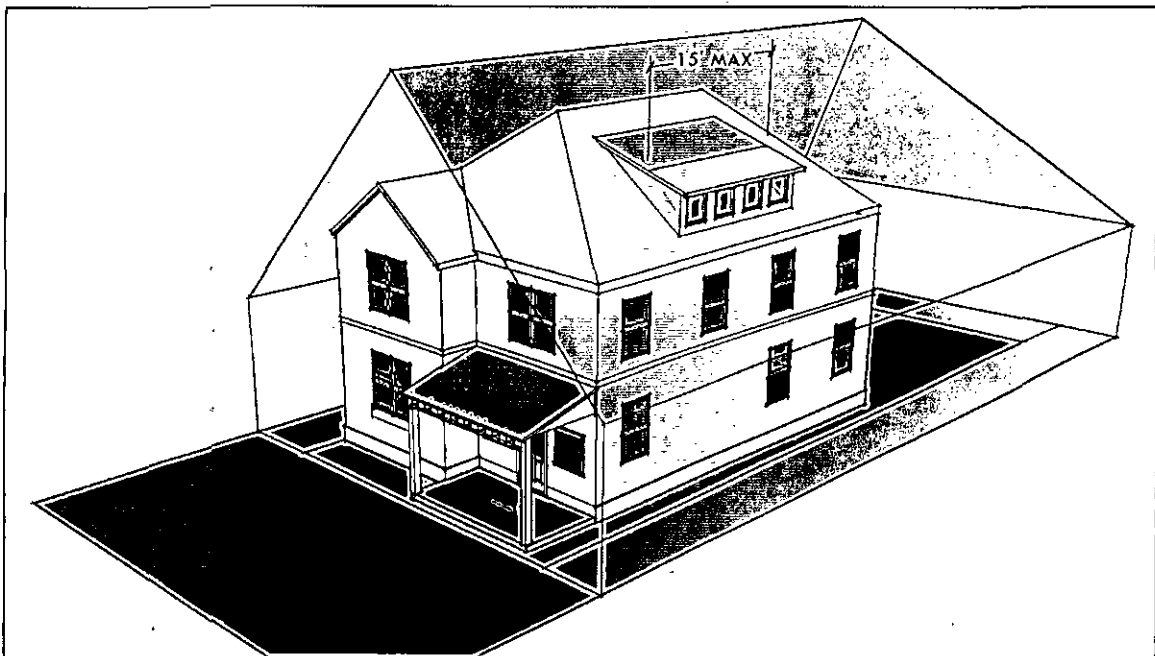
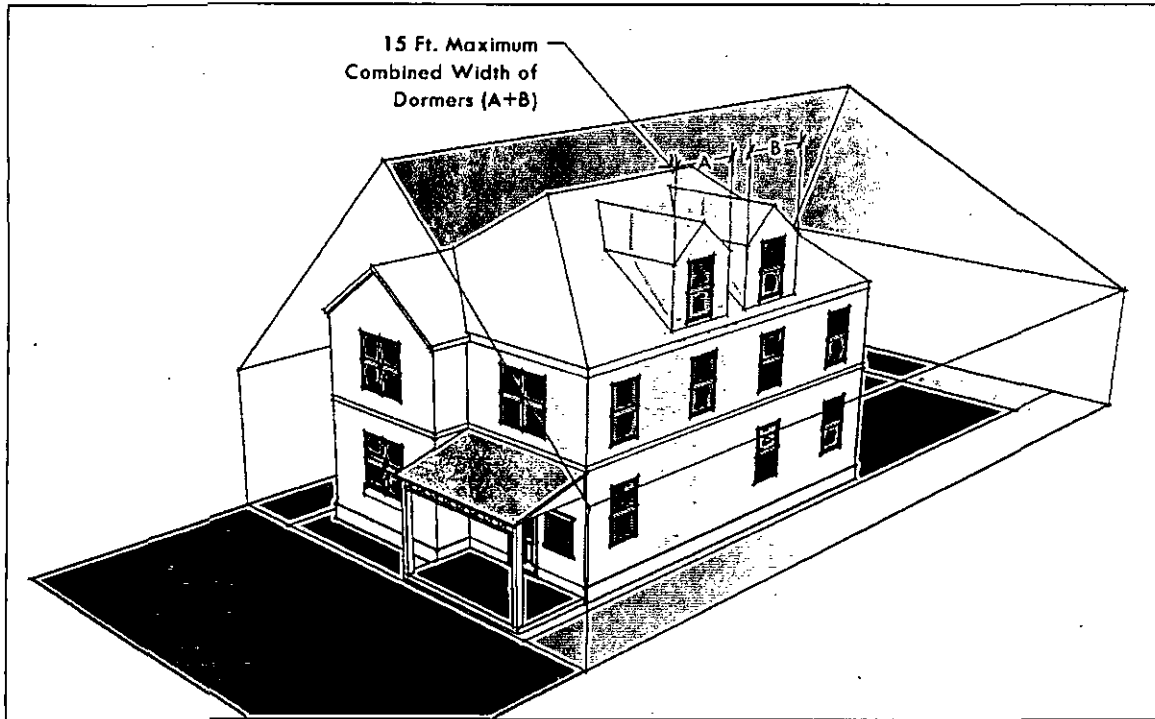


Figure 15 & 16: Dormer Exception (Gable or Shed)

One or more dormers with a combined width of 15 feet or less on each side of the roof may extend beyond the setback plane. The width of the dormer is measured at the point that it intersects the setback plane.

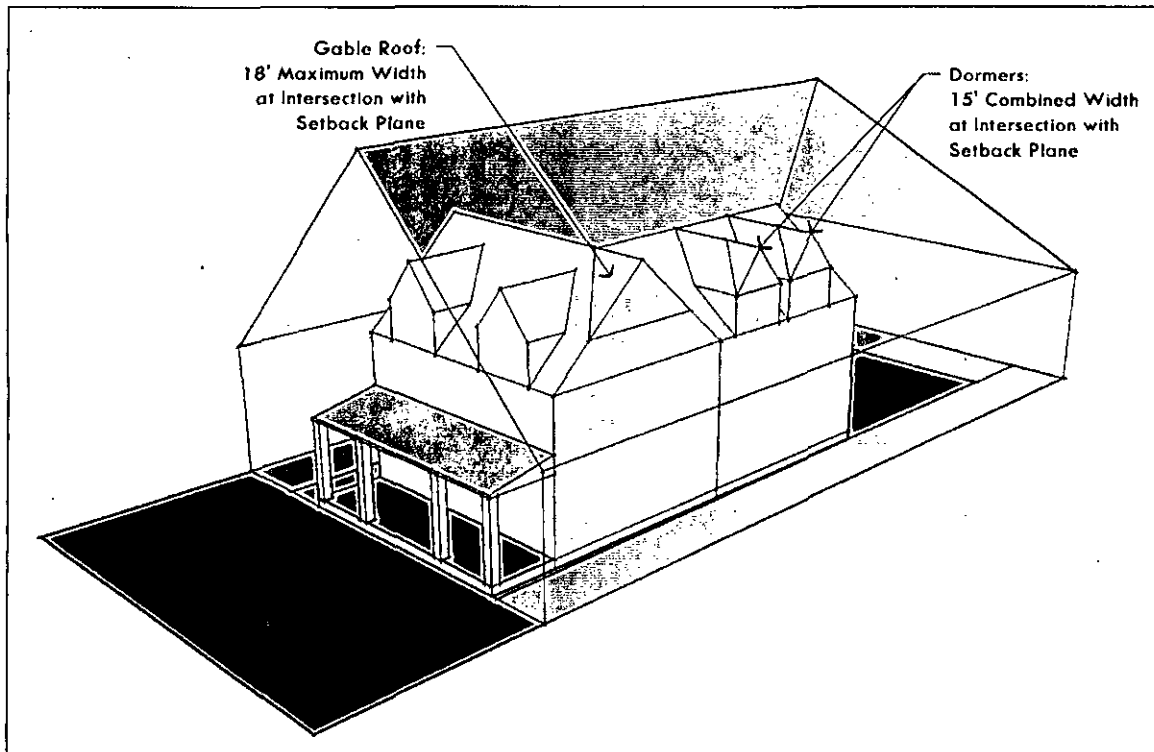


Figure 17: Combination of Roof and Dormer Exceptions

2.7. SIDE WALL ARTICULATION

A side wall of a building that is more than 15 feet high and is an average distance of 15 feet or less from an interior lot line 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. See Figures 18 through 20.

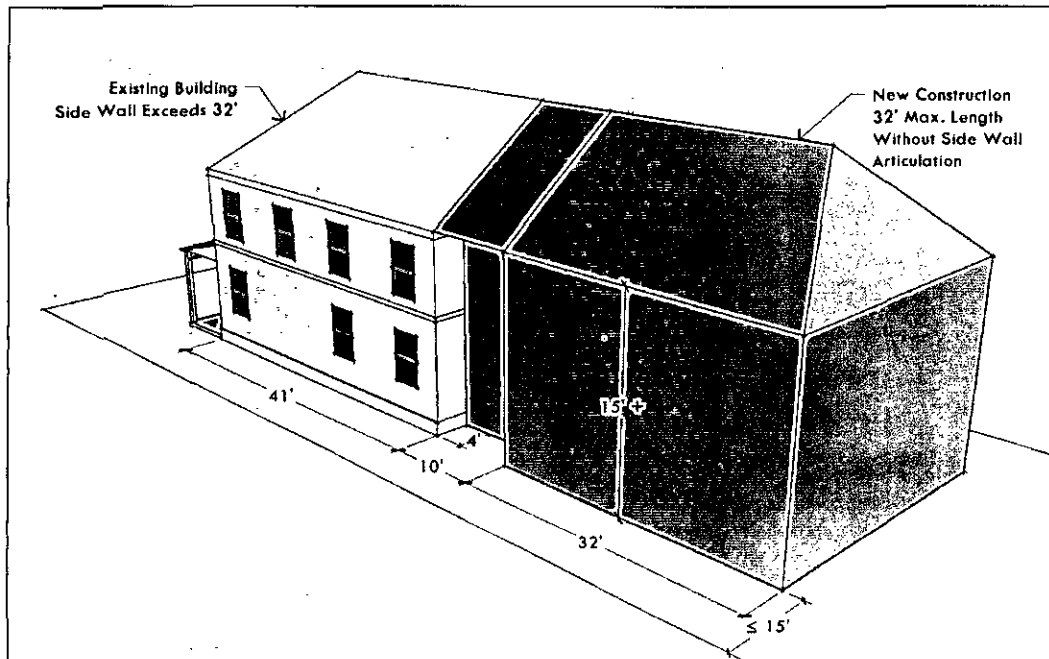


Figure 18: Side Wall Articulation (Existing Side Wall Exceeds 32 Feet)

Articulation is required for side walls on additions or new construction that are 15 feet or taller and located within 15 feet of the side lot line. No wall may extend for more than 32 feet without a projection or recession of at least 4 feet in depth and 10 feet in length.

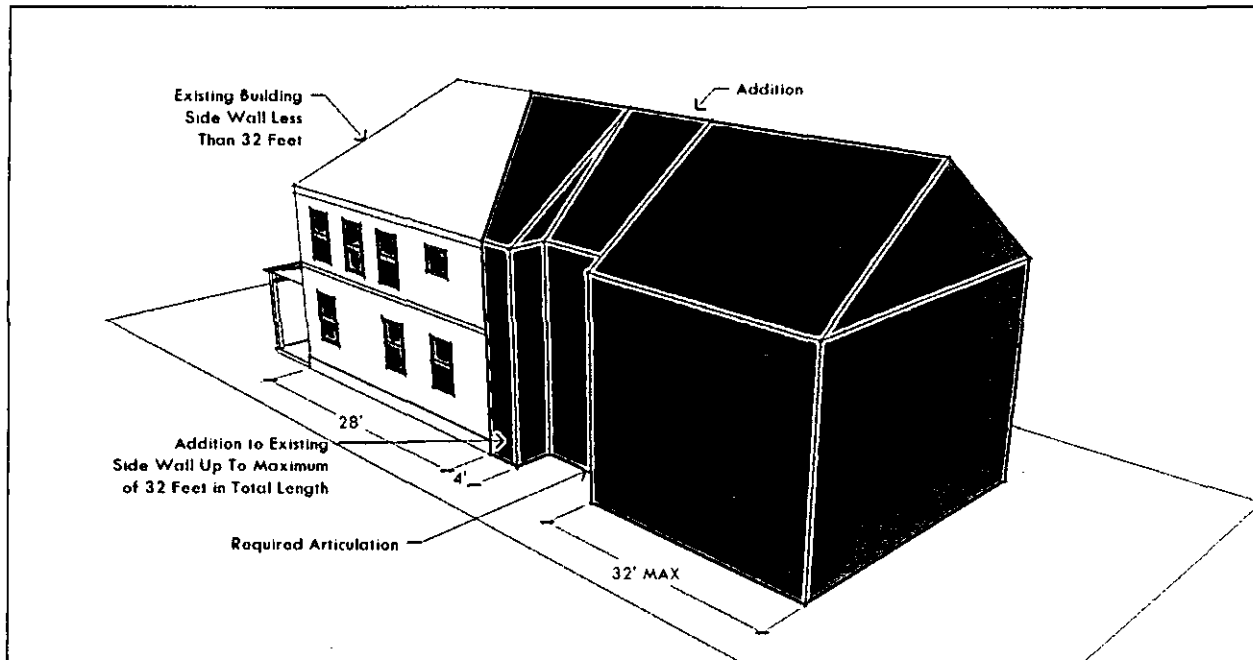


Figure 19: Side Wall Articulation (Existing Side Wall Less Than or Equal to 32 Feet)

An addition to an existing building may extend a side wall up to a maximum of 32' in total length without articulation.

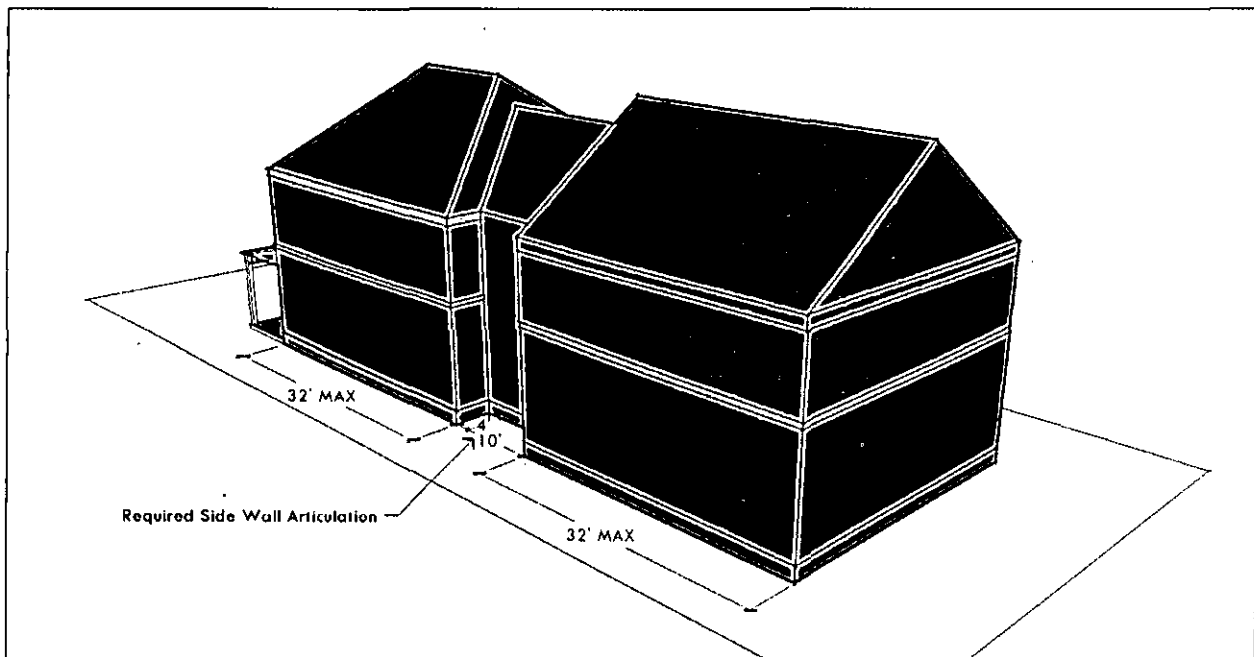


Figure 20: Side Wall Articulation (New Construction)

All new construction must meet the sidewall articulation standards.

2.8. MODIFICATIONS BY THE RESIDENTIAL DESIGN AND COMPATIBILITY COMMISSION

This section provides for modification by the Residential Design and Compatibility Commission of certain requirements of this Subchapter for a proposed development.

2.8.1. Modifications that May be Approved

The Residential Design and Compatibility Commission may approve:

- A.** 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;
 - 3. Maximum side wall length before articulation is required; or
 - 4. 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.

2.8.2. Modification Procedures

A. Application and Notice

- 1. A person may request a modification listed in subsection 2.8.1. above by filing an application with the Director on a form provided by the Director.
- 2. 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*).

B. Approval Criteria

The Residential Design and Compatibility Commission may, after a public hearing, 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:

- 1. The recommendation of the neighborhood plan team, if any;
- 2. The development's:

- a. Compliance with neighborhood design guidelines, if any;
 - b. Consistency with the streetscape of the properties in the vicinity;
 - c. Consistency with the massing, scale, and proximity of structures located on either side of or behind the development;
 - d. Impact on privacy of adjacent rear yards; and
 - e. Topography and lot shape; and
3. For a development of an entire block, whether the development will have a negative impact on adjacent property.

C. Additional Criteria for Historic Properties

The Residential Design and Compatibility Commission may not approve a modification for:

1. A local, state, or national historic landmark, if the modification would adversely impact the landmark's historic status;
2. 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.

D. Appeals

An interested party may appeal the Residential Design and Compatibility Commission's decision to the City Council.

E. Board of Adjustment May Grant Variances

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

2.9. MODIFICATIONS WITHIN NEIGHBORHOOD PLAN (NP) COMBINING DISTRICTS

Under Section 25-2-1406 of the Code, an ordinance zoning or rezoning property as a neighborhood plan (NP) combining district may modify certain development standards of this subchapter.

ARTICLE 3: DEFINITIONS AND MEASUREMENT

3.1. BUILDABLE AREA

In this Subchapter, BUILDABLE AREA means the area in which development subject to this Subchapter may occur, and which is defined by the side and rear setback planes required by this Subchapter, together with the area defined by the front, side, and rear yard setbacks and the maximum height limit.

3.2. BUILDING LINE

In this Subchapter, 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, including any allowed projections into the front yard setback. See Figure 21.

3.3. GROSS FLOOR AREA

In this Subchapter, GROSS FLOOR AREA has the meaning assigned by Section 25-1-21(Definitions), with the following modifications:

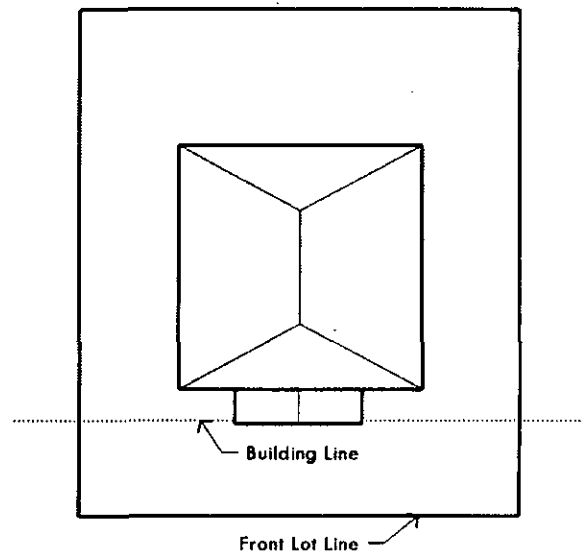


Figure 21: Building Line

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
- C. 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.

3.3.2. The following shall be excluded from the calculation of gross floor area:

- A. A ground floor porch, including a screened porch;
- B. 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
- 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; and
 - 6. Fifty percent or more of the area has a ceiling height of seven feet or less.

3.3.3. An area with a ceiling height greater than 15 feet is counted twice.

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 average height of the highest gable; 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 stores if both measurements are prescribed, regardless of whether the measurements are conjoined with "or" or "and."

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.